

AMENDMENTS TO UNIFORM SUPERIOR COURT RULES

It is ordered that Uniform Superior Court Rules 4.4 (relating to admission pro hac vice) and 24.2 (relating to notarization of the domestic relations financial affidavit form) be amended and that new Rule 24.4 (relating to notice of temporary hearings in cases not involving financial matters) be approved, effective September 29, 2011, as follows:

Rule 4.4. Admission Pro Hac Vice.

A. Definitions

1.a. A “Domestic Lawyer” is a person not admitted to practice law in this state but who is admitted in another state or territory of the United States or the District of Columbia and not disbarred or suspended from practice in any jurisdiction.

b. A “Foreign Lawyer” is a person authorized to practice law by the duly constituted and authorized governmental body of any foreign nation but not authorized by the Supreme Court of Georgia or its Rules to practice law in the State of Georgia and is not suspended from practice in any domestic or foreign jurisdiction.

2. A Domestic Lawyer or Foreign Lawyer is “eligible” for admission pro hac vice if that lawyer:

a. lawfully practices solely on behalf of the lawyer’s employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work; or

b. neither resides nor is regularly employed at an office in this state; or

c. resides in this state but (i) lawfully practices from offices in one or more other states and (ii) practices no more than temporarily in this state, whether pursuant to admission pro hac vice or in other lawful ways and, in the case of a Foreign Lawyer, is and remains in the United States in lawful immigration status.

3. A “client” is a person or entity for whom the Domestic Lawyer or Foreign Lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer’s performance of services in this state.

4. “This state” refers to Georgia. This rule does not govern proceedings before a federal court or federal agency located in this state unless that body adopts or incorporates this rule.

B. Authority of Court To Permit Appearance By Domestic Lawyer or Foreign Lawyer in Court Proceeding. A court of this state may, in its discretion, admit an eligible Domestic Lawyer or Foreign Lawyer retained to appear in a particular proceeding pending before such court to appear pro hac vice as counsel in that proceeding.

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C. In-State Lawyer's Duties. When a Domestic Lawyer or Foreign Lawyer appears for a client in a proceeding pending in this state, either in the role of co-counsel of record with the in-state lawyer, or in an advisory or consultative role, the in-state lawyer who is co-counsel or counsel of record for that client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before the court or agency. It is the duty of the in-state lawyer to advise the client of the in-state lawyer's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Domestic Lawyer or Foreign Lawyer.

D. Application Procedure

1. Verified Application. An eligible Domestic Lawyer or Foreign Lawyer seeking to appear in a proceeding pending in this state as counsel pro hac vice shall file a verified application with the court where the litigation is filed. The application shall be served on all parties who have appeared in the case and the Office of General Counsel of the State Bar of Georgia. The application shall include proof of service. The court has the discretion to grant or deny the application summarily if there is no opposition.

2. Objection to Application. The Office of General Counsel of the State Bar of Georgia or a party to the proceeding may file an objection to the application or seek the court's imposition of conditions to its being granted. The Office of General Counsel or objecting party must file with its objection information establishing a factual basis for the objection. The Office of General Counsel or objecting party may seek denial of the application or modification of it. If the application has already been granted, the Office of General Counsel or objecting party may move that the pro hac vice admission be withdrawn.

3. Standard for Admission and Revocation of Admission. The court has discretion as to whether to grant applications for admission pro hac vice and to set the terms and conditions of such admission. An application ordinarily should be granted unless the court or agency finds reason to believe that such admission:

- a. may be detrimental to the prompt, fair and efficient administration of justice,
- b. may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent,
- c. one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,
- d. the applicant has engaged in such frequent appearances as to

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constitute regular practice in this state, or

e. should be denied, if that applicant had, prior to the application, filed or appeared in an action in the courts of this State without having secured approval pursuant to the Uniform Superior Court Rules.

4. Revocation of Admission. Admission to appear as counsel pro hac vice in a proceeding may be revoked for any of the reasons listed in Rule 4.4 D.3 above.

E. Application

1. Required Information. An application shall state the information listed in Appendix A to this rule. The applicant may also include any other matters supporting admission pro hac vice.

2. Application Fee. An applicant for permission to appear as counsel pro hac vice under this rule shall pay a non-refundable fee as set by the Investigative Panel of the State Bar of Georgia at the time of filing the application.

3. Exemption for Pro Bono Representation. An applicant shall not be required to pay the fee established by Rule 4.4 E.2 above if the applicant will not charge an attorney fee to the client(s) and is:

a. employed or associated with a pro bono project or nonprofit legal services organization in a civil case involving the client(s) of such programs; or

b. involved in a criminal case or a habeas proceeding for an indigent defendant.

F. Authority of the Office of General Counsel of the State Bar of Georgia and Court: Application of Ethical Rules, Discipline, Contempt, and Sanctions

1. Authority over Domestic Lawyer or Foreign Lawyer and Applicant.

a. During pendency of an application for admission pro hac vice and upon the granting of such application, a Domestic Lawyer or Foreign Lawyer submits to the authority of the courts and the Office of General Counsel of the State Bar of Georgia of this state for all conduct relating in any way to the proceeding in which the Domestic Lawyer or Foreign Lawyer seeks to appear. The applicant, Domestic Lawyer or Foreign Lawyer who has obtained pro hac vice admission in a proceeding, submits to this authority for all that lawyer's conduct (i) within the state while the proceeding is pending or (ii) arising out of or relating to the application or the proceeding. An applicant, Domestic Lawyer or Foreign Lawyer who has pro hac vice authority for a proceeding, may be disciplined in the same manner as an in-state lawyer.

b. The court's and Office of General Counsel's authority includes, without limitation, the court's and State Bar of Georgia's Rules of

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Professional Conduct, contempt and sanctions orders, local court rules, and court policies and procedures.

2. Familiarity With Rules. An applicant shall become familiar with the Georgia Rules of Professional Conduct, local court rules, and policies and procedures of the court before which the applicant seeks to practice.

G. Temporary Practice. An out-of-state lawyer will only be eligible for admission pro hac vice, or to practice in another lawful way only on a temporary basis.

H. Conflicts. The conflicts of the Domestic Lawyer or Foreign Lawyer shall not delay any deadlines, depositions, mediation, hearings, or trials in connection with the case for which admission has been granted.

APPENDIX A

The Domestic Lawyer's or Foreign Lawyer's application shall include:

1. the applicant's residence and business address;
2. the name, address and phone number of each client sought to be represented;
3. the courts before which the applicant has been admitted to practice and the respective period(s) of admission, and contact information as to each such court;
4. whether the applicant (a) has been denied admission pro hac vice in this state, (b) had admission pro hac vice revoked in this state, or (c) has otherwise formally been disciplined or sanctioned by any court in this state. If so, specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings; the date filed; and what findings were made and what action was taken in connection with those proceedings;
5. whether any formal, written disciplinary proceeding has ever been brought against the applicant by a disciplinary authority in any other jurisdiction and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings and contact information as to such person or authority; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
6. whether the applicant has been held formally in contempt or otherwise sanctioned by any court in a written order for disobedience to its rules or orders, and, if so: the nature of the allegations; the name and contact information of the court before which such proceedings were conducted; the date of the contempt order or

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sanction; the caption of the proceedings; and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application);

7. the name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear pro hac vice in this state within the preceding two years; the date of each application; and the outcome of the application;

8. an averment as to the applicant's familiarity with the Georgia Rules of Professional Conduct, local court rules and court procedures of the court before which the applicant seeks to practice;

9. the name, address, telephone number and bar number of an active member in good standing of the bar of this state who will sponsor the applicant's pro hac vice request. The bar member shall appear of record together with the Domestic Lawyer or Foreign Lawyer; and

10. The Foreign Lawyer's application shall include an affidavit attesting that the applicant shall throughout the period of appearance pro hac vice comply with all relevant provisions of the United States immigration laws and shall maintain valid immigration status.

The Domestic Lawyer's or Foreign Lawyer's application may provide the following optional information:

11. the applicant's prior or continuing representation in other matters of one or more of the clients the applicant proposes to represent and any relationship between such other matter(s) and the proceeding for which applicant seeks admission.

12. any special experience, expertise, or other factor deemed to make it particularly desirable that the applicant be permitted to represent the client(s) the applicant proposes to represent in the particular cause.

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

Except as noted below, at least fifteen (15) days before any temporary or final hearing in any action for temporary or permanent child support, alimony, equitable division of property, modification of child support or alimony or attorneys fees, the party requesting such hearing shall file with the Clerk of Court and serve upon the opposing party 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

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served upon the opposing party contemporaneously with the filing of the affidavit required above. In 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.

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 any applicable schedules. In addition, the separation agreement must include the parties' gross and adjusted incomes.

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

Notice of the date of any temporary hearing shall be served upon the adverse party at least fifteen (15) days before the date of the hearing, unless otherwise ordered by the Court.

Within five (5) days of service of the affidavit and worksheet and schedules (where applicable) unless the Court shortens or enlarges the time, 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.

The parties shall file with the clerk and serve upon each other the affidavit and worksheet and schedules (where applicable) at least ten (10) days prior to any court-ordered mediation or other alternative dispute resolution proceeding.

In any case in which a party has previously filed and served the affidavit, worksheet and schedules and thereafter amends the affidavit or worksheet and schedules, any such amendments shall be served upon the opposing party at least ten (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

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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.

Notwithstanding the time limits contained in this rule, the Court may decide a matter without strict adherence to a time limitation, if the financial information was known or reasonably available to the other party, or if a continuance would result in a manifest injustice to a party.

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

In the Superior Court of _____ County, Georgia

)	
_____, Plaintiff)	
vs.)	Civil Action No. _____
)	
_____, Defendant)	

DOMESTIC RELATIONS FINANCIAL AFFIDAVIT

1. AFFIANT'S NAME: _____ Age _____
 Spouse's Name: _____ Age _____
 Date of Marriage: _____ Date of Separation _____

Names and birth dates of children for whom support is to be determined in this action:

Name	Date of Birth	Resides with

Names and birth dates of affiant's other children:

Name	Date of Birth	Resides with

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2. SUMMARY OF AFFIANT'S INCOME AND NEEDS

(a) Gross monthly income (from item 3A) \$ _____
(b) Net monthly income (from item 3B) _____
(c) Average monthly expenses (item 5A) \$ _____
Monthly payments to creditors + _____
Total monthly expenses and
payments to creditors (item 5C) _____

3. A. AFFIANT'S GROSS MONTHLY INCOME (complete this section or attach Child Support Schedule A)

(All income must be entered based on monthly average regardless of date of receipt.)

Salary or Wages \$ _____

ATTACH COPIES OF 2 MOST RECENT WAGE STATEMENTS

Commissions, Fees, Tips \$ _____

Income from self-employment, partnership, close corporations, and independent contracts (gross receipts minus ordinary and necessary expenses required to produce income) \$ _____

ATTACH SHEET ITEMIZING YOUR CALCULATIONS

Rental Income (gross receipts minus ordinary and necessary expenses required to produce income) \$ _____

ATTACH SHEET ITEMIZING YOUR CALCULATIONS

Bonuses \$ _____

Overtime Payments \$ _____

Severance Pay \$ _____

Recurring Income from Pensions or Retirement Plans \$ _____

Interest and Dividends \$ _____

Trust Income \$ _____

Income from Annuities \$ _____

Capital Gains \$ _____

Social Security Disability or Retirement Benefits \$ _____

Workers' Compensation Benefits \$ _____

Unemployment Benefits \$ _____

Judgments from Personal Injury or Other Civil Cases \$ _____

Gifts (cash or other gifts that can be converted to cash) \$ _____

Prizes/Lottery Winnings \$ _____

Alimony and maintenance from persons not in this case \$ _____

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Assets which are used for support of family \$ _____
 Fringe Benefits (if significantly reduce living expenses) \$ _____
 Any other income (do NOT include means-tested Public assistance, such as TANF or food stamps) \$ _____
GROSS MONTHLY INCOME \$ _____
 B. Affiant's Net Monthly Income from employment (deducting only state and federal taxes and FICA) \$ _____
 Affiant's pay period (i.e., weekly, monthly, etc.) _____
 Number of exemptions claimed _____

4. ASSETS (If you claim or agree that all or part of an asset is non-marital, indicate the non-marital portion under the appropriate spouse's column and state the amount and the basis: pre-marital, gift, inheritance, source of funds, etc.).

Description	Value	Separate Asset of the Husband	Separate Asset of the Wife	Basis of the Claim
Cash	\$ _____	_____	_____	_____
Stocks, bonds	\$ _____	_____	_____	_____
CD's/Money				
Market Accounts	\$ _____	_____	_____	_____
Bank Accounts				
(list each account):				
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
Retirement				
Pensions,				
401K, IRA, or				
Profit Sharing	\$ _____	_____	_____	_____
Money owed you:	\$ _____	_____	_____	_____
Tax Refund				
owed you:	\$ _____	_____	_____	_____
Real Estate:				
home:	\$ _____	_____	_____	_____
debt owed:	\$ _____	_____	_____	_____
other:	\$ _____	_____	_____	_____
debt owed:	\$ _____	_____	_____	_____

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Automobiles/Vehicles:

Vehicle 1:	\$ _____	_____	_____	_____
debt owed:	\$ _____			
Vehicle 2:	\$ _____	_____	_____	_____
debt owed:	\$ _____			
Life Insurance (net cash value):	\$ _____	_____	_____	_____
Furniture/ furnishings:	\$ _____	_____	_____	_____
Jewelry:	\$ _____	_____	_____	_____
Collectibles:	\$ _____	_____	_____	_____
Other Assets:	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
Total Assets:	\$ _____	_____	_____	_____

5. A. AVERAGE MONTHLY EXPENSES

HOUSEHOLD

Mortgage or rent payments	\$ _____
Property taxes	\$ _____
Homeowner/Renter Insurance	\$ _____
Electricity	\$ _____
Water	\$ _____
Garbage and Sewer	\$ _____
Telephone: residential line:	\$ _____
cellular telephone:	\$ _____
Gas	\$ _____
Repairs and maintenance	\$ _____
Lawn Care	\$ _____
Pest Control	\$ _____
Cable TV	\$ _____
Misc. household and grocery items	\$ _____
Meals outside the home	\$ _____
Other	\$ _____

AUTOMOBILE

Gasoline and oil	\$ _____
Repairs	\$ _____
Auto tags and license	\$ _____
Insurance	\$ _____

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OTHER VEHICLES (boats, trailers, RVs, etc.)	
Gasoline and oil	\$ _____
Repairs	\$ _____
Tags and license	\$ _____
Insurance	\$ _____
CHILDREN'S EXPENSES	
Child care (total monthly cost)	\$ _____
School tuition	\$ _____
Tutoring	\$ _____
Private lessons (e.g., music, dance)	\$ _____
School supplies/expenses	\$ _____
Lunch Money	\$ _____
Other Educational Expenses (list)	
_____	\$ _____
_____	\$ _____
Allowance	\$ _____
Clothing	\$ _____
Diapers	\$ _____
Medical, dental, prescription (out of pocket/uncovered expenses)	\$ _____
Grooming, hygiene	\$ _____
Gifts from children to others	\$ _____
Entertainment	\$ _____
Activities (including extra-curricular, school, religious, cultural, etc.)	\$ _____
Summer Camps	\$ _____
AFFIANT'S OTHER EXPENSES	
Dry cleaning/laundry	\$ _____
Clothing	\$ _____
Medical, dental, prescription (out of pocket/uncovered expenses)	\$ _____
Affiant's gifts (special holidays)	\$ _____
Entertainment	\$ _____
Recreational Expenses (e.g., fitness)	\$ _____
Vacations	\$ _____
Travel Expenses for Visitation	\$ _____
Publications	\$ _____
Dues, clubs	\$ _____
Religious and charities	\$ _____
Pet expenses	\$ _____
Alimony paid to former spouse	\$ _____

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Child support paid for other children \$ _____
Date of initial order: _____
Other (attach sheet) \$ _____
OTHER INSURANCE
Health \$ _____
Child(ren)'s portion: \$ _____
Dental \$ _____
Child(ren)'s portion: \$ _____
Vision \$ _____
Child(ren)'s portion: \$ _____
Life \$ _____
Relationship of Beneficiary: _____
Disability \$ _____
Other (specify): \$ _____
TOTAL ABOVE EXPENSES \$ _____

B. PAYMENTS TO CREDITORS (please check one)

To Whom: Balance Due Monthly Payment Joint Plaintiff Defendant

TOTAL MONTHLY PAYMENTS TO CREDITORS: \$ _____
C. TOTAL MONTHLY EXPENSES: \$ _____

Personally appeared before me, an officer authorized to administer oaths, the undersigned affiant, who upon being sworn, swears that he/she is legally competent to make this affidavit, that the affidavit is based upon personal knowledge, and that the contents of the affidavit are true.

Affiant

Sworn to and subscribed
before me, this ____ day of _____, 20__.

Notary Public

My commission expires: _____

Rule 24.4. Notice of Temporary Hearings in Cases Not Involving Financial Matters.

Notice of temporary hearings in all domestic relations cases not involving financial matters shall be given to the opposing party in accordance with the notice provisions of Rule 24.2.