SUPREME COURT OF GEORGIA

FILED
Administrative Minutes
March 27, 2020
Thérèse S. Barnes,
Clerk/Court Executive
SUPREME COURT OF GEORGIA

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN RE: GEORGIA RULES OF PROFESSIONAL CONDUCT AND LAWYER PARTICIPATION IN CLOSINGS OF REAL ESTATE TRANSACTIONS

There presently is a public health state of emergency declared by the Governor and a statewide judicial emergency declared by the Chief Justice, both in connection with the ongoing national outbreak of COVID-19. To impede the transmission of the SARS-CoV-2 virus that causes the disease, the Governor and many counties and municipalities in Georgia have taken steps—based on guidance from the Centers for Disease Control and Prevention and the Georgia Department of Public Health—to discourage and limit unnecessary public gatherings. The Chief Justice likewise has directed that judicial proceedings should be conducted, if at all, in "a manner to limit the risk of exposure [to SARS-CoV-2], such as by videoconferencing, when possible."

The State Bar of Georgia has brought to the attention of the Court that there may be some uncertainty among lawyers about the extent to which a lawyer, consistent with the Georgia Rules of Professional Conduct, may participate in and supervise the closing of a real estate transaction without being physically present at the closing and in close proximity to the parties to the transaction. To the extent that the Rules of Professional Conduct may require an

attorney to be physically present at the closing of a real estate transaction and in close proximity to the parties to the transaction,[1] in the light of the current circumstances and after consultation with the president of the State Bar, the Court temporarily suspends any such requirement[2] and orders that, so far as the Rules of Professional Conduct are concerned, a lawyer may participate in and supervise the closing of a real estate transaction by way of video conference.[3]

Unless otherwise modified by the Court, this order shall continue in effect until the declaration by the Chief Justice of a statewide judicial emergency is rescinded or expires by its own terms.[4] When the declaration of the Chief Justice is rescinded or

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[1] See generally State Bar Formal Advisory Opinions 86-5, 00-3, and 13-1; UPL Opinion 2003-2. The Court expresses no opinion about whether any of the Rules of Professional Conduct or any of these formal advisory opinions absolutely requires a lawyer to be physically present at the closing of a real estate transaction, and the Court issues this order only to alleviate any uncertainty about the obligation of closing attorneys to personally interact with others in close physical proximity during the ongoing COVID-19 outbreak.

[2] The Court orders this temporary suspension of any such requirement in the Rules of Professional Conduct pursuant to the inherent power of the Court to regulate the practice of law. This order does not suspend any other provisions of the Rules of Professional Conduct, and nothing in this order is intended to relieve a lawyer of his obligation to assume "full professional and direct responsibility for the entire transaction." See Formal Advisory Opinion 13-1. Moreover, this order does not affect any requirements for the closing of real estate transactions that may be imposed by statute, common law, regulations, or contract.

[3] As used in this order, "video conference" refers to a remote conference of persons in different locations that is facilitated by technology that enables each of the participants in the closing—the lawyer, the parties to the transaction, and any representatives of the parties— to see, hear, speak to, and display documents to each of the other participants in real time.

[4] If the Chief Justice extends the declaration of a statewide judicial emergency, this order likewise shall continue until the extended declaration is rescinded or expires by its own terms.

expires by its own terms, this order shall dissolve without further order of this Court.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

, Clerk