UNIFORM RULES

SUPERIOR COURTS OF THE STATE OF GEORGIA

COUNCIL OF SUPERIOR COURT JUDGES

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UNIFORM SUPERIOR COURT RULES

Effective July 1, 1985

Including Amendments Received Through
July 2, 2020

Rule 1. PREAMBLE

Pursuant to the inherent powers of the Court and Article VI, Section IX, Paragraph I of the Georgia Constitution of 1983, and in order to provide for the speedy, efficient and inexpensive resolution of disputes and prosecutions, these rules are promulgated. It is not the intention, nor shall it be the effect, of these rules to conflict with the Constitution or substantive law, either per se or in individual actions and these rules shall be so construed and in case of conflict shall yield to substantive law. It is the intention of these rules and the policy of this State that these rules prevail over local practices and procedures and shall be in force uniformly throughout the State.

Amended effective September 19, 1986; October 7, 2010.

Rule 1.1. Repeal of Local Rules

All local rules, internal operating procedures and experimental rules of the superior courts shall expire effective December 31, 2010.

Amended effective May 5, 1994; October 7, 2010; May 23, 2013.

Rule 1.2. Authority to Enact Rules Which Deviate From the Uniform Superior Court Rules

(A) The terms "local rules," "internal operating procedures" and "experimental rules" will no longer be used in the context of the Uniform Superior Court Rules. Any deviation from these rules is disallowed.

(B) Notwithstanding the expiration of local rules, internal operating procedures and experimental rules on December 31, 2010, courts may continue to maintain practices and standing orders to regulate the internal processes of the court in matters which are not susceptible to uniformity, which relate only to internal procedure and which do not affect the rights of any party substantially or materially, either to unreasonably delay or deny such rights. Such internal processes include but are not limited to case management, court administration, case assignment, traverse and grand jury management, court-annexed alternative dispute resolution programs (which are subject to approval by the Georgia Commission on Dispute Resolution), specialty courts, indigent defense programs, court security, emergency planning, judicial assistance requests, appointments of chief judges, law libraries, and other similar matters. The Clerk of Court shall maintain the originals of such standing orders and provide copies of them, upon request.

(C) The above provisions notwithstanding, each superior court may retain or adopt an order establishing guidelines governing excuses from jury duty pursuant to OCGA § 15-12-10.

(D) Notwithstanding these uniform rules, a majority of judges in a circuit may adopt pilot projects, upon approval of the Supreme Court, adequately advertised to the local bar, with copies to the State Bar of Georgia, not to exceed a period of one year, subject to extension for one additional year upon approval of the circuit judges and the Supreme Court. At the end of the second year, any such pilot projects will either be approved by the Supreme Court or will be allowed to sunset. Programs developed under the Alternative Dispute Resolution Rules of the Supreme Court will be approved by the Georgia Commission on Dispute Resolution before attaining permanent status under these rules.

(E) Notwithstanding the expiration of all local rules, internal operating procedures and experimental rules, effective December 31, 2010, courts may promulgate standing orders as to matters not addressed by these uniform rules and which are not inconsistent with a uniform rule only if actual notice of such order is provided to all parties. Such orders include, but are not limited to, orders to attend educational seminars contemplated by Uniform Superior Court Rule 24.8, orders governing or mandating alternative dispute resolution, orders governing payments into the registry of the court, orders governing electronic filing, and similar matters. “Actual notice” shall be deemed to have been satisfied by providing copies of such orders to attorneys and pro se litigants, service by a party upon opposing parties and publicized dissemination in such locations as the offices of the clerks of court, law libraries, legal aid societies and public libraries. Mere filing of standing orders and posting in prominent places in the courthouse shall not suffice as actual notice.

(F) No person shall be denied access to the court nor be prejudiced in any way for failure to comply with a standing order of which the person does not have actual notice.

Amended effective May 5, 1994; April 3, 1998, October 7, 2010; May 23, 2013.

Rule 1.3. Repeal of Earlier "Rules of the Superior Court"

Each of the "Rules of the Superior Court" set out in (former) Ga. Code Ann. §§ 24-3301 through 24-3389, inclusive, not earlier repealed is hereby expressly repealed.

Rule 1.4. Matters of Statewide Concern

The following rules, to be known as "Uniform Superior Court Rules," are to be given statewide application.

Rule 1.5. Deviation

These rules are not subject to local deviation. A specific rule may be superseded in a specific action or case or by an order of the court entered in such case explaining the necessity for deviation and served upon the attorneys in the case. Nothing herein is intended to prevent the courts from adopting standing orders regarding matters not addressed in these rules so long as they do not conflict with these rules.

Amended effective October 7, 2010.

Rule 1.6. Amendments

The Council of Superior Court Judges shall have a permanent committee to recommend to the Supreme Court such changes and additions to these rules as may from time to time appear necessary or desirable.

The State Bar of Georgia and the Uniform Rules committee chairpersons for the other classes of courts shall receive notice of the proposed changes and additions and be given the opportunity to comment.

Amended effective March 9, 1989.

Rule 1.7. Publication of Rules and Amendments

These rules and any amendments to these rules shall be published in the advance sheets to the Georgia Reports. Unless otherwise provided, the effective date of any amendment to these rules is the date of publication in the advance sheets to the Georgia Reports.

Amended effective June 7, 1990.

Rule 2. DEFINITIONS

Rule 2.1. Attorney

The word "attorney" as used in these rules refers to any person admitted to practice in the superior courts of Georgia, and to any person who is permitted, in accordance with law, to represent a party in an action pending in a superior court of the State of Georgia, and to any person proceeding pro se in an action pending in a superior court of this state. The word "attorney" is synonymous with "counsel" in these rules.

Amended effective October 9, 1997.

Rule 2.2. Judge

The word "judge" as used in these rules refers to any of the several active judges of the superior courts of Georgia, and to any senior or other judge authorized to serve as a judge of a superior court of this state.

Rule 2.3. Clerk

The word "clerk" as used in these rules refers to the clerk of any of the several superior courts in this state and to the staff members serving as deputy clerks.

Amended effective October 9, 1997.

Rule 2.4. Calendar Clerk

The term "calendar clerk" as used in these rules refers to that person who is charged with the responsibility of setting and scheduling all hearings and trials in actions assigned to a particular

judge. Each calendar clerk carries out those duties under the supervision of the assigned judge, or the designee of that judge.

Amended effective October 9, 1997.

Rule 2.5. Assigned Judge

The term "assigned judge" as used in these rules refers to the judge to whom an action is assigned in accordance with these rules; or, if the context permits, in circuits having a general calendaring system, to the trial judge responsible for the matter at any particular time.

Amended effective October 7, 2010.

Rule 2.6. Filing

Unless otherwise provided by law, the term “filing” as used in these rules includes any submission to a clerk of court either in paper or electronic form. Electronic filing is governed by Rule 36.16.

Adopted effective August 30, 2018.

Rule 3. ASSIGNMENT OF CASES AND ACTIONS

Rule 3.1. Method of Assignment

In multi-judge circuits, unless a majority of the judges in a circuit elect to adopt a different system, all actions, civil and criminal, shall be assigned by the clerk of each superior court according to a plan approved by such judges to the end that each judge is allocated an equal number of cases. The clerk shall have no power or discretion in determining the judge to whom any case is assigned; the clerk’s duties are ministerial only in this respect and the clerk’s responsibility is to carry out the method of assignment established by the judges. The assignment system is designed to prevent any persons choosing the judge to whom an action is to be assigned; all persons are directed to refrain from attempting to affect such assignment in any way. If the order or the timing of filing is a factor in determining case assignment, neither the clerk nor any member of the clerk’s staff shall disclose to any person the judge to whom a case is or will be assigned until such time as the case is in fact filed and assigned.

Amended effective October 9, 1997; October 26, 2006.

Rule 3.2. Companion and Related Actions

When practical, all actions involving substantially the same parties, or substantially the same subject matter, or substantially the same factual issues, whether pending simultaneously or not, shall be assigned to the same judge. Whenever such action is refiled, or a derivative or companion action is filed or refiled, or a defendant is reindicted on a previous charge, or is indicted on a subsequent charge while still under charges or serving a confinement or probated sentence on a previous action, or co-defendants are indicted separately, such actions shall be assigned to the judge to whom the original action was or is assigned. Generally, such actions will be assigned to the judge to whom the action with the lower action number is assigned.

Rule 3.3. Exclusive Control

The judge to whom any action is assigned shall have exclusive control of such action, except as provided in these rules, and no person shall change any assignment except by order of the judge affected and as provided in these rules. In this regard an assigned judge may transfer an assigned action to another judge with the latter's consent in which event the latter becomes the assigned judge.

Amended effective March 9, 1989.

Rule 3.4. Local Authority

The method of assignment and the procedures necessary for an orderly transition from one calendaring system to another shall be established by each multi-judge circuit. All such systems shall be adequately published to the local bar; copies shall be filed with the respective clerk(s) and with the Supreme Court of Georgia.

Amended effective October 7, 2010.

Rule 4. ATTORNEYS APPEARANCE, WITHDRAWAL AND DUTIES

Rule 4.1. Prohibition on Ex Parte Communications

Except as authorized by law or by rule, judges shall neither initiate nor consider ex parte communications by interested parties or their attorneys concerning a pending or impending proceeding.

Rule 4.2. Entry of Appearance and Pleadings

No attorney shall appear in that capacity before a superior court until the attorney has entered an appearance by filing a signed entry of appearance form or by filing a signed pleading in a pending action. An entry of appearance and all pleadings shall state:

(1) the style and number of the case;

(2) the identity of the party for whom the appearance is made; and

(3) the name, assigned state bar number, current office address, telephone number, fax number, and e-mail address of the attorney (the attorney's e-mail address shall be the e-mail address registered with the State Bar of Georgia).

The filing of any pleading shall contain the information required by this paragraph and shall constitute an appearance by the person(s) signing such pleading, unless otherwise specified by the court. The filing of a signed entry of appearance alone shall not be a substitute for the filing of an answer or any other required pleading. The filing of an indictment or accusation shall constitute an entry of appearance by the district attorney.

Any attorney who has been admitted to practice in this state but who fails to maintain active membership in good standing in the State Bar of Georgia and who makes or files any appearance

or pleading in a superior court of this state while not in good standing shall be subject to the contempt powers of the court.

Within forty-eight hours after being retained, an attorney shall mail to the court and opposing counsel or file with the court the entry of his appearance in the pending matter. Failure to timely file shall not prohibit the appearance and representation by said counsel.

Amended effective March 9, 1989; May 26, 1994; May 5, 2011.

Rule 4.3. Withdrawal

(1) An attorney appearing of record in any matter pending in any superior court, who wishes to withdraw as counsel for any party, shall submit a written request to an appropriate judge of the court for an order permitting such withdrawal. The request shall state that the attorney has given written notice to the affected client setting forth the attorney's intent to withdraw, that 10 days have expired since notice, and there has been no objection, or that withdrawal is with the client's consent. The request will be granted unless in the judge's discretion to do so would delay the trial or otherwise interrupt the orderly operation of the court or be manifestly unfair to the client.

(2) The attorney requesting an order permitting withdrawal shall give notice to opposing counsel and shall file with the clerk and serve upon the client, personally or at that client's last known mailing and electronic addresses, the notice which shall contain at least the following information:

(A) the attorney wishes to withdraw;

(B) the court retains jurisdiction of the action;

(C) the client has the burden of keeping the court informed where notices, pleadings or other papers may be served;

(D) the client has the obligation to prepare for trial or hire new counsel to prepare for trial, when the trial date has been scheduled and to conduct and respond to discovery or motions in the case;

(E) if the client fails or refuses to meet these burdens, the client may suffer adverse consequences, including, in criminal cases, bond forfeiture and arrest;

(F) dates of any scheduled proceedings, including trial, and that holding of such proceedings will not be affected by the withdrawal of counsel;

(G) service of notices may be made upon the client at the client's last known mailing address;

(H) if the client is a corporation, that a corporation may only be represented in court by an attorney, that an attorney must sign all pleadings submitted to the court, and that a corporate officer may not represent the corporation in court unless that officer is also an attorney licensed to practice law in the state of Georgia or is otherwise allowed by law; and

(I) unless the withdrawal is with the client's consent, the client's right to object within 10 days of the date of the notice, and provide with specificity when the 10th day will occur.

The attorney requesting to withdraw shall prepare a written notification certificate stating that the notification requirements have been met, the manner by which notification was given to the client and the client's last known mailing and electronic addresses and telephone number. The notification certificate shall be filed with the court and a copy mailed to the client and all other parties. Additionally, the attorney seeking withdrawal shall provide a copy to the client by the most expedient means available due to the strict 10-day time restraint, i.e., e-mail, hand delivery, or overnight mail. After the entry of an order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal; thereafter all notices or other papers shall be served on the party directly by mail at the last known mailing address of the party until new counsel enters an appearance.

(3) When an attorney has already filed an entry of appearance and the client wishes to substitute counsel, it will not be necessary for the former attorney to comply with rule 4.3 (1) and (2). Instead, the new attorney may file with the clerk of court a notice of substitution of counsel signed by the party and the new attorney. The notice shall contain the style of the case and the name, address, phone number and bar number of the substitute attorney. The new attorney shall serve a copy of the notice on the former attorney, opposing counsel or party if unrepresented, and the assigned judge. No other or further action shall be required by the former attorney to withdraw from representing the party. The substitution shall not delay any proceeding or hearing in the case.

The notice may be in substantially the following form:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

SAM SPADE,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION
v.	)	
	)	FILE NO. 20-CV-0000
DAVID ROBICHEAUX,	)	
	)	
Defendant.	)	

NOTICE OF SUBSTITUTION OF COUNSEL

Please substitute (name of substitute counsel) as counsel for (name of party) in this case. Substitute counsel's address, phone number and bar number are as follows: _____.

All further pleadings, orders and notices should be sent to substitute counsel.

This ____ day of _____, ____.

signature	signature
Name of new attorney	Name of party
Address	Address
Phone number	Phone number
State Bar #	

CERTIFICATE OF SERVICE

Certificate of service on: former counsel, opposing counsel or party, assigned judge.

Amended effective October 9, 1997; amended November 4, 1999, effective December 16, 1999; amended May 15, 2014.

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.

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 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 of $75 for each application for pro hac vice admission to any Superior Court payable to the State Bar of Georgia at the time of filing the application.

3. Annual Fee. Any Domestic Lawyer or Foreign Lawyer who has been granted admission pro hac vice before any court of this State shall pay an annual fee of $200, regardless of the number of pro hac vice admissions, upon the first such admission, and on or before January 15 for each calendar year thereafter for so long as the Domestic Lawyer or Foreign Lawyer is admitted pro hac vice before any court of this State. The annual fee shall be payable to the State Bar of Georgia.

4. Exemption for Pro Bono Representation. An applicant shall not be required to pay the fee established by Rule 4.4 E.2 and E.3 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 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 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 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 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.

Amended effective October 9, 1997; November 10, 2005; April 23, 2009; October 7, 2010; September 29, 2011; September 18, 2014.

Rule 4.5. Entries of Appearance and Withdrawals by Members or Employees of Law Firms or Professional Corporations

The entry of an appearance or request for withdrawal by an attorney who is a member or an employee of a law firm or professional corporation shall relieve the other members or employees of the same law firm or professional corporation from the necessity of filing additional entries of appearance or requests for withdrawal in the same action.

Rule 4.6. To Notify of Representation

In any matter pending in a superior court, promptly upon agreeing to represent any client, the new attorney shall notify the appropriate calendar clerk in writing (and, in criminal actions, the district attorney; and, in civil actions the opposing attorney(s)) of the fact of such representation, the name of the client, the name and number of the action, the attorney's firm name, office address and telephone number.

Each such attorney shall notify the calendar clerk (and, in criminal actions, the district attorney; and, in civil actions, the opposing attorney(s)) immediately upon any change of representation, name, address or telephone number.

Rule 4.7. To Utilize Assigned Judge

Attorneys shall not present to any judge any matter or issue in any action which has been assigned to another judge, except under the most compelling circumstances. In that event, any attorney doing so shall first advise the judge to whom the matter is presented that the action is assigned to another judge. Counsel shall also inform the assigned judge as soon as possible that the matter was presented to another judge.

Rule 4.8. To Notify of Related Cases

At any time an attorney is counsel in any action which the attorney knows is or may be related to another action either previously or presently pending in and assigned to a particular judge of a superior court in the same circuit involving some or all of the same subject matter, or some or all of the same factual issues, such attorney immediately shall so advise the judges involved, who will then make an appropriate determination as to which judge the action or actions should be assigned.

Amended effective October 9, 1997.

Rule 4.9. To Notify of Previous Presentation to Another Judge

Attorneys shall not present to a judge any matter which has been previously presented to another judge without first advising the former of the fact and result of such previous presentation.

Rule 4.10. To Notify of Settlements and Dismissals

Immediately upon the settlement or dismissal of any civil action the involved attorneys shall notify the assigned judge and, where appropriate, the calendar clerk of such event.

Rule 4.11. Attorneys: Appearance, Withdrawal and Duties; to Attend and Remain

Subject to the provisions of Rule 17, attorneys having matters on calendars, or who are otherwise directed to do so, unless excused by the court, are required to be in court at the call of the matter and to remain until otherwise directed by the court. Should the judge excuse counsel from the courtroom before the matter is concluded such attorney(s) shall return as directed. So that the court can provide timely direction, counsel shall contact the trial court daily during the remainder of any ongoing calendar. Failure of any attorney in this respect shall subject that attorney to the contempt powers of the court.

Amended effective October 9, 1997; November 10, 2005.

Rule 4.12. Binding Authority

Attorneys of record have apparent authority to enter into agreements on behalf of their clients in civil actions. Oral agreements, if established, are enforceable.

Amended effective October 9, 1997.

Rule 5. DISCOVERY IN CIVIL ACTIONS[1]

[1]Rule 5 shall not be applied in any case prior to January 1, 1986.

Rule 5.1. Prompt Completion

In order for a party to utilize the court's compulsory process to compel discovery, any desired discovery procedures must first be commenced promptly, pursued diligently and completed without unnecessary delay and within 6 months after the filing of the answer. In any action in which an answer is not filed within 30 days of service, or by the date set forth in any extension or

court order, the 6-month period shall begin to run 30 days after service. At any time, the court, in its discretion, may open, extend, reopen or shorten the time to utilize the court's compulsory process to compel discovery.

Amended effective January 18, 1990; January 31, 1991; designated as Rule 5.1 effective November 12, 1992; amended May 15, 2014.

Rule 5.2. Filing Requirements

(1) Depositions and other original discovery material shall not be filed with the court unless or until required by the provisions of OCGA § 9-11-29.1(a) (1)-(5).

(2) A party serving Interrogatories, Requests for Production of Documents, Requests for Admission and Answers or responses thereto upon counsel, a party or a non-party shall file with the court a certificate indicating the pleading which was served, the date of service (or that the same has been delivered for service with the summons) and the persons served.

Adopted effective November 12, 1992.

Rule 5.3. Depositions Upon Oral Examination-Duration

Unless otherwise authorized by the court or stipulated by the parties, a deposition is limited to one day of seven hours. The court must allow additional time if needed for a fair examination of the deponent or if the deponent or another person or other circumstance impedes or delays the examination.

Adopted effective May 8, 2003.

Rule 5.4. Early Planning Conference and Discovery Plan

(1) The parties may agree to an early planning discovery conference, the judge may order the parties to hold an early planning discovery conference, or a party may petition the court for an early planning discovery conference. The conference may be held in the county in which the action is pending or at such other place or by such other means as agreeable to the court. A discovery conference may be held by telephone, by video conference, or in person, or a combination thereof, unless the court orders the parties to attend in person. During an early planning discovery conference, the parties shall:

a. Consider the nature and basis of the parties' claims and defenses and the possibilities of settling the case;

b. Resolve any issues regarding the scope of preservation of information;

c. Discuss the preparation of a discovery plan; and

d. Discuss any such issues as are relevant to the case.

(2) After an early planning discovery conference, the parties may submit an agreed upon discovery plan within 14 days of the meeting and may request a conference with the court

regarding the plan. Unless the parties agree otherwise, the attorney for the plaintiff shall be responsible for submitting the discovery plan to the court. The discovery plan may include:

a. A statement of the issues in the case and a brief factual outline;

b. A schedule of discovery including discovery of electronically stored information;

c. A defined scope of preservation of information and appropriate conditions for terminating the duty to preserve prior to the final resolution of the case;

d. The format by which electronically stored information will be produced; and

e. Sources of any stored information that is not reasonably accessible because of undue burden or cost.

(3) If a discovery plan is not agreed upon, the parties may submit to the court within 14 days of the meeting a joint report indicating the agreed upon parts of the discovery plan and the position of each party on the parts upon which they disagree. The court shall confer in an appropriate manner with the parties to resolve any outstanding issues.

Adopted effective June 4, 2015.

Rule 5.5. Privilege

(1) Information withheld. When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial preparation material, the party shall:

a. Expressly make the claim; and

b. Describe the nature of the documents, communications, or tangible things not produced or disclosed and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess such claim.

(2) Information produced. If information produced in discovery is subject to a claim of privilege or of protection as trial preparation material, the party making the claim may notify any party that received the information of the claim and the basis for it. The producing party shall preserve the information until the claim is resolved. After being notified, a party:

a. Shall promptly return, sequester, or destroy the specified information and any copies thereof;

b. Shall not use or disclose the information until the claim is resolved;

c. Shall take reasonable steps to retrieve the information if the party disclosed it before being notified; and

d. May promptly present the information to the court for in camera review for determination of the claim.

Adopted effective June 4, 2015.

Rule 6. MOTIONS IN CIVIL ACTIONS

Rule 6.1. Filing

In civil actions every motion made prior to trial, except those consented to by all parties, when filed shall include or be accompanied by citations of supporting authorities and, where allegations of unstipulated fact are relied upon, supporting affidavits, or citations to evidentiary materials of record. In circuits utilizing an individual assignment system, the clerk shall promptly upon filing furnish a copy provided by the attorney or party of such motions and related materials to the assigned judge or the judge's designee. When an attorney or party e-files a motion or any response, the attorney or party shall notify the opposing parties and the assigned judge or the judge's designee by e-mail of the motion or response contemporaneously but no later than 24 hours after e-filing.

Amended effective July 2, 2020.

Rule 6.2. Reply (Motions in Civil Actions)

Unless otherwise ordered by the judge or as provided by law, 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. Such response shall include or be accompanied by citations of supporting authorities and, where allegations of unstipulated facts are relied upon, supporting affidavits or citations to evidentiary materials of record. [In State Court, see State Court Rule 6.2.]

Amended effective May 5, 2011; May 23, 2013.

Rule 6.3. Hearing

Unless otherwise ordered by the court, all motions in civil actions, including those for summary judgment, shall be decided by the court without oral hearing, except motions for new trial and motions for judgment notwithstanding the verdict.

However, oral argument on a motion for summary judgment shall be permitted upon written request made in a separate pleading bearing the caption of the case and entitled "Request for Oral Hearing," and provided that such pleading is filed with the motion for summary judgment or filed not later than five (5) days after the time for response.

Amended May 7, 1987; amended effective November 9, 1995.

Rule 6.4. Failure to Make Discovery and Motion to Compel Discovery

(A) Motions to compel discovery in accordance with OCGA § 9-11-37 shall:

(1) Quote verbatim or attach a copy as an exhibit of each interrogatory, request for admission, or request for production to which objection is taken or to which no response or insufficient response is provided;

(2) Include the specific objection or response claimed to be insufficient;

(3) Include the grounds for the objection (if not apparent from the objection); and,

(4) Include the reasons supporting the motion. Any objections shall be addressed to the specific interrogatory, request for admission, or request for production and shall not be made generally.

(B) Prior to filing a motion seeking resolution of a discovery dispute, counsel for the moving party shall confer with counsel for the opposing party and any objecting person or entity in a good faith effort to resolve the matters involved. At the time of filing the motion, counsel shall also file a statement certifying that such conference has occurred and that the effort to resolve by agreement the issues raised failed. This rule also applies to motions to quash, motions for protective order and cases where no discovery has been provided.

Amended effective November 28, 1996; amended effective May 15, 2014.

Rule 6.5. Motions for Summary Judgment

Upon any motion for summary judgment pursuant to the Georgia Civil Practice Act, there shall be annexed to the notice of motion a separate, short and concise statement of each theory of recovery and of each of the material facts as to which the moving party contends there is no genuine issue to be tried. The response shall include a separate, short and concise statement of each of the material facts as to which it is contended there exists a genuine issue to be tried.

Rule 6.6. Time for Filing Summary Judgment Motions

Motions for summary judgment shall be filed sufficiently early so as not to delay the trial. No trial shall be continued by reason of the delayed filing of a motion for summary judgment.

Rule 6.7. Motions in Emergencies

Upon written notice and good cause shown, the assigned judge may shorten or waive the time requirement applicable to emergency motions, except motions for summary judgment, or grant an immediate hearing on any matter requiring such expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure.

Rule 7. PRETRIAL CONFERENCES

Rule 7.1. Civil

The assigned judge may set pretrial conferences sua sponte or upon motion. In scheduling actions for pre-trial conferences the court shall give consideration to the nature of the action, its complexity and the reasonable time requirements for preparation for pre-trial. In the event a pre-trial conference is ordered, the following shall apply.

A calendar will be published or a written order issued specifying the time and place for the pre-trial conference. The court will consider the issues stated in Rule 16 of the Civil Practice Act (OCGA § 9-11-16) among others. Subject to the provisions of Rule 17, the pre-trial hearing shall be attended by the attorneys who will actually try the action; with the consent of the court, another attorney of record in the action may attend if authorized to define the issues and enter

into stipulations. At the commencement of the pre-trial conference, or prior thereto upon written order of the court, counsel for each party shall present to the court a written proposed pre-trial order in substantially the form required by the rules. Failure of counsel to appear at the pre-trial conference without legal excuse or to present a proposed pre-trial order shall authorize the court to remove the action from any trial calendar, enter such pre-trial order as the court shall deem appropriate, or impose any other appropriate sanction, except dismissal of the action with prejudice.

Rule 7.2. Civil Pre-Trial Order

At the pre-trial conference, or prior to that day if specified in the pre-trial calendar, counsel for each party shall have prepared and shall file with the court a proposed pre-trial order in substantially the following form:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

CIVIL ACTION, CASE NO. _____

(STYLE OF CASE)

PRE-TRIAL ORDER

The following constitutes a Pre-Trial Order entered in the above-styled case after conference with counsel for the parties:

(1) The name, address and phone number of the attorneys who will conduct the trial are as follows:

Plaintiff _____

Defendant _____

Other _____

(2) The estimated time required for trial is _____

(3) There are no motions or other matters pending for consideration by the court except as follows:_____
_____

(4) The jury will be qualified as to relationship with the following:

(5)a. All discovery has been completed, unless otherwise noted, and the court will not consider any further motions to compel discovery except for good cause shown. The parties, however, shall be permitted to take depositions of any person(s) for the preservation of evidence for use at trial.

b. Unless otherwise noted, the names of the parties as shown in the caption to this order are correct and complete and there is no question by any party as to the misjoinder or nonjoinder of any parties.

(6) The following is the Plaintiff's brief and succinct outline of the case and contentions: (USE SPACE AS NEEDED)

_____
_____

(7) The following is the Defendant's brief and succinct outline of the case and contentions: (USE SPACE AS NEEDED)

_____
_____

(8) The issues for determination by the jury are as follows:

_____
_____

(9) Specifications of negligence including applicable code sections are as follows:

_____

_____

(10) If the case is based on a contract, either oral or written, the terms of the contract are as follows (or, the contract is attached as an Exhibit to this order):

_____

_____

_____

(11) The types of damages and the applicable measure of those damages are stated as follows:

_____

_____

(12) If the case involves divorce, each party shall present to the court at the pre-trial conference the affidavits required by Rule 24.2.

(13) The following facts are stipulated:

_____

_____

(14) The following is a list of all documentary and physical evidence that will be tendered at the trial by the Plaintiff or Defendant. Unless noted, the parties have stipulated as to the authenticity of the documents listed and the exhibits listed may be admitted without further proof of authenticity. All exhibits shall be marked by counsel prior to trial so as not to delay the trial before the jury.

a. By the Plaintiff:

_____

_____

_____

b. By the Defendant:

_____

_____

_____

(15) Special authorities relied upon by Plaintiff relating to peculiar evidentiary or other legal questions are as follows:

_____

_____

(16) Special authorities relied upon by Defendant relating to peculiar evidentiary or other legal questions are as follows:

_____

(17) All requests to charge anticipated at the time of trial will be filed in accordance with Rule 10.3.

(18) The testimony of the following persons may be introduced by depositions: _____ Any objection to the depositions or questions or arguments in the depositions shall be called to the attention of the court prior to trial.

(19) The following are lists of witnesses the

a. Plaintiff will have present at trial: _____

_____

b. Plaintiff may have present at trial: _____

_____

c. Defendant will have present at trial: _____

_____

d. Defendant may have present at trial: _____

_____

Opposing counsel may rely on representation that the designated party will have a witness present unless notice to the contrary is given in sufficient time prior to trial to allow the other party to subpoena the witness or obtain his testimony by other means.

(20) The form of all possible verdicts to be considered by the jury are as follows: _____

(21)a. The possibilities of settling the case are: _____

b. The parties do/do not want the case reported.

c. The cost of take-down will be paid by: _____

d. Other matters:

Submitted by:

_____

_____

It is hereby ordered that the foregoing, including the attachments thereto, constitutes the PRE-TRIAL ORDER in the above case and supersedes the pleadings which may not be further amended except by order of the court to prevent manifest injustice.

This _____ day of _____, 20__.

_____

Judge, Superior Court

_____ Judicial Circuit

Amended effective October 9, 1997.

Rule 7.3. Interpreters

(A) In all civil and criminal cases, the party or party's attorney shall inform the court in the form of a notice of the need for a qualified interpreter, if known, within a reasonable time — at least 5 days where practicable—before any hearing, trial, or other court proceeding. Such notice shall be filed and shall comply with any other service requirements established by the court. The notice shall (1) designate the participants in the proceeding who will need the services of an interpreter, (2) estimate the length of the proceeding for which the interpreter is required, (3) state whether the interpreter will be needed for all proceedings in the case, and (4) indicate the language(s), including sign language for the Deaf/Hard of Hearing, for which the interpreter is required.

(B) Upon receipt of such notice, the court shall make a diligent effort to locate and appoint a licensed interpreter, at the court's expense, in accordance with the Supreme Court of Georgia's Rule on Use of Interpreters for Non-English Speaking and Hearing Impaired Persons. If the court determines that the nature of the case (e.g., an emergency) warrants the use of a non-licensed interpreter, then the court shall follow the procedures as outlined in the Supreme Court of Georgia's Commission on Interpreters' Instructions for Use of a Non-Licensed Interpreter. Despite its use of a non-licensed interpreter, the court shall make a diligent effort to ensure that a licensed interpreter is appointed for all subsequently scheduled proceedings, if one is available.

(C) If a party or party's attorney fails to timely notify the court of a need for a court interpreter, the court may assess costs against that party for any delay caused by the need to obtain a court interpreter unless that party establishes good cause for the delay. When timely notice is not provided or on other occasions when it may be necessary to utilize an interpreter not licensed by the Supreme Court of Georgia's Commission on Interpreters (COI), the Registry for Interpreters of the Deaf (RID), or other industry-recognized credentialing entity, such as a telephonic language service or a less qualified interpreter, the court should weigh the need for immediacy in conducting a hearing against the potential compromise of due process, or the potential of substantive injustice, if interpreting is inadequate. Unless immediacy is a primary concern, some delay might be more appropriate than the use of an interpreter not licensed by the COI, RID, or other recognized credentialing entity.

(D) Notwithstanding any failure of a party or party's attorney to notify the court of a need for a court interpreter, the court shall appoint a court interpreter whenever it becomes apparent from the court's own observations or from disclosures by any other person that a participant in a proceeding is unable to hear, speak, or otherwise communicate in the English language to the extent reasonably necessary to meaningfully participate in the proceeding.

(E) If the time or date of a proceeding is changed or canceled by the parties, and interpreter services have been arranged by the court, the party that requested the interpreter must notify the court 24 hours in advance of the change or cancellation. Timely notice of any changes is essential in order to cancel or reschedule an interpreter, thus precluding unnecessary travel by the interpreter and a fee payment by the court. If a party fails to timely notify the court of a change or cancellation, the court may assess any reasonable interpreter expenses it may have incurred

upon that party unless the party can show good cause for its failure to provide a timely notification.

Amended effective November 8, 2001; amended effective July 13, 2017.

Rule 7.4. Criminal Matters

At or after the arraignment, pre-trial conferences may be scheduled as the judge deems appropriate. Such pre-trial conferences shall be attended by the attorneys who will actually try the case. At the pre-trial conference:

(A) All motions, special pleas and demurrers not previously determined shall be presented to and heard by the judge. Any and all pending motions not called to the judge's attention at the pre-trial conference shall be deemed to have been abandoned and waived; however, at the judge's discretion and for good cause, such matters may subsequently be heard. At the discretion of the judge, the disposition of any matter brought before the court may be postponed.

(B) To the extent possible without revealing confidential trial strategies, the attorneys shall inform the judge of probable evidentiary problems known to them or any other matter which might delay the trial so the judge may take any necessary action before the trial to avoid a delay.

(C) If possible, the judge shall set a firm trial date.

(D) Counsel are encouraged to enter into reasonable stipulations.

Amended effective October 9, 1997; renumbered from 7.3 effective November 8, 2001.

Rule 8. CIVIL JURY TRIAL CALENDAR

Rule 8.1. Scheduling Trials

The assigned judge has the sole responsibility for setting hearings in all actions assigned to that judge, for the scheduling of all trials in such actions and for the publication of all necessary calendars in advance of trial dates. In scheduling actions for trial the assigned judge shall give consideration to the nature of the action, its complexity and the reasonable time requirements of the action for trial. It is the intendment of these rules that no matter be allowed to languish, and the assigned judge is responsible for the orderly movement and disposition of all assigned matters.

Amended effective October 9, 1997.

Rule 8.2. Ready List

All actions ready for trial in accordance with OCGA § 9-11-40 shall be placed upon a list of actions ready for final jury trial to be maintained as a "ready list" by the calendar clerk.

Actions may be placed on the ready list by:

(A) The assigned judge upon notice to the parties; or

(B) A party, after the entry of a pre-trial order, upon notice to the other parties.

Except for cause, actions shall be placed on the ready list in chronological order in accordance with filing dates, except that actions previously on the ready list shall retain their superior position; however, actions entitled thereto by statute shall be given precedence.

Rule 8.3. Trial Calendar

The court shall designate a calendar clerk, who need not be an employee of the clerk of superior court, for the purpose of publishing a 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 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. The calendar clerk may distribute the calendar by sending an electronic copy via e-mail to the attorneys of record addressed to their e-mail addresses as registered with the State Bar of Georgia pursuant to USCR 4.2. Pro se parties must be notified by regular mail. [In State Court, see State Court Rule 8.3.]

Amended effective November 28, 2013.

Rule 8.4. Trial Date

The parties and counsel in the first 10 actions on the published trial calendar shall appear ready for trial on the date specified unless otherwise directed by the assigned judge. Parties in all other actions on the calendar are expected to be ready for trial but may contact the calendar clerk to obtain:

(A) A specific date and time for trial during the trial term specified in the calendar; or

(B) Permission to await the call by the calendar clerk of the action for trial upon reasonable notice to counsel.

Amended effective March 9, 1989.

Rule 8.5. Continuance After Scheduled for Trial

Continuances will not be granted merely by agreement of counsel. Actions will not be removed from a published trial calendar except by court direction upon such terms as reasonably may be imposed, including the possible imposition of a penalty of up to $50 upon the moving party if, absent statutory grounds or good cause, a motion for continuance of an action is first made within 5 days of the trial week scheduled.

Rule 8.6. Special Settings

Special settings of actions for jury trial are not favored.

RULE 9. TELEPHONE AND VIDEO-CONFERENCING*

*See Supreme Court Order (March 27, 2020) temporarily amending Superior Court Rules 9.1, 9.2 (C) and 9.2 (E) (4).

Rule 9.1. Telephone Conferencing

The trial court on its own motion or upon the request of any party may in its discretion conduct pre-trial or post-trial proceedings in civil actions by telephone conference with attorneys for all affected parties. The trial judge may specify:

(A) The time and the person who will initiate the conference;

(B) The party which is to incur the initial expense of the conference call, or the apportionment of such costs among the parties, while retaining the discretion to make an adjustment of such costs upon final resolution of the case by taxing same as part of the costs; and

(C) Any other matter or requirement necessary to accomplish or facilitate the telephone conference.

Adopted effective July 15, 2004.

Rule 9.2. Video-Conferencing

(A) The following matters may be conducted by video-conference:

1. Determination of indigence and appointment of counsel;

2. Hearings on appearance and appeal bonds;

3. Initial appearance hearings;

4. Probable cause hearings;

5. Applications for arrest warrants;

6. Applications for search warrants;

7. Arraignment or waiver of arraignment;

8. Pretrial diversion and post-sentencing compliance hearings;

9. Entry of pleas in criminal cases;

10. Impositions of sentences upon pleas of guilty or *nolo contendere*;

11. Probation revocation hearings in felony cases in which the probationer admits the violation and in all misdemeanor cases;

12. Post-sentencing proceedings in criminal cases;

13. Acceptance of special pleas of insanity (incompetency to stand trial);

14. Situations involving inmates with highly sensitive medical problems or who pose a high security risk;

15. Testimony of youthful witnesses;

16. *Ex-parte* applications for Temporary Protective Orders under the Family Violence Act and the Stalking Statute; and

17. Appearances of interpreters.

Notwithstanding any other provisions of this rule, a judge may order a defendant's personal appearance in court for any hearing.

(B) Confidential Attorney-Client Communication. Provision shall be made to preserve the confidentiality of attorney-client communications and privilege in accordance with Georgia law. In all criminal proceedings, the defendant and defense counsel shall be provided with a private means of communications when in different locations.

(C) Witnesses. In any pending matter, a witness may testify via video conference. Any party desiring to call a witness by video conference shall file a notice of intention to present testimony by video conference at least thirty (30) days prior to the date scheduled for such testimony. Any other party may file an objection to the testimony of a witness by video conference within ten (10) days of the filing of the notice of intention. In civil matters, the discretion to allow testimony via video conference shall rest with the trial judge. In any criminal matter, a timely objection shall be sustained; however, such objection shall act as a motion for continuance and a waiver of any speedy trial demand.

(D) Recording of Hearings. A record of any proceedings conducted by video conference shall be made in the same manner as all such similar proceedings not conducted by video conference. However, upon the consent of all parties, that portion of the proceedings conducted by video conference may be recorded by an audio-visual recording system and such recording shall be part of the record of the case and transmitted to courts of appeal as if part of a transcript.

(E) Technical Standards. Any video-conferencing system utilized under this rule must conform to the following minimum requirements:

1. All participants must be able to see, hear, and communicate with each other simultaneously;

2. All participants must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method;

3. Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications; and

4. The location from which the trial judge is presiding shall be accessible to the public to the same extent as such proceeding would if not conducted by video conference. The court shall accommodate any request by interested parties to observe the entire proceeding.

Adopted effective July 15, 2004.

Rule 10. TRIALS

Rule 10.1. Voir Dire

The court may propound, or cause to be propounded by counsel such questions of the jurors as provided in OCGA § 15-12-133; however, the form, time required and number of such questions is within the discretion of the court. The court may require that questions be asked once only to the full array of the jurors, rather than to every juror – one at a time – provided that the question be framed and the response given in a manner that will provide the propounder with an individual response prior to the interposition of challenge. Hypothetical questions are discouraged, but may be allowed in the discretion of the court. It is improper to ask how a juror would act in certain contingencies or on a certain hypothetical state of facts. No question shall be framed so as to require a response from a juror which might amount to a prejudgment of the action. Questions calling for an opinion by a juror on matters of law are improper. The court will exclude questions which have been answered in substance previously by the same juror. It is discretionary with the court to permit examination of each juror without the presence of the remainder of the panel. Objections to the mode and conduct of voir dire must be raised promptly or they will be regarded as waived.

In cases in which the death penalty is sought, the trial judge shall address all *Witherspoon* and reverse-*Witherspoon* questions to prospective jurors individually. Prior to ruling upon any motion to strike a juror under *Witherspoon*, the trial judge shall confer with counsel for the state and for the accused as to any additional inquiries. Failure to object to the court's ruling on whether or not a juror is qualified shall be a waiver of any such objection.

Amended effective October 9, 1997.

Rule 10.2. Opening Statements in Criminal Matters

The district attorney may make an opening statement prior to the introduction of evidence. This statement shall be limited to expected proof by legally admissible evidence. Defense counsel may make an opening statement immediately after the state's opening statement and prior to introduction of evidence, or following the conclusion of the state's presentation of evidence. Defense counsel's statement shall be restricted to expected proof by legally admissible evidence, or the lack of evidence.

Rule 10.3. Requests and Exceptions to Charge

All requests to charge shall be numbered consecutively on separate sheets of paper and submitted to the court in duplicate by counsel for all parties at the commencement of trial, unless otherwise provided by pre-trial order; provided, however, that additional requests may be submitted to cover unanticipated points which arise thereafter.

Rule 10.4. Excusals From Courtroom

During the course of a proceeding no one except the judge may excuse from the courtroom a party, a witness (including one who has testified), or counsel.

Rule 11. SELECTION OF JURIES

After completion of the examination of jurors upon their voir dire, the parties and their counsel shall be entitled, upon request, to 15 minutes to prepare for jury selection; thereafter, during the selection of jurors, the court in its discretion, upon first warning counsel, may restrict to not less than 1 minute the time within which each party may exercise a peremptory challenge; a party shall forfeit a challenge by failing to exercise it within the time allowed.

Amended effective October 9, 1997.

Rule 12. VOLUNTARY DISMISSAL OF ACTIONS

If a civil action is voluntarily dismissed (other than as a result of final settlement agreement, the terms of which are dictated, in court or in chambers, into the record) after the trial jury has been empaneled, all court costs including juror fees incurred for all panels from which the trial jury was selected shall be taxed against the dismissing party.

Rule 13. ARGUMENTS

Rule 13.1. Time Limitations

Counsel shall be limited in their arguments as follows:

(A) Felony cases punishable by the death penalty or life in prison -- 2 hours each side.

(B) Any other felony case -- 1 hour each side.

(C) Misdemeanor case -- 30 minutes each side.

(D) Civil cases other than appeals from magistrate courts -- 2 hours each side.

(E) Appeals from magistrate courts -- 30 minutes each side.

Amended effective September 2, 1999; May 1, 2008.

Rule 13.2. Extensions

Before arguments begin, counsel may apply to the court for an extension of the time prescribed for argument. The applicant shall state the reason that additional time is needed; the court in its discretion may grant extensions.

Rule 13.3. Number of Arguments

Not more than two attorneys shall be permitted to argue any case for any party except by leave of court; in no event shall more than one attorney for each party be heard in concluding argument.

Rule 13.4. Conclusion

In civil actions, where the burden of proof rests with the plaintiff, the plaintiff is entitled to the opening and concluding arguments except that if the defendant introduces no evidence or admits a prima facie case, then the defendant shall be entitled to open and conclude.

Amended effective October 9, 1997.

Rule 14. DISMISSAL

On its own motion or upon motion of the opposite party, the court may dismiss without prejudice any civil action, or where appropriate, any pleading filed on behalf of any party upon the failure to properly respond to the call of the action for trial or other proceeding. In civil actions or criminal cases the court may adjudge any attorney in contempt for failure to appear without legal excuse upon the call of any proceeding.

Rule 15. DEFAULT JUDGMENTS

The party seeking entry of a default judgment in any action shall certify to the court the following: the date and type of service effected; that proof of service was filed with the court within 5 business days of the service date, or, if not filed within 5 business days of the service date, the date on which proof of service was filed; that no defensive pleading has been filed by the defendant as shown by court records; and the defendant's military status, if required. This certificate shall be in writing and must be attached to the proposed default judgment when presented to the judge for signature.

Amended effective May 8, 2003; amended effective May 15, 2014.

Rule 15.1. Garnishments

In accordance with OCGA §18-4-61 (5)**,** the clerk of superior court is authorized to supervise initiation of the garnishment proceedings and the affidavit, provided the clerk determines:

(A) That the affidavit is on personal knowledge and contains all elements required by Georgia law;

(B) That the garnishment proceedings are carried out through the use of proper forms in the filing of garnishments and in accord with Georgia law;

(C) That any questionable matter concerning these procedures be presented to the presiding judge for determination and in all cases a judge's facsimile signature may be affixed to an affidavit of garnishment as determined by the presiding judge.

Rule 15.1 adopted effective January 31, 1991.

Rule 16. LEAVES OF ABSENCE

Rule 16.1. Leaves for Thirty (30) Calendar Days or Less

An attorney of record shall be entitled to a leave of absence for thirty days or less from court appearance in pending matters which are neither on a published calendar for court appearance, nor noticed for a hearing during the requested time, by submitting to the clerk of the court at least thirty (30) calendar days prior to the effective date for the proposed leave, a written notice containing:

(a) a list of the actions to be protected, including the action numbers;

(b) the reason for leave of absence; and

(c) the duration of the requested leave of absence.

A copy of the notice shall be sent, contemporaneously, to the judge before whom an action is pending and all opposing counsel. Unless opposing counsel files a written objection within ten (10) days with the clerk of the court, with a copy to the court and all counsel of record, or the court responds denying the leave of absence, such leave will stand granted without entry of an order. If objection is filed, the court, upon request of any counsel, will conduct a conference with all counsel to determine whether the court will, by order, grant the requested leave of absence.

The clerk of the court shall retain leave of absence notices in a chronological file for two (2) calendar years; thereafter, the notices may be discarded.

Rule 16.2. Leaves for More Than Thirty (30) Calendar Days or Those Either on a Published Calendar, Noticed for a Hearing, or not Meeting the Time Requirements of 16.1

Application for leaves of absence for more than thirty (30) days, or those either on a published calendar, noticed for a hearing, or not submitted within the time limits contained in 16.1 above, must be in writing, filed with the clerk of the court, and served upon opposing counsel at least ten (10) days prior to submission to the appropriate judge of the court in which the action pends. This time period may be waived if opposing counsel consents in writing to the application. This procedure permits opposing counsel to object or to consent to the grant of the application, but the application is addressed to the discretion of the court. Such application for leave of absence shall contain:

(a) a list of the actions to be protected, including the action numbers;

(b) the reason for leave of absence; and

(c) the duration of the requested leave of absence.

Rule 16.3. 16.1 or 16.2 Leave

A 16.1 or 16.2 leave when granted shall relieve any attorney from all trials, hearings, depositions and other legal proceedings in that matter. This rule shall not extend any deadline set by law or the court.

Rule 16.4. Denial of Application for Leave

Any application for leave not filed in conformance with this rule will be denied. Notice shall be provided substantially as on the attached form.

To: All Judges, Clerk of Court, and Counsel of Record
From: Name of Attorney
RE: Notice of Leave of Absence
Date:

Comes now (attorney's name) and respectfully notifies all judges before whom s/he has cases pending, all affected clerks of court, and all opposing counsel, that s/he will be on leave pursuant to Georgia Uniform Court Rule 16.

1. The period of leave during which time Applicant will be away from the practice of law, is: _____(dates of leave). The purpose of the leave is:_____.

2. All affected judges and opposing counsel shall have ten days from the date of this Notice to object to it. If no objections are filed, the leave shall be granted.

name of attorney
Bar no.
address of attorney
phone number of attorney

CERTIFICATE OF SERVICE

This is to certify that I have this date served a copy of the foregoing Notice of Leave of Absence upon all judges, clerks and opposing counsel listed on the attached Exhibit A, by depositing the same in the U.S. Mail with adequate postage affixed thereto.

This _____ day of _____, ____.

_____

Name of attorney

EXHIBIT A

(Sample)

Name of Case Case Number	Name of Judge Court/County	Opposing Counsel
Jones v. Jones 98-3333	Brown DeKalb/Superior	opp. atty. A (address)
Smith v. Exxon 97A-454545	Black Cobb/State	opp. atty. B (address)
Schwartz v. Craig & Co. E-6789	Grey Fulton/Superior	opp. atty. C (address)

Amended effective September 23, 1998.

Rule 17. CONFLICTS–STATE AND FEDERAL COURTS

Rule 17.1. Method of Resolution

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

(1) the attorney is lead counsel and/or has been subpoenaed as a witness in two or more actions; 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 (including a subpoena compelling his or her appearance to testify) 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) and habeas actions shall prevail over civil actions. Criminal actions in which a demand for speedy trial has been timely filed pursuant to O.C.G.A. §§ 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;

(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.

Amended effective March 9, 1989; October 9, 1997; January 17, 2008; October 23, 2008; October 25, 2012; November 28, 2013.

Rule 17.2. Attorneys Serving as Part-time Judges

A judge presiding in a civil matter shall give prompt consideration to resolving scheduling conflicts resulting from an attorney's serving as a part-time judge of a court of record. The presiding judge should be mindful of the strict time limitations of juvenile proceedings. See, e.g., Ga. Unif. Juvenile Court Rules 6.8, 7.3, and 23.5. However, a continuance by reason of such scheduling conflicts should not be granted in a scheduled Superior Court civil matter involving the safety of a child or the need of a custodial parent for temporary support.

Amended effective September 2, 1999.

Rule 18. RULES FOR SERVICE OF SENIOR JUDGES

Rule 18.1. Definitions

For the purposes of this section of the uniform rules, the following definitions shall apply:

(A) "Active judge" means a superior court judge in active service.

(B) "Senior judge" means a superior court judge retired from active service, yet authorized by law to serve as a superior court judge.

Amended effective January 24, 2019.

Rule 18.2. Requests for Assistance

The chief judge of any superior court of this state may make a written request for assistance to the chief judge of any other superior court, a senior judge of the superior court, a retired judge, or a judge emeritus of any court. The request by the chief judge may be made if one of the following circumstances arise:

(A) A judge of the requesting court is disqualified for any cause from presiding in any matter pending before the court;

(B) A judge of the requesting court is unable to preside because of disability, illness, or absence; or,

(C) A majority of the judges of the requesting court determines that the business of the court requires the temporary assistance of an additional judge or additional judges. OCGA § 15-1-9.1(b).

An active judge may, except as hereinafter provided, call upon a senior judge to serve in an emergency or when the volume of cases or other unusual circumstances cause such service to be necessary in order to provide for the speedy and efficient disposition of the business of the circuit.

Rule 18.3. Certificate of Need

Except in cases of emergency, having determined the necessity for the service of a senior judge, the requesting judge shall certify the reason such service is required, which shall include an order of appointment giving the scope and tenure of such requested service as in the discretion of the requesting judge is necessary to meet the need. Such certificate and order shall be filed in the office of clerk of superior court of the county in which service is to be performed and with the district administrative judge of such district.

Rule 18.4. Emergency Requests

In case of an unforeseen emergency requiring the immediate service of a senior judge, the requesting judge may act without prior certificate or order of appointment, later ratifying such designation of service by an appropriate order.

Rule 18.5. Residence of Senior Judge

No active judge shall call to serve any senior judge who is not a bona fide resident of and domiciled in this state.

Rule 18.6. [Deleted]

Deleted effective January 24, 2019.

Rule 18.7. [Deleted]

Rule 18.8. Election of Ineligibility

In view of the foregoing limitations upon service and compensation of senior judges, senior judges may elect to declare themselves ineligible to serve as judges and may engage in the private practice of law if and when authorized by law. Such election shall be made in writing delivered to the Supreme Court. Senior judges shall be entitled to draw their earned retirement pay and shall be entitled to additional compensation for serving as arbitrators, mediators and any other neutral in an alternative dispute process and as special masters, receivers, auditors and referees.

A senior judge who has elected to practice law shall not thereafter be eligible to serve as a judge except upon petition showing good cause to and with the approval of the Supreme Court. Having once been reinstated as eligible to serve as judge by the Supreme Court, no second such petition shall be granted.

No judge shall call upon any senior judge to serve who is exercising the right to practice law and no senior judge who is exercising the right to practice law shall agree to serve as a judge.

Amended effective November 12, 1992; October 7, 2010.

Rule 19. TRANSFER/CHANGE OF VENUE

Rule 19.1. Civil

(A) Subject to the provisions of OCGA § 9-11-12 and section (C) of this rule, a timely motion in any pending civil action or proceeding (1) by any party, that jurisdiction is lacking or that venue is improper, or (2) by the court, sua sponte, that subject matter jurisdiction is lacking, shall be treated as a motion to transfer the action to another court, whether in the same or another county of this state.

(B) The moving party shall specify the court(s) having jurisdiction and in which venue properly would lie.

(C) If the basis of the motion is that a party necessary to the court's jurisdiction has been dismissed during or at the conclusion of the trial, the motion shall be made immediately and orally; any opposition shall be made orally. Should the motion to transfer be granted as to the remaining parties the claim against the party dismissed shall be severed, so that the order of dismissal will be final for purposes of appeal.

(D) Unless otherwise ordered by the court, notice of a written motion to transfer shall be served upon all parties, including any who failed to file pleadings in the matter at least 10 days before the motion is heard. A party opposing a written motion to transfer shall notify the court and all other parties in writing within 10 days after service upon that party of the motion to transfer; such notice shall designate the basis upon which it is claimed that the court in which the action pends has jurisdiction and upon which venue is claimed to be proper.

(E) When a motion to transfer is filed, the court may stay all other proceedings in the pending action until determination of the motion.

(F) No action or proceeding may be transferred except upon written order of the court in which the action pends (transferor court), reasonable notice of which shall be given to all parties. This order shall specify the court to which the matter is to be transferred (transferee court) and shall state that unless plaintiff pays all accrued court costs within 20 days of mailing or delivery of the cost bill to plaintiff, the action shall automatically stand dismissed without prejudice.

The court ruling upon a motion to transfer may award reasonable attorney's fees to the prevailing party; if the court grants the motion, transfer costs of $50 shall be taxed, unless the court expressly determines otherwise, in its discretion.

(G) When an order transferring an action is filed with the clerk of the court entering such order, the clerk shall promptly compute the court costs, including the costs incident to preparing and transferring the record as provided in subparagraph (H) of this rule, and shall notify counsel for plaintiff (or, the plaintiff, if there is no counsel of record) in writing of the amount of the court costs. Plaintiff shall pay the costs within 20 days of mailing or delivery of the cost bill; if costs are not paid within that time, the action shall automatically stand dismissed, without prejudice.

(H) Upon timely payment of costs, the clerk of the transferor court shall make and retain copies of (1) the complaint or initial pleading, (2) the motion to transfer if in writing, and (3) the order of transfer. The originals of all pleadings, orders, depositions and other papers on file shall be

indexed and certified by the clerk of the transferor court and transmitted, with the transfer cost (if applicable), to the clerk of the transferee court in the manner provided by law for transmittal of records to appellate courts.

(I) Upon receipt of the items specified in subparagraph (H) of this rule, the clerk of the transferee court shall assign the action an appropriate number and notify all parties and their respective counsel of record thereof. The action thereafter shall continue in the transferee court as though initially commenced there; all items specified in subparagraph (H) of this rule shall be deemed amended accordingly. It shall not be necessary that service of process be perfected a second time upon parties defendant, except that any publication required to be made in a newspaper in the proper venue shall be republished. Any interlocutory or other order theretofore entered in the action, upon the motion of any party, shall be reviewed, and thereafter reissued or vacated by the court to which the action was transferred.

Amended effective October 9, 1997.

Rule 19.2. Criminal

When a criminal action is to be transferred to the superior court of a county different from that in which initially brought, the superior court judge granting the venue change, unless disqualified, shall continue as presiding judge in the action.

Rule 19.3. Contested Election Results

In respect of actions contesting election results, venue change is not limited to the county adjoining that in which the action commenced, but may be made to an appropriate court in any county of the state; costs incident to the further handling and trial of such action shall be borne by the transferor county.

Amended effective March 14, 1996.

Rule 20. PEREMPTORY CALENDAR

Periodically the assigned judge may cause to be delivered to the clerk of the court and published a list of pending civil actions in which the discovery period has expired or criminal cases upon reasonable notice requiring the parties (including the state) or their attorneys to announce whether the actions or cases appearing thereon are ready for trial and when trial should be scheduled. Failure to appear at the calendar sounding or otherwise to advise the judge or appropriate calendar clerk may result in the following disposition:

(A) In civil actions, the dismissal without prejudice of plaintiff’s action or defendant's answer, counterclaim, or cross claim; and,

(B) In criminal cases, the acquitting of the accused defendant or the dead docketing of the case.

Rule 21. LIMITATION OF ACCESS TO COURT FILES

All court records are public and are to be available for public inspection unless public access is limited by law or by the procedure set forth below.

Rule 21.1. Motions and Orders

Upon motion by any party to any civil or criminal action, or upon the court's own motion, after hearing, the court may limit access to court files respecting that action. The order of limitation shall specify the part of the file to which access is limited, the nature and duration of the limitation, and the reason for limitation.

Amended effective October 7, 2010.

Rule 21.2. Finding of Harm

An order limiting access shall not be granted except upon a finding that the harm otherwise resulting to the privacy of a person in interest clearly outweighs the public interest.

Rule 21.3. Ex Parte Orders

Under compelling circumstances, a motion for temporary limitation of access, not to exceed 30 days, may be granted, ex parte, upon motion accompanied by supporting affidavit.

Rule 21.4. Review

An order limiting access may be reviewed by interlocutory application to the appellate court that has jurisdiction to hear the appeal.

Amended effective January 24, 2019.

Rule 21.5. Amendments

Upon notice to all parties of record and after hearing, an order limiting access may be reviewed and amended by the court entering such order or by the appropriate appellate court at any time on its own motion or upon the motion of any person for good cause.

Amended effective January 24, 2019.

Rule 21.6. Redaction of Protected Identifiers and Filings Under Seal

(A) Protected Identifiers. Protected identifiers are items of identifying information subject to protection from placement on the public record as described in OCGA § 9-11-7.1.

(B) Protected Identifiers in Family Violence and Stalking Protective Orders. Protected identifiers that must be included to qualify a protective order for entry into the Georgia Protective Order Registry or the National Crime Information Center Registry shall be placed on a separate page to follow the other pages of the order. The clerk of court shall utilize the protected identifiers as necessary to process the protective order and then seal the protected identifiers page in the case file without further order of the court. The protected identifiers page shall not be unsealed except upon order of the court or as required by law.

(C) Sealing of Filings With Unredacted Protected Identifiers. Any party seeking to make a filing under seal without redaction shall first file a redacted version of the filing with the clerk of court

for the public record and then submit the request for filing under seal directly to the court, along with a copy of the filing without redaction and a proposed order to file under seal.

(D) Sealing of Filings Containing Personal and Confidential Information. Any party seeking to make a filing under seal which contains additional personal or confidential information other than protected identifiers shall first file a redacted version with the clerk of court for the public record and then submit a request for filing under seal directly to the court, along with a copy of the filing without redaction and a proposed order to file under seal.

Adopted effective June 4, 2015.

Rule 22. USE OF ELECTRONIC DEVICES IN COURTROOMS AND RECORDING OF JUDICIAL PROCEEDINGS

(A) Overview.

Open courtrooms are an indispensable element of an effective and respected judicial system. It is the policy of Georgia's courts to promote access to and understanding of court proceedings not only by the participants in them but also by the general public and by news media who will report on the proceedings to the public. This must be done, however, while protecting the legal rights of the participants in the proceedings and ensuring appropriate security and decorum.

Except as otherwise required by law, this rule governs the use of devices to record sounds or images in a courtroom and comports with the standards provided in OCGA § 15-1-10.1 regarding the use of devices to record judicial proceedings.

This rule similarly governs the use of electronic devices, including mobile phones and computers, in a courtroom for purposes other than recording sounds and images. Such use is generally allowed by lawyers, by employees of lawyers, and by self-represented parties, but to ensure decorum and avoid distraction, such use is generally prohibited by jurors, witnesses, parties, and spectators, including representatives of the news media. Such persons may, however, use their devices by stepping outside the courtroom, and nothing in this rule prevents a judge from permitting parties and spectators to use their devices for non-recording purposes as the judge may allow in his or her discretion.

A court must use reasonable means to advise courtroom visitors of the provisions of this rule and must make the form in Exhibit A available in its clerk's office and on the court's website.

(B) Definitions. The following definitions apply in this rule:

(1) "Recording device" means a device capable of electronically or mechanically storing, accessing, or transmitting sounds or images. The term encompasses, among other things, a computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone or other wireless phone; a camera and other audio or video recording devices; a personal digital assistant (PDA); and any similar devices.

(2) "Recording" means electronically or mechanically storing, accessing, or transmitting sounds or images. "Record" means to electronically or mechanically store, access, or transmit sounds or images, including by photographing, making an audio or video recording, or broadcasting. Nothing in this rule prohibits making written notes and sketches pertaining to any judicial proceedings.

(3) "Courtroom" means the room in which a judge will conduct a court proceeding and the areas immediately outside the courtroom entrances or any areas providing visibility into the courtroom.

(C) Jurors, witnesses, parties, and spectators, including representatives of the news media. The following restrictions apply to use of recording devices by jurors, including grand jurors and prospective jurors, by witnesses, by parties, and by spectators, including representatives of the news media.

(1) *Jurors:* Jurors shall turn the power off to any recording device while present in a courtroom and while present in a jury room during the jury's deliberations and discussions concerning a case. Jurors may use their devices during breaks as authorized by the judge. Jurors shall not record proceedings.

(2) *Witnesses:* Witnesses shall turn the power off to any recording device while present in a courtroom, and may use a device while testifying only with permission of the judge. Witnesses shall not record proceedings.

(3) *Parties and spectators:* Parties and spectators may use recording devices to record proceedings only as specifically authorized by the court pursuant to this rule. All parties and spectators shall turn the power off to any recording device while present in a courtroom, unless the judge allows orally or in writing the use of recording devices in the courtroom for purposes other than recording sounds and images, which the judge may freely do when he or she believes such use would not be disruptive or distracting and is not otherwise contrary to the administration of justice. When such use is allowed, recording devices must be silenced and may not be used to make or receive telephone calls or for other audible functions without express permission from the judge.

(D) Attorneys, employees of attorneys such as paralegals and investigators, and self-represented parties (pro se litigants).

(1) *Use of recording devices to record:* Unless otherwise ordered by the court, attorneys representing parties in a proceeding and self-represented parties may make audio recordings of the proceeding in a nondisruptive manner after announcing to the court and all parties that they are doing so. Recordings made pursuant to this paragraph may be used only in litigating the case or as otherwise allowed by the court or provided by law. Attorneys and self-represented parties may also seek authorization to record proceedings pursuant to paragraph (E) of this rule.

(2) *Use of recording devices for non-recording purposes:* Attorneys and their employees such as paralegals and investigators may use recording devices in a courtroom for purposes other than recording sounds and images, including word processing, storing or retrieving information, accessing the internet, and sending or receiving messages or information. Self-represented parties may do the same but only in direct relation to their proceedings. Recording devices must be silenced and may not be used to make or receive telephone calls or for other audible functions without express permission from the judge.

(3) *Limitation:* Any allowed use of a recording device under paragraph (D) is subject to the authority of the judge to terminate activity that is disruptive or distracting or is otherwise contrary to the administration of justice.

(E) Celebratory or ceremonial proceedings, or when the court is not in session. Notwithstanding other provisions of this rule, a person may request orally or in writing, and a judge or judge's designee may approve orally or in writing, use of a recording device in a courtroom to record a celebratory or ceremonial proceeding or use of a recording device in a courtroom when the court is not in session.

(F) Other persons or organizations desiring to record. Any other persons or organizations, including representatives of the news media, desiring to record a court proceeding shall make application to the judge on the form in Exhibit A following this rule.

(1) *Submission of a request:* The person or organization must submit the request to the judge or to an officer of the court designated to receive requests under this rule. The request should address any logistical issues that are expected to arise.

(2) *Time limit for submitting a request:* The person or organization must submit the request sufficiently in advance of the proceeding — at least 24 hours where practicable under the circumstances — to allow the judge to consider it in a timely manner.

(3) *Notice and hearing:* The court will notify the parties of its receipt of a request for recording. Parties shall then notify their witnesses. The prosecutor of a criminal case shall notify alleged victims. The judge will promptly hold a hearing if the judge intends to deny the request or a portion of the request, or if a party, witness, or alleged victim objects to a request. The hearing under this paragraph shall be part of the official record of the proceeding.

(4) *Time for a party, witness, or alleged victim to object to a request:* A properly notified party, witness, or alleged victim waives an objection to a request for recording of a proceeding if the party, witness, or alleged victim does not object to the request in writing or on the record before or at the start of the proceeding.

(G) Denial or limitation of recording. A properly submitted request for recording should generally be approved, but a judge may deny or limit the request as provided in this paragraph. A judge's decision on a request, or on an objection to a request, is reviewable as provided by law.

(1) *Denial of recording:* A judge may deny a request for recording only after making specific findings on the record that there is a substantial likelihood of harm arising from one or more of the following factors, that the harm outweighs the benefit of recording to the public, and that the judge has considered more narrow restrictions on recording than a complete denial of the request:

(a) The nature of the particular proceeding at issue;

(b) The consent or objection of the parties, witnesses, or alleged victims whose testimony will be presented in the proceedings;

(c) Whether the proposed recording will promote increased public access to the courts and openness of judicial proceedings;

(d) The impact upon the integrity and dignity of the court;

(e) The impact upon the administration of the court;

(f) The impact upon due process and the truth finding function of the judicial proceeding;

(g) Whether the proposed recording would contribute to the enhancement of or detract from the ends of justice;

(h) Any special circumstances of the parties, witnesses, alleged victims, or other participants such as the need to protect children or factors involving the safety of participants in the judicial proceeding; and

(i) Any other factors affecting the administration of justice or which the court may determine to be important under the circumstances of the case.

(2) *Limitation of recording:* Upon his or her own motion or upon the request of a party, witness, or alleged victim, a judge may allow recording as requested or may, only after making specific findings on the record based on the factors in the preceding paragraph, impose the least restrictive possible limitations such as an order that no recording may be made of a particular criminal defendant, civil party, witness, alleged victim, law enforcement officer, or other person, or that such person's identity must be effectively obscured in any image or video recording, or that only an audio recording may be made of such person.

(H) Manner of recording. The judge should preserve the dignity of the proceeding by designating the placement of equipment and personnel for recording the proceeding. All persons and affiliated individuals engaged in recording must avoid conduct or appearance that may disrupt or detract from the dignity of the proceeding. No person shall use any recording device in a manner that disrupts a proceeding.

(I) Pooling of recording devices. The judge may require pooling of recording devices if appropriate. The persons or organizations authorized to record have the responsibility to implement proper pooling procedures that meet the approval of the judge.

(J) Prohibitions. The following uses of recording devices are prohibited:

(1) *No use of recording devices while the judge is outside the courtroom:* Except as provided in paragraph (E) of this rule, a person may use a recording device in a courtroom only when the judge is in the courtroom, and use of a recording device must terminate when the judge leaves the courtroom.

(2) *Recording of jurors:* Recording devices must be placed to avoid recording images of jurors or prospective jurors in any manner. Audio recordings of jurors' or prospective jurors' statements or conversations are also prohibited, except that the jury foreperson's announcement of the verdict or questions to the judge may be audio recorded.

(3) *No recording of privileged or confidential communications:* In order to preserve the attorney-client privilege and client confidentiality as set forth in the Georgia Rules of Professional Conduct and statutory or decisional law, no person shall make a recording of any communication subject to the attorney-client privilege or client confidentiality.

(4) *No recording of bench conferences:* No person other than the court reporter may record a bench conference, unless prior express permission is granted by the judge.

(K) Recording not official court record. No recording of a judicial proceeding made pursuant to this rule may be used to modify or supplement the official court record of that proceeding without express permission of the judge pursuant to OCGA § 5-6-41(f).

(L) Disciplinary authorities. This rule does not apply to disciplinary authorities acting in the course of their official duties.

(M) Enforcement. Persons who violate this rule may be removed or excluded from the courtroom. A willful violation of this rule may be punishable as contempt of court.

EXHIBIT A

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

(STYLE OF CASE/CALENDAR) CASE NO. _____

REQUEST TO USE A RECORDING DEVICE PURSUANT TO RULE 22 ON RECORDING OF JUDICIAL PROCEEDINGS.

Pursuant to Rule 22 of the Uniform Rules for Superior Court regarding Use of Electronic Devices in Courtrooms and Recording of Judicial Proceedings, the undersigned hereby requests permission to use a recording device in Courtroom ____ in order to record images and/or sound during (all) (the following portions) of the proceedings in the above captioned case/calendar.

Consistent with the provisions of the rule, the undersigned desires to use the following described recording device(s): _____. The proceedings that the undersigned desires to record commence on (date). Subject to direction from the court regarding possible pooled coverage, the undersigned wishes to use this device in the courtroom on (date). The personnel who will be responsible for the use of this recording device are: (identify appropriate personnel).

The undersigned hereby certifies that the device to be used and the locations and operation of such device will be in conformity with Rule 22 and any guidelines issued by the court.

The undersigned understands and acknowledges that a violation of Rule 22 and any guidelines issued by the court may be grounds for removal or exclusion from the courtroom and a willful violation may subject the undersigned to penalties for contempt of court.

This _____ day of _____, 20__.

_____
(Individual Signature)

_____
(Representing/Firm)

_____
(Position)

APPROVED: _____

_____
Judge, Superior Court

_____ Judicial Circuit

Amended effective May 1, 2018.

Rule 23. WITHDRAWAL OF FUNDS FROM COURT

Upon any order being presented to a judge requiring the court clerk to pay out funds from the registry of the court, except in garnishment proceedings, counsel for the parties presenting the order shall at the same time submit to the court the following certificate executed by counsel:

I hereby certify that the order presented in case no. ____ on this the _____ day of _____, 20__, to draw down funds from the registry of court, is done with written consent of all parties, or their counsel, who have filed claims of record in this case, and whose interest has not previously been foreclosed by judicial decree. In condemnation matters only, I further certify that provision is made in this order for the payment of all local, state and federal government taxes, or assessments of record.

I understand that the truth of the statements contained in this certificate is a condition precedent to the issuance of a valid order to pay the funds from the registry of the court.

Date _____

Signed _____

Attorney for _____

Rule 24. DOMESTIC RELATIONS

Rule 24.1. Scope of Domestic Relations Actions

Domestic relations actions shall include actions for divorce, alimony, equitable division of assets and liabilities, child custody, child support, legitimation, annulment, paternity actions, termination of parental rights in connection with adoption proceedings filed in superior court, contempt proceedings relating to enforcement of decrees and orders, petitions in respect to modification of decrees and orders, actions under the Family Violence Act, actions on foreign judgments based on alimony or child support, and adoptions. Domestic relations actions shall also include any direct or collateral attacks on judgments or orders entered in any such actions.

Amended effective May 15, 1997.

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

Except as noted below, at least 5 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 attorney's fees, all parties shall 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(s) and schedules required by OCGA § 19-6-15 and only as promulgated by the Georgia Child Support Commission shall be completed and served upon the opposing party contemporaneously with the filing of the affidavit required above. In

emergency actions, the affidavit, worksheet(s) and schedules may be served on or before the date of the hearing or at any 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 serve 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 or worksheets 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 15 days before the date of the hearing, unless otherwise ordered by the Court.

The parties shall serve upon each other the affidavit and worksheet(s) and schedules (where applicable) at least 5 days prior to any mediation or other alternative dispute resolution proceeding.

In any case in which a party has previously served the affidavit, worksheet(s) and schedules and thereafter amends the affidavit or worksheet(s) and schedules, any such amendments shall be served upon the opposing party at least 5 days prior to final hearing or 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.

Only the last four digits of social security numbers, tax identification numbers, or financial account numbers shall be included in any document served or filed with the Court pursuant to this rule. No birth date should be included, only the year of birth. See also OCGA § 9-11-7.1.

A Certificate of Service shall be filed with the Clerk of Court certifying proper service of the affidavit required above and worksheet(s) and schedules (where applicable). Each party shall submit to the Court the original affidavit and worksheet(s) and schedules (where applicable) at the time of hearing or trial.

Failure of any party to furnish the above financial information may subject the offending party, in the discretion of the Court, to the penalties of contempt and may result in continuance of the hearing until the required financial information is furnished and may result in 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	:	
v.	:	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 year of birth of children for whom support is to be determined in this action:

Name	Year of Birth	Resides with

Names and year of birth of affiant's other children:

Name	Year of Birth	Resides with

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	$ _____
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:	$_____			
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	$ _____

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 $ _____
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:_____

Amended effective January 18, 1990; October 28, 1993; amended November 4, 1999, effective December 16, 1999; amended effective August 12, 2004; January 18, 2007; May 24, 2007; January 17, 2008; October 23, 2008; September 17, 2009; October 7, 2010; September 29, 2011; May 15, 2014; September 18, 2014; August 30, 2018.

Rule 24.2A. Monthly Figures Required; Week and Hour to Month Multipliers

Except as specified in the child support calculator instructions, all amounts listed must be monthly. In all domestic cases in which a conversion of economic data from weekly to monthly must be made, a conversion factor of 4.35 weeks per month shall be used.

In calculating monthly income based upon a forty hour work week, hourly salary shall be multiplied by 174 hours.

Adopted effective January 17, 2008; amended effective August 30, 2018.

Rule 24.3. Acknowledgement and Waivers

All acknowledgements of service must be witnessed by an official attesting officer or the parties' counsel. Consent of the parties must be signed by both parties and each signature witnessed in the same manner as required for acknowledgements of service.

Amended effective March 9, 1989.

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.

Adopted effective September 29, 2011.

Rule 24.5. Witnesses in Domestic Relations Actions

(A) At temporary hearings the parties involved and one additional witness for each side may give oral testimony. Additional witnesses must testify by deposition or affidavit unless otherwise ordered by the court. Any affidavit shall be served on opposing counsel at least 24 hours prior to hearing.

(B) Except by leave of court, the minor child/children of the parties shall not be permitted to give oral testimony at temporary hearings; such child/children will be excluded from the courtroom or other place of hearing. When custody is in dispute, if directed by the court, minor child/children of the parties shall be available for consultation with the court. At any such consultation, attorneys for both parties may be in attendance but shall not interrogate such child/children except by express permission from the court. Upon request, the proceedings in chambers shall be recorded.

Rule 24.6. Uncontested Divorce Actions

Uncontested divorce actions may be heard at times agreeable to counsel and the court, subject to the following rules:

(A) By written consent of both parties to a hearing a divorce may be granted any time 31 days after service or filing acknowledgment of service.

(B) In an unanswered action, a divorce may be granted any time 46 days after service, unless the time for response has been extended by court order.

(C) A divorce action served by publication may be granted any time suitable to the judge and attorneys 61 days or more after date of the first publication.

(D) All divorce actions with orders for publication or acknowledgments of service should be filed prior to or contemporaneously with the signing of the order or acknowledgment.

Rule 24.7. Contested Divorce Actions

Although the court may, in appropriate cases, grant judgment on the pleadings or summary judgment that the moving party is entitled to a divorce as a matter of law, no divorce decree shall be granted unless all contestable issues in the case have been finally resolved.

Rule 24.8. Court Mandated Programs in Domestic Relations Cases

(A) There may be established by any superior court circuit a program designed to educate the parties to domestic relations actions in regard to the effects of divorce on minor children of the marriage. Establishment of the program shall be by majority vote of the judges of the circuit or by the chief judge, in the event of a tie vote by all judges.

(B) The superior court judges, under whose authority the program shall function, may require any or all parties to attend an educational seminar of no more than four hours in any domestic relations action before the court. The program may be administered by the court or by contract with a private agency. The seminar shall be conducted by qualified personnel whose professional and educational experiences include a knowledge of children and families.

(C) The seminar shall focus on the effects of divorce on children, specifically as it relates to the parents' actions during and after the separation, and as it relates to the children at different developmental stages. Specific attention should be given to the effects of the economics of divorce on children.

(D) The court or contracted agency may charge each participant a fee, provided there is a fee waiver procedure in cases of indigent parties. The fee may be assessed in addition to court costs against either party in the discretion of the judge. The program shall be non-profit.

(E) The mandate of attendance shall be by court order with the assigned judge retaining the discretion to waive attendance for good cause shown. Such good cause may include: a party's non-residence in Georgia or in the county in which the action is pending or the reasonable availability of a similar program to the party or other such reasonable causes which indicate to the court that a party should not be required to complete the program. The court may, in its discretion, accept alternative counseling covering the subject matter of the required seminar. Unless waived, the failure to successfully complete the seminar shall be cause for appropriate action by the assigned judge, including but not limited to, withholding the final decree of divorce, attachment for contempt and award of attorneys' fees and costs.

(F) The assigned judge may, as a discretionary matter, grant a final decree of divorce before completion of the seminar, but shall retain authority to impose sanctions upon either party who fails or refuses to comply with the order to attend and complete the seminar.

(G) The various courts which have established a seminar may make reciprocal agreements which would allow a party to attend an approved out-of-county seminar as a substitute for attending the seminar held in the county in which the action is pending.

Rule 24.8 adopted effective May 26, 1994.

Rule 24.9. Appointment, Qualification and Role of a Guardian ad Litem

1. **Appointment**

The Guardian ad Litem ("GAL") is appointed to assist in a domestic relations case by the superior court judge assigned to hear that particular case, or otherwise having the responsibility to hear such case. The appointing judge has the discretion to appoint any person as a GAL so long as the person so selected has been trained as a GAL or is otherwise familiar with the role, duties, and responsibilities as determined by the judge. The GAL may be selected through an intermediary.

2. **Qualifications**

A GAL shall receive such training as provided by or approved by the Circuit in which the GAL serves. This training should include, but not be limited to, instruction in the following subjects: domestic relations law and procedure, including the appropriate standard to be applied in the case; domestic relations courtroom procedure; role, duties, and responsibilities of a GAL; recognition and assessment of a child's best interests; methods of performing a child custody/visitation investigation; methods of obtaining relevant information concerning a child's best interest; the ethical obligations of a GAL, including the relationship between the GAL and counsel, the GAL and the child, and the GAL and the court; recognition of cultural and economic diversity in families and communities; base child development, needs, and abilities at different ages; interviewing techniques; communicating with children; family dynamics and dysfunction, domestic violence and substance abuse; recognition of issues of child abuse; and available services for child welfare, family preservation, medical, mental health, educational, and special needs, including placement/evaluation/diagnostic treatment services.

3. **Role and Responsibilities**

The GAL shall represent the best interests of the child. The GAL is an officer of the court and shall assist the court and the parties in reaching a decision regarding child custody, visitation and child-related issues. Should the issue of child custody and/or visitation be tried, the GAL shall be available to offer testimony in accordance with provision 6 and 7 herein.

The GAL holds a position of trust with respect to the minor child at issue, and must exercise due diligence in the performance of his/her duties. A GAL should be respectful of, and should become educated concerning, cultural and economic diversity as may be relevant to assessing a child's best interests.

A GAL's appointment, unless ordered otherwise by the Court for a specific designated period, terminates upon final disposition of all matters pertaining to child custody, visitation and child-related issues. The GAL shall have the authority to bring a contempt action, or other appropriate remedy, to recover court-ordered fees for the GAL's services.

4. **Duties**

By virtue of the order appointing a GAL, a GAL shall have the right to request all records relating to the minor child maintained by the Clerk of the Court in this and any other jurisdiction, other social and human service agencies, the Department of Family and Children Services, and the Juvenile Court. Upon written release and/or waiver by a party or appropriate court order, the GAL shall have the right to examine all records maintained by any school, financial institution, hospital, doctor or other mental health provider, any other social or human services agency or financial institution pertaining to the child which are deemed confidential by the service provider. The GAL shall have the right to examine any residence wherein any person seeking custody or visitation rights proposes to house the minor child. The GAL may request the court to order examination of the child, parents or anyone seeking custody of the child, by a medical or mental health professional, if appropriate. The GAL shall be entitled to notice of, and shall be entitled to participate in all hearings, trials, investigations, depositions, settlement negotiations, or other proceedings concerning the child.

5. **Release to GAL of a Party's Confidential Information from Non-Parties**

A GAL's right to request and receive documents and information from mental health professionals, counselors, and others with knowledge of a confidential nature concerning a party is conditional upon the party agreeing to sign a release allowing the GAL access to such records and information.

6. **Written Report**

Unless otherwise directed by the appointing judge, the GAL shall submit to the parties or counsel and to the Court a written report detailing the GAL's findings and recommendations at such time as may be directed by the assigned judge. At trial, the report shall be admitted into evidence for direct evidence and impeachment purposes, or for any other purposes allowed by the laws of this state. The court will consider the report, including the recommendations, in making its decision. However, the recommendations of the GAL are not a substitute for the court's independent discretion and judgment, nor is the report a substitute for the GAL's attendance and testimony at the final hearing, unless all parties otherwise agree.

a. *Contents of Report*

The report shall summarize the GAL's investigation, including identifying all sources the GAL contacted or relied upon in preparing the report. The GAL shall offer recommendations concerning child custody, visitation, and child-related issues and the reasons supporting those recommendations.

b. *Release of Report to Counsel and Parties*

The Report shall be released to counsel (including counsel's staff and experts) and parties only, and shall not be further disseminated unless otherwise ordered by the Court.

c. *Release of GAL's File to Counsel*

If ordered by the Court, the parties and their counsel shall be allowed to review and/or copy (and shall pay the cost of same) the contents of the GAL's file.

d. *Unauthorized Dissemination of GAL's Report and Contents of File*

Any unauthorized dissemination of the GAL's Report, its contents or the contents of the GAL's file by a party or counsel to any person, shall be subject to sanctions, including a finding of contempt by the Court.

e. *Sealing of Written Report*

If filed, the Report shall be filed under seal by the Clerk of Superior Court in order to preserve the security, privacy, and best interests of the children at issue.

7. Role at Hearing and Trial

It is expected that the GAL shall be called as the Court's witness at trial unless otherwise directed by the Court. The GAL shall be subject to examination by the parties and the court. The GAL is qualified as an expert witness on the best interest of the child(ren) in question. The GAL may testify as to the foundation provided by witnesses and sources, and the results of the GAL's investigation, including a recommendation as to what is in a child's best interest. The GAL shall not be allowed to question witnesses or present argument, absent exceptional circumstances and upon express approval of the Court.

8. **General and Miscellaneous Provisions**

a**.** *Requesting Mental Fitness and Custody Evaluations*

Based upon the facts and circumstances of the case, a GAL may request the Court to order the parties to undergo mental fitness and/or custody evaluations to be performed by a mental health expert approved by the Court. The Court shall provide for the parties' responsibility for payment of fees to the appointed experts.

b. *Filing Motions and Pleadings*

If appropriate, the GAL may file motions and pleadings if the GAL determines that the filing of such motion or pleading is necessary to preserve, promote, or protect the best interest of a child. This would include the GAL's right to file appropriate discovery requests and request the issuance of subpoenas. Upon the filing of any such motions or pleadings, the GAL shall promptly serve all parties with copies of such filings.

c. *Right to Receive Notice of Mediations, Hearings and Trials*

Counsel shall notify the GAL of the date and time of all mediations, depositions, hearings and trials or other proceedings concerning the child(ren). Counsel shall serve the GAL with proper notice of all legal proceedings, court proceedings wherein the child(ren)'s interests are involved and shall provide the GAL with proper and timely written notice of all noncourt proceedings involving the child(ren)'s interests.

d. *Approval of Settlement Agreements*

If the parties reach an Agreement concerning issues affecting the best interest of a child, the GAL shall be so informed and shall have the right and opportunity to make objections to the Court to any proposed settlement of issues relating to the children prior to the Court approving the Agreement.

e. *Communications Between GAL and Counsel*

A GAL may communicate with a party's counsel without including the other counsel in the same conversation, meeting or, if by writing, notice of the communication. When communicating with the GAL, counsel is not required to notify opposing counsel of the communication or, if in writing, provide opposing counsel with a copy of the communication to the GAL.

f. *Ex Parte Communication Between GAL and the Court*

The GAL shall not have *ex parte* communications with the Court except in matters of emergency concerning the child's welfare or upon the consent of the parties or counsel. Upon making emergency concerns known to the Court, the GAL may request an immediate hearing to address the emergency. Notification shall be provided immediately to the parties and counsel of the nature of the emergency and time of hearing.

g. *Payment of GAL Fees and Expenses*

It shall be within the Court's discretion to determine the amount of fees awarded to the GAL, and how payment of the fees shall be apportioned between the parties. The GAL's requests for fees shall be considered, upon application properly served upon the parties and after an opportunity to be heard, unless waived. In the event the GAL determines that extensive travel outside of the circuit in which the GAL is appointed or other extraordinary expenditures are necessary, the GAL may petition the Court in advance for payment of such expenses by the parties.

h. *Removal of GAL from the Case*

Upon motion of either party or upon the court's own motion, the court may consider removing the GAL from the case for good cause shown.

Adopted effective May 19, 2005; amended effective April 23, 2009.

Rule 24.10. Parenting Plans

In all cases involving permanent custody or custody modification (except when a parent seeks emergency relief for family violence), each parent shall prepare and submit a parenting plan, or the parties may jointly submit a parenting plan, as directed by the judge.

The parenting plan should be tailored to fit the needs of each individual family but must at a minimum contain the information required by OCGA § 19-9-1 (b) and be presented in substantially the following form:

_____COUNTY SUPERIOR COURT
STATE OF GEORGIA

	:	
Plaintiff,	:	Civil Action
	:	
v.	:	Case Number _____
	:	
Defendant.	:	

PARENTING PLAN

( ) The parties have agreed to the terms of this plan and this information has been furnished by both parties to meet the requirements of OCGA § 19-9-1. The parties agree on the terms of the plan and affirm the accuracy of the information provided, as shown by their signatures at the end of this order.

( ) This plan has been prepared by the judge.

This plan ( ) is a new plan.
( ) modifies an existing Parenting Plan dated _____.
( ) modifies an existing Order dated _____.

Child's Name	Year of Birth

I. Custody and Decision Making:

A. Legal Custody shall be (choose one:)

( ) with the Mother
( ) with the Father
( ) Joint

B. Primary Physical Custodian

For each of the children named below the primary physical custodian shall be:

	y/o/b:	( ) Mother	( ) Father	( ) Joint
	y/o/b:	( ) Mother	( ) Father	( ) Joint
	y/o/b:	( ) Mother	( ) Father	( ) Joint
	y/o/b:	( ) Mother	( ) Father	( ) Joint
	y/o/b:	( ) Mother	( ) Father	( ) Joint

WHERE JOINT PHYSICAL CUSTODY IS CHOSEN BY THE PARENTS OR ORDERED BY THE COURT, A DETAILED PLAN OF THE LIVING ARRANGEMENTS OF THE CHILD(REN) SHALL BE ATTACHED AND MADE A PART OF THIS PARENTING PLAN.

C. Day-To-Day Decisions

Each parent shall make decisions regarding the day-to-day care of a child while the child is residing with that parent, including any emergency decisions affecting the health or safety of a child.

D. Major Decisions

Major decisions regarding each child shall be made as follows:

Educational decisions	( ) Mother	( ) Father	( ) Joint
Non-emergency health care	( ) Mother	( ) Father	( ) Joint
Religious upbringing	( ) Mother	( ) Father	( ) Joint
Extracurricular activities	( ) Mother	( ) Father	( ) Joint
_____	( ) Mother	( ) Father	( ) Joint
_____	( ) Mother	( ) Father	( ) Joint

E. Disagreements

Where parents have elected joint decision making in Section I.D above, please explain how any disagreements in decision-making will be resolved.

_____

_____

_____

_____

II. Parenting Time/Visitation Schedules

A. Parenting Time/Visitation

During the term of this parenting plan the non-custodial parent shall have at a minimum the following rights of parenting time/visitation (choose an item):

( ) The weekend of the first and third Friday of each month.

( ) The weekend of the first, third, and fifth Friday of each month.

( ) The weekend of the second and fourth Friday of each month.

( ) Every other weekend starting on _____.

( ) Each _____ starting at _____a.m./p.m. and ending _____ a.m./p.m.

( ) Other: _____

( ) and weekday parenting time/visitation on (choose an item):
( ) None
( ) Every Wednesday evening
( ) Every other Wednesday during the week prior to a non-visitation weekend.
( ) Every _____ and _____ evening.
( ) Other: _____
_____
_____

For purposes of this parenting plan, a weekend will start at _____ a.m./p.m. on [Thursday/Friday/Saturday/Other: _____] and end at _____ a.m./p.m. on [Sunday/Monday/ Other: _____].

Weekday visitation will begin at _____ a.m./p.m. and will end [___p.m./when the child(ren) return(s) to school or day care the next morning/Other:_____].

This parenting schedule begins:

( ) _____ (day and time) OR ( ) date of the Court's Order

B. Major Holidays and Vacation Periods

Thanksgiving

The day to day schedule shall apply unless other arrangements are set forth:

_____

_____

beginning _____.

Winter Vacation

The ( ) mother ( ) father shall have the child(ren) for the first period from the day and time school is dismissed until December _____ at _____ a.m./p.m. in ( ) odd numbered years ( ) even numbered years ( ) every year. The other parent will have the child(ren) for the second period from the day and time indicated above until 6:00 p.m. on the evening before school resumes. Unless otherwise indicated, the parties shall alternate the first and second periods each year.

Other agreement of the parents:

Summer Vacation

Define summer vacation period: _____

The day to day schedule shall apply unless other arrangements are set forth:

_____

_____

beginning _____.

Spring Vacation (if applicable)

Define:_____

The day to day schedule shall apply unless other arrangements are set forth:

_____

_____

beginning _____.

Fall Vacation (if applicable)

Define:_____

The day to day schedule shall apply unless other arrangements are set forth:

_____

_____

beginning _____.

C. Other Holiday Schedule (if applicable)

Martin Luther King Day	_____	_____
Presidents' Day	_____	_____

Mother's Day	_____	_____
Memorial Day	_____	_____
Father's Day	_____	_____
July Fourth	_____	_____
Labor Day	_____	_____
Halloween	_____	_____
Child(ren)'s Birthday(s)		
Mother's Birthday	_____	_____
Father's Birthday	_____	_____
Religious Holidays:	_____	_____
_____		
_____		
_____		
_____		
Other:	_____	_____ _____
_____	_____	_____
	_____	_____
	_____	_____
	_____	_____
Other:	_____	_____
_____		
Other:	_____	_____
_____		

D. Other extended periods of time during school, etc. (refer to the school schedule)

_____

_____

_____

E. Start and end dates for holiday visitation

For the purposes of this parenting plan, the holiday will start and end as follows (choose one):

( ) Holidays that fall on Friday will include the following Saturday and Sunday
( ) Holidays that fall on Monday will include the preceding Saturday and Sunday
( ) Other: _____

F. Coordination of Parenting Schedules

Check if applicable:

( ) The holiday parenting time/visitation schedule takes precedence over the regular parenting time/visitation schedule.

( ) When the child(ren) is/are with a parent for an extended parenting time/visitation period (such as summer), the other parent shall be entitled to visit with the child(ren) during the extended period, as follows:

_____

_____

G. Transportation Arrangements

For visitation, the place of meeting for the exchange of the child(ren) shall be:

_____

_____

The _____ will be responsible for transportation of the child at the beginning of visitation.

The _____ will be responsible for transportation of the child at the conclusion of visitation.

Transportation costs, if any, will be allocated as follows:

_____

_____

Other provisions: _____

H. Contacting the Child

When the child or children are in the physical custody of one parent, the other parent will have the right to contact the child or children as follows:

( ) Telephone

( ) Other:_____

( ) Limitations on contact:

_____

I. Supervision of Parenting Time (if applicable)

( ) Check here if applicable

Supervised parenting time shall apply during the day-to-day schedule as follows:

Place: _____

Person/Organization supervising: _____

Responsibility for cost:

( ) Mother ( ) Father ( ) Both equally

J. Communication Provisions

Please check:

( ) Each parent shall promptly notify the other parent of a change of address, phone number or cell phone number. A parent changing residence must give at least 30 days notice of the change and provide the full address of the new residence.

( ) Due to prior acts of family violence, the address of the child(ren) and victim of family violence shall be kept confidential. The protected parent shall promptly notify the other parent, through a third party, of any change in contact information necessary to conduct visitation.

III. Access to Records and Information

Rights of the Parents

Absent agreement to limitations or court ordered limitations, pursuant to OCGA § 19-9-1 (b) (1) (D), both parents are entitled to access to all of the child(ren)'s records and information, including, but not limited to, education, health, extracurricular activities, and religious communications. Designation as a non-custodial parent does not affect a parent's right to equal access to these records.

Limitations on Access Rights: _____

_____

Other Information Sharing Provisions:

_____

_____

_____

IV. Modification of Plan or Disagreements

Parties may, by mutual agreement, vary the parenting time/visitation; however, such agreement shall not be a binding court order. Custody shall only be modified by court order.

Should the parents disagree about this parenting plan or wish to modify it, they must make a good faith effort to resolve the issue between them.

V. Special Considerations

Please attach an addendum detailing any special circumstances of which the Court should be aware (e.g., health issues, educational issues, etc.)

VI. Parents' Consent

Please review the following and initial:

1. We recognize that a close and continuing parent-child relationship and continuity in the child's life is in the child's best interest.

Mother's Initials: _____ Father's Initials: _____

2. We recognize that our child's needs will change and grow as the child matures; we have made a good faith effort to take these changing needs into account so that the need for future modifications to the parenting plan are minimized.

Mother's Initials: _____ Father's Initials: _____

3. We recognize that the parent with physical custody will make the day-to-day decisions and emergency decisions while the child is residing with such parent.

Mother's Initials: _____ Father's Initials: _____

( ) We knowingly and voluntarily agree on the terms of this Parenting Plan. Each of us affirms that the information we have provided in this Plan is true and correct.

_____ _____

Mother's Signature Father's Signature

ORDER

The Court has reviewed the foregoing Parenting Plan, and it is hereby made the order of this Court.

This Order entered on _____, 20 __.

_____

JUDGE

_____ COUNTY SUPERIOR COURT

Adopted effective May 1, 2008; amended effective September 18, 2014.

Rule 24.11. Separate Income Deduction Orders

(A) In all cases in which the payment of child support is ordered, a separate income deduction order stating that the payment of child support shall be made by wage withholding is required, unless:

(1) the support is being enforced by the Georgia Department of Human Services;

(2) the court issuing the order finds there is good cause not to require such immediate withholding, which includes a finding that wage withholding is not in the best interest of the child, and in cases involving modification of support orders, proof of timely payment of previous ordered support; or

(3) a written agreement is reached between both parties which provides for an alternative arrangement.

(B) Income deduction orders shall designate which party is responsible for initiating the wage withholding by completing and transmitting all documents and notices required by Title 19 of OCGA, Title 42 of USC, and the Georgia Family Support Registry.

(C) If multiple worksheets are used and more than one amount of support is ordered, a separate income deduction order shall be signed by the court for each such amount of child support ordered.

Adopted effective June 4, 2015; amended effective August 22, 2019.

Rule 24.12. Required Income Deduction Order Form

Any income deduction order issued pursuant to Rule 24.11 shall be in the following form:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION
v.	)	
	)	FILE NO. _____
_____,	)	
	)	
Defendant.	)	

INCOME DEDUCTION ORDER

This Court having entered an order establishing, modifying or Enforcing a child support obligation owed by the [Plaintiff]/[Defendant] (hereinafter, "Obligor"), and the Court having determined that an Income Deduction Order ("IDO") should be entered in accordance with Official Code of Georgia Annotated § 19-6-30 et seq., it is ORDERED AND ADJUDGED:

1. Identification of Parties

Obligor is: _____

Obligor's Address is:_____

Obligee is:_____

Child(ren):

Name: _____ Year of Birth: _____

Name: _____ Year of Birth: _____

Name: _____ Year of Birth: _____

2. Service

The Obligee shall be responsible for initiating the wage withholding by completing and transmitting all documents and notices required by OCGA§ 19-6-30 et seq., 42 USC § 666 (b) (6) (A) (ii), and the Georgia Family Support Registry. Additionally, a copy of this order and all further papers required to be served pursuant to OCGA § 19-6-30 et seq., shall be served by the Obligee upon the Obligor by personal service, certified mail or statutory overnight delivery, return receipt requested, or by regular mail in accordance with the alternative service provisions of OCGA §§ 9-11-4 (j) and 19-6-33 (b). A copy of this Order shall also be mailed by the Obligee to:

Family Support Registry
P.O. Box 1800
Carrollton, Georgia 30112-1800

3. <u>Effective Date of this Order</u>

( ) Immediately.

( ) Upon a delinquency equal to one month's support. This Court finds that good cause was shown to delay the effective date of this Order. The Obligee or the child support enforcement agency may enforce this IDO by serving a "Notice of Delinquency" on the Obligor as provided in OCGA § 19-6-32 (f).

4. <u>Duration of this Order</u>

This Order hereby supersedes any previous IDO; and it shall remain in force so long as the order of support upon which it is based is effective or arrearages remain upon payment due thereunder, or until further order of this Court. Thus, this Order shall continue until [check one]: ( ) the last child of the parties for whom the Obligor has a duty of support reaches the age of majority; ( ) the last child of the parties for whom the Obligor has a duty of support graduates from high school and reaches the age of majority, or reaches the age of 20 years, whichever shall first occur. See OCGA § 19-6-15 (e).

5. <u>Income Deduction</u>

The Obligor's employer, future employer, or any other person, private entity, federal or state government, or any unit of local government providing or administering any periodic form of payment due to the Obligor, regardless of source, including, without limitation, wages, salary, commissions, bonus, workers' compensation, disability, payments from a pension or retirement program, a personal injury award or settlement, and interest, shall deduct from all monies due the Obligor the following amounts:

6. <u>Amount of Deduction</u>

a. Current Support:	$_____ per month.
b. Alimony:	$_____ per month.
c. Past Due Support:	$_____ per month.
d. Family Support Registry ("FSR") Fee:	$_____ **per deduction payment per OCGA § 19-6-33.1(j).

** Five percent of the amount deducted for current or past child support, or a maximum fee of $1.50, whichever is less.

7. <u>Past Due Support</u>

The Obligor named above owes Past Due Support in the amount of $_____ as of _____, 20__. The Obligee shall have the right to any additional arrearage that may accrue through the date of the first deduction of income and for all other periods of non-payment.

8. <u>Payment Address</u>

The total amount deducted shall be forwarded by the Employer ("Payor") within two business days after each payment date to:

Family Support Registry
P.O. Box 1800
Carrollton, Georgia 30112-1800

9. <u>Payment Instructions</u>

a. If Payor is deducting child support for more than one IDO, Payor must, upon future modification by Child Support Services or court order, deduct the FSR Fee for each IDO. If the amount Payor is deducting for any one case is $40 or more, the FSR Fee for that IDO is $1.50. If the deduction is less than $40, the FSR Fee is five percent of the amount deducted, but in no event shall the fee exceed $1.50.

b. The total amount of the Child Support Deduction will decrease, if applicable, after all Past Due Support is paid in full; at that point the amount deducted will be the amount of Current Support plus the FSR Fee.

10. <u>Consumer Protection Act</u>

The maximum amount to be deducted by a Payor shall not exceed that allowable under Section 303 (b) of the federal Consumer Protection Act, 15 USC § 1673 (b), as amended.

11. <u>Duty of Obligor to Ensure Compliance</u>

The Obligor is hereby ordered to perform all acts necessary for the proper withholding of the sums stated in this IDO, including delivery of the same to his employer and future employers, and to personally monitor and confirm on an ongoing basis that the payments withheld are timely and properly deducted from his/her income and forwarded as ordered, correctly identified with the above case. Failure of the employer to perform under this order does not relieve the Obligor of his/her obligation to ensure that payment is made.

12. <u>Wrongful Discharge</u>

No Payor shall discharge an Obligor by reason of the fact that income has been subjected to an IDO under OCGA § 19-6-32. A Payor who violates this paragraph is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties

shall be paid to the Obligee or the Division of Child Support Services, whichever is enforcing the IDO, if any support is due and payable. If no support is due and payable, the penalty shall be paid to the Obligor.

SO ORDERED this _____ day of _____, 20__.

_____
_____, Judge
Superior Court of _____ County

Prepared and presented by:
_____
_____
_____

Adopted effective June 4, 2015.

Rule 25. RECUSAL

Rule 25.1. Motions

All motions to recuse or disqualify a judge presiding in a particular case or proceeding shall be timely filed in writing and all evidence thereon shall be presented by accompanying affidavit(s) which shall fully assert the facts upon which the motion is founded. Filing and presentation to the judge shall be not later than five (5) days after the affiant first learned of the alleged grounds for disqualification, and not later than ten (10) days prior to the hearing or trial which is the subject of recusal or disqualification, unless good cause be shown for failure to meet such time requirements. In no event shall the motion be allowed to delay the trial or proceeding.

Amended effective January 31, 1991.

Rule 25.2. Affidavit

The affidavit shall clearly state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons and circumstances of extra-judicial conduct or statements, which demonstrate either bias in favor of any adverse party, or prejudice toward the moving party in particular, or a systematic pattern of prejudicial conduct toward persons similarly situated to the moving party, which would influence the judge and impede or prevent impartiality in that action. Allegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion or warrant further proceedings.

Amended effective January 31, 1991.

Rule 25.3. Duty of the Trial Judge

When a judge is presented with a motion to recuse, or disqualify, accompanied by an affidavit, the judge shall temporarily cease to act upon the merits of the matter and shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming any of the facts alleged in the affidavit to be true, whether recusal would be warranted. If it is found that the motion is timely, the affidavit sufficient and that recusal would be authorized if some or all of the facts set forth in the affidavit are true, another judge shall be assigned to hear the motion to recuse. The allegations of the motion shall stand denied automatically. The trial judge shall not otherwise oppose the motion. In reviewing a motion to recuse, the judge shall be guided by Canon 3 (E) of the Georgia Code of Judicial Conduct.

Former Rule 25.2 renumbered as Rule 25.3 and amended effective January 31, 1991; amended May 24, 2012.

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 circuit, the district administrative judge shall select the judge;

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

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

(1) The chief judge of the circuit shall select a judge within the circuit 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 circuit 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 circuit, the district administrative judge shall select a judge outside the circuit to hear the motion.

(D) If the district administrative judge is the one against whom the motion is filed, the judge within the district senior in time of service (or next senior in time of service, if the administrative judge is the one senior in the time of service) shall serve in this selection process instead of the district administrative judge.

(E) If all judges within a judicial administrative district are disqualified, including the administrative judge, the matter shall be referred by the disqualified administrative judge to the administrative judge of an adjacent district for the appointment of a judge who is not a member of the district to preside over the motion or case.

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

Former Rule 25.4 deleted effective January 31, 1991. Former Rule 25.3 renumbered as Rule 25.4 effective January 31, 1991; amended effective May 19, 2005.

Rule 25.5. Selection of Judge

In the instance of any hearing on a motion to recuse or disqualify a judge, the challenged judge shall neither select nor participate in the selection of the judge to hear the motion; if recused or disqualified, the recused or disqualified judge shall not select nor participate in the selection of the judge assigned to hear further proceedings in the involved action.

Rule 25.6. Findings and Ruling

The judge assigned may consider the motion solely upon the affidavits, but may, in the exercise of discretion, convene an evidentiary hearing. After consideration of the evidence, the judge assigned shall rule on the merits of the motion and shall make written findings and conclusions. If the motion is sustained, the selection of another judge to hear the case shall follow the same procedure as established in Rule 25.4 above. Any determination of disqualification shall not be competent evidence in any other case or proceedings.

Amended effective January 31, 1991.

Rule 25.7. Voluntary Recusal

If a judge, either on the motion of one of the parties or the judge's own motion, voluntarily disqualifies, another judge, selected by the procedure set forth in Rule 25.4 above, shall be assigned to hear the matter involved. A voluntary recusal shall not be construed as either an admission or denial to any allegations which have been set out in the motion.

Amended effective January 31, 1991.

Rule 26. PRE-INDICTMENT PROCEEDINGS

Rule 26.1. Bonds and First Appearance

Immediately following any arrest but not later than 48 hours if the arrest was without a warrant, or 72 hours following an arrest with a warrant, unless the accused has made bond in the meantime, the arresting officer or the law officer having custody of the accused shall present the accused in person before a magistrate or other judicial officer for first appearance.

At the first appearance, the judicial officer shall:

(A) Inform the accused of the charges;

(B) Inform the accused of the right to remain silent, that any statement made may be used against the accused, and of the right to the presence and advice of an attorney, either retained or appointed;

(C) Determine whether or not the accused desires and is in need of an appointed attorney and, if appropriate, advise the accused of the necessity for filing a written application;

(D) Inform the accused of his or her right to a later pre-indictment commitment hearing, unless the first appearance covers the commitment hearing issues, and inform the accused that giving a bond shall be a waiver of the right to a commitment hearing;

(E) In the case of warrantless arrest, make a fair and reliable determination of the probable cause for the arrest unless a warrant has been issued before the first appearance;

(F) Inform the accused of the right to grand jury indictment in felony cases and the right to trial by jury, and when the next grand jury will convene; [In state court, see State Court Rule 26.1(F).]

(G) Inform the accused that if he or she desires to waive these rights and plead guilty, then the accused shall so notify the judge or the law officer having custody, who shall in turn notify the judge.

(H) Set the amount of bail if the offense is not one bailable only by a superior court judge, or so inform the accused if it is.

Amended effective October 28, 1993; October 9, 1997.

Rule 26.2. Commitment Hearing by Court of Inquiry

(A) At the commitment hearing by the court of inquiry, the judicial officer shall perform the following duties:

(1) Explain the probable cause purpose of the hearing;

(2) Repeat to the accused the rights explained at the first appearance;

(3) Determine whether the accused intends to plead "guilty" or "not guilty," or waives the commitment hearing;

(4) If the accused intends to plead guilty or waives the hearing, the court shall immediately bind the entire case over to the court having jurisdiction of the most serious offense charged;

(5) If the accused pleads "not guilty" the court shall immediately proceed to conduct the commitment evidentiary hearing unless, for good cause shown, the hearing is continued to a later scheduled date;

(6) Cause an accurate record to be made of the testimony and proceeding by any reliable method.

(7) The judicial officer shall bind the entire case over to the court having jurisdiction of the most serious offense for which probable cause has been shown by sufficient evidence and dismiss any charge for which probable cause has not been shown.

(8) On each case which is bound over, a memorandum of the commitment shall be entered on the warrant by the judicial officer. The warrant, bail bond, and all other papers pertaining to the case shall be forwarded to the clerk of the appropriate court having jurisdiction over the offense for delivery to the district attorney. Each bail bond shall contain the full name, telephone number, residence, business and mailing address(es) of the accused and any surety.

(9) A copy of the record of any testimony and the proceedings of the first appearance and the commitment hearing shall be provided to the proper prosecuting officer and to the accused upon payment of the reasonable cost for preparation of the record.

(10) A judicial officer, conducting a commitment hearing, is without jurisdiction to make final disposition of the case or cases at the hearing by imposing any fine or punishment, except where the only charge arising out of the transaction at issue is the violation of a county ordinance.

(B) At the commitment hearing, the following procedures shall be utilized:

(1) The rules of evidence shall apply except that hearsay may be allowed;

(2) The prosecuting entity shall have the burden of proving probable cause; and may be represented by a law enforcement officer, a district attorney, a solicitor, a private attorney or otherwise as is customary in that court;

(3) The accused may be represented by an attorney or may appear pro se; and

(4) The accused shall be permitted to introduce evidence.

Amended effective October 28, 1993.

Rule 26.3. Delayed Indictments

The district attorney shall notify the chief judge in writing of the name of any unindicted accused who has been in custody under criminal felony charges for 45 days within 2 business days after said 45-day period has run. The chief judge may take any action deemed necessary or appropriate under the circumstances.

Rule 27. PRE–TRIAL RELEASE PROGRAM

This program may be established in any county by the superior court judges of the circuit within which that county lies and the appropriate county governing authorities.

Rule 27.1. Structure

The superior court judges, under whose authority the program shall function, shall appoint a director, setting the qualifications deemed necessary and appropriate for the office. The director shall:

(A) Be responsible for the supervision and execution of the duties enumerated hereinafter in connection with the program;

(B) Receive such compensation as may be set by the superior court judges from time to time subject to the approval of the governing authority;

(C) Hold office at the pleasure of the superior court judges;

(D) Employ such assisting and clerical staff as may be authorized and assign them as needed to discharge the functions of the program; and,

(E) Develop and promulgate rules, regulations and procedures pertaining to conditional release under the program, subject to the approval of the superior court judges, including such as pertain to the issuance of a bench warrant for the arrest of any individual released under the program who fails to comply with the conditions of the release.

Rule 27.2. Duties

The duties involved in the proper functioning of the program shall include:

(A) Securing pertinent data and providing reports containing verified information respecting an accused who has agreed to be considered for release under the program;

(B) Conducting such investigation and interviews as may be necessary for the compilation of such reports and submitting the reports to an appropriate judicial officer;

(C) Monitoring and reporting to the court the compliance or noncompliance of an accused released under the program with the conditions of release;

(D) Providing appropriate documentation to the court respecting performance by an accused

complying with the conditions of release so that upon full performance by the accused the sheriff shall return to the party posting deposit bail that portion of the deposit not retained to defray administrative costs; and,

(E) Providing appropriate documentation to the court respecting performance by an accused not complying with the conditions of release so that the court having jurisdiction may:

(1) enter an order declaring the bond forfeit and requiring that any deposit held in escrow by the sheriff be paid into the county general fund;

(2) issue a bench warrant for the arrest of the accused.

Rule 27.3. Release Under the Program

(A) After reviewing available reports provided pursuant to Rule 27.2(B), upon determination of eligibility, a judicial officer having bail jurisdiction may order an accused person released conditionally and/or released under supervision in lieu of requiring the accused to post a money bond or equivalent security; alternatively the judicial officer may require the accused, prior to release, to deposit with the sheriff a sum of money or equivalent security equal to 10% of the principal amount of the bond which otherwise would be required, referred to hereinafter as "10% bail."

(B) No person may receive compensation for acting as surety in respect of posting 10% bail under Rule 27.

(C) Of the amount deposited as 10% bail under Rule 27, $10.00 or 10%, whichever is greater, will be transferred immediately to the general fund of the county to defray administrative costs; the amount remaining will be held by the sheriff in an escrow account pending final disposition as provided in Rule 27.2(D) and (E).

Rule 27.4. Security Bail Other Than 10% Bail

In lieu of the bail deposit provided for above, any person for whom bail has been set may execute the bail bond with or without sureties which bond may be secured by:

(1) Cash–by a deposit with the sheriff of an amount equal to the required cash bail; or

(2) Property–by real estate located within the State of Georgia with unencumbered equity, not exempted, owned by the accused or surety, valued at double the amount of bail set in the bond; or

(3) Professional–by a professional bail bondsman authorized by the sheriff and in compliance with the rules and regulations for execution of a surety bail bond.

Rule 27.5. Exoneration of Bondsman After Forfeiture

The surety in an appearance bond shall not be relieved from the liability of said bond except upon the filing of a written motion and the entering of an order by the court or one of the judges thereof exonerating said bondsman and payment of all accrued costs. The bondsman shall be

responsible for informing the district attorney, in writing, of the reason for failure to produce the body of the defendant as provided in the bond.

Rule 28. JAIL CENSUS

The sheriff of each county shall furnish to the chief judge, or designee, the district attorney, the chief community supervision officer, and the circuit public defender or its equivalent, at least monthly, a list of all individuals in custody charged with a crime in the county jail or held elsewhere at the sheriff's direction. Such lists shall include, as to each individual:

(A) The individual's name;

(B) The date of arrest;

(C) The offense charged, or other reason for being held;

(D) The amount of bond; and

(E) Whether or not the individual is represented by counsel, and if so, the name of such counsel.

Amended effective October 9, 1997; amended effective December 10, 2015.

Rule 29. APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS

Rule 29.1. Counties to Which This Rule is Applicable

Pursuant to OCGA § 17-12-1 et seq., the following rule is promulgated to provide representation by competent legal counsel of indigent persons in criminal proceedings for those counties not receiving state funds under "The Georgia Indigent Defense Act" (Ga. L. 1979, p. 367, § 1; OCGA § 17-12-30 et seq.).

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 certification 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 determination of indigency or not shall be made by a judge of a superior 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 indictment 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 district attorney of the appointment. [In state court, see State Court Rule 29.2.]

Rule 29.3. The Role of Law Enforcement

Any law enforcement authority having custody of any person shall:

(A) Allow a person claiming to be indigent and without counsel to immediately complete an application for an attorney and certificate of financial resources and forward such to the court or its designee, for a determination of indigency or not;

(B) Clearly advise detained persons of their right to have counsel and that if they cannot afford a lawyer one will be provided to assist them;

(C) Accomplish the above procedures as soon as possible after detention; and,

(D) Complete an application for an attorney and certificate of financial resources in substantially the following form:

IN THE SUPERIOR COURT OF ____ COUNTY
STATE OF GEORGIA

STATE OF GEORGIA INDICTMENT NO.
v. CHARGE(S):
_____

APPLICATION FOR APPOINTMENT OF COUNSEL AND
CERTIFICATE OF FINANCIAL RESOURCES

I am the defendant in the above-styled action. I am charged with the offense(s) of _____ which is/are a felony/misdemeanor. I can/cannot afford to hire a lawyer to assist me. I do/do not want the court to provide me with a lawyer. I understand that I am providing this information in this declaration in order for the court to determine my eligibility for a court-appointed lawyer, paid by _____ County, to defend me on the above charges.

In jail _____ Out on bond _____ Arrest Date _____

1. Name _____ Telephone No. _____

Mailing address _____

Birth date _____ Age _____ Soc. Sec. No. _____

Highest grade in school completed _____

2. If employed, employer is _____

Net take home pay is (gross pay minus state, federal and social security taxes):
_____ (weekly) _____ (monthly)

3. If unemployed, how long? _____ List other sources of income such as unemployment compensation, welfare or disability income and the amounts received per week or month:_____.

4. Are you married _____ Is spouse employed? _____

If yes, by whom _____ Spouse's net income (week) _____

5. Number of children living in home: _____ Ages _____

6. Dependents (other than spouse or children) in home, names, relationship, amount contributed to their support _____

7. Do you own a motor vehicle? ____ Year and model _____

How much do you owe on it? _____

8. Do you own a home? _____ Value _____How much do you owe on it? _____

9. Amount of house payment or rent payment each month _____

10. List checking or savings accounts or other deposits with any bank or financial institution and the amount of deposits:

_____

11. List other assets or property, including real estate, jewelry, notes, bonds or stocks

_____

12. List indebtedness and amount of payments

_____

13. List any extraordinary living expenses and amount (such as regularly occurring medical expenses) _____

14. Child support payable under any court order _____

15. Do you understand that whether you are convicted or acquitted _____ County may seek reimbursement of attorney's fees paid for you if you become financially able to pay or reimburse the county but refuse to do so? _____

I have read (had read to me) the above questions and answers and they are correct and true.

The undersigned swears that the information given herein is true and correct and understands that a false answer to any item may result in a charge of perjury.

The _____ day of _____, 20__.

_____
Defendant's Signature

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

_____
Notary Public
My Commission Expires _____

ORDER

Having considered the above matter, it is the finding of this court that the above-named defendant is/is not indigent under criteria of the Georgia Criminal Justice Act and appropriate court rules and is/is not entitled to have appointed counsel.

It is ordered that the clerk, panel administrator, or court administrator assign an attorney practicing in this county to represent the defendant in the above case.

Let the defendant and the assigned attorney be notified hereof and furnished a copy of this application and order.

This _____ day of _____, 20__.

_____
Superior Court Judge
_____ Judicial Circuit

Rule 29.4. Responsibility for Determination of Eligibility

The financial eligibility of a person for publicly provided counsel should be determined by the court or its designee. The court may appoint counsel in cases where the defendant does not qualify and cannot be provided counsel under provisions of the above.

Rule 29.5. Uniform Eligibility Guidelines

Income eligibility–Eligible accused persons include all applicants for an attorney with net income below a level set by the applicable superior court and revised periodically.

The following special needs of a family unit may be deducted from net income in determining eligibility:

(1) Child care expenses for working custodial parents; and,

(2) Legally required support payments to dependents, including alimony for the support of a child/children.

"Net income" shall include only a client's take-home pay, which is the gross income earned by a client minus those deductions required by law or as a condition of employment.

"Family unit" includes the defendant, a spouse, if the couple lives together, any minors who are unemployed and unmarried, and any infirm or permanently disabled person living with the defendant and for whom the defendant has assumed financial responsibility. The income of a minor who is attending school full time, but has after-school employment or does odd jobs, shall not be attributed to that of the family unit. No other persons, even if living within the same household, will be deemed members of the family unit.

In the event an accused person is discovered to have been ineligible at the time of the appointment of an attorney, the court shall be notified. The court may discharge the appointed attorney and refer the matter to the private bar. The attorney should be paid for the time spent on the case and recoupment sought from the ineligible person.

Regardless of the prima facie eligibility on the basis of income, a person who has sufficient assets that are easily converted to cash by sale or mortgage may not be qualified for representation.

The court may appoint counsel for representation for any accused person who is unable to obtain counsel due to special circumstances such as emergency, hardship, or documented refusal of the case by members of the private bar because of financial inability to pay for counsel.

If the accused is determined to be eligible for defense services in accordance with approved financial eligibility criteria and procedures, and if, at the time that the determination is made, the accused is able to provide a cash contribution to offset defense costs without imposing a substantial financial hardship either personally or upon dependents, such contribution may be required as a condition of continued representation at public expense. The court should determine the amount to be contributed. The contribution shall be paid directly to the fund for indigent defense of the affected county.

Amended effective October 9, 1997.

Rule 29.6. Standards of Performance for Appointed Attorneys [Reserved]

Rule 29.7. County May Select Method of Providing Counsel

A county may use a public defender system, legal aid and defender society, agency for indigent defense, a panel of private attorneys, a combination of the above, or other means, to provide adequate legal defense for indigents accused of felonies.

Rule 29.8. Assignment of Cases to Private Attorneys

(A) Appointments of private attorneys shall be made on an impartial and equitable basis;

(B) The cases shall be distributed among the attorneys to ensure balanced workloads through a rotation system;

(C) More difficult or complex cases shall be assigned to attorneys with sufficient levels of experience and competence to afford adequate representation;

(D) Less experienced attorneys should be assigned cases which are within their capabilities, but should be given the opportunity to expand their experience under supervision; and,

(E) Cases in which the death penalty is sought shall be assigned only to attorneys of sufficient experience, skill and competence to render effective assistance of counsel to defendants in such cases.

Amended effective October 9, 1997.

Rule 29.9. Fees Paid to Lawyers Under a Panel Program

The judge or judges of a multi-judge circuit shall determine the method of compensation to be paid under a panel program.

Each program shall prescribe minimum fees to be paid as a total fee, regardless of hours, in certain categories of cases, governed by these rules. In prescribing such minimums, the court shall take into consideration the complexity of the case categories and the corresponding fee that is presently being obtained by competent members of the local bar for such representation where privately retained. While the fee paid under the panel program need not equate that of a corresponding fee obtained by a private practitioner, there should be a reasonable relationship.

Compensation for a capital felony case in which the death penalty is sought shall be at the same hourly rate as other cases, but each case should be examined by the court and the fee total should be based on a complete examination of the individual case. Special attention should be given to continuing counsel obligations in death penalty cases when conviction and imposition of the death penalty occur.

The court may establish a committee composed of a designee of the chief judge, the local county governing authority and the local bar association to perform the functions of establishing fee guidelines and approval of fees.

Rule 29.10. Fee Disputes

All fee vouchers or requests from panel attorneys shall be submitted to the judge assigned the case or a person or committee designated to review fee requests prior to their submission to the county for payment.

Rule 29.11. Independence of Counsel

Any indigent defense program shall operate independently and be structured to preserve independence. Independent counsel shall be politically autonomous and free from influence, guidance or control from any other authority in the discharge of professional duties, within the bounds of the law and the Code of Professional Responsibility.

Rule 30. ARRAIGNMENT

Rule 30.1. Calendar

The judge, or the judge's designee, shall set the time of arraignment unless arraignment is waived either by the defendant or by operation of law. Notice of the date, time, and place of arraignment shall be delivered to the clerk of the court and sent to attorneys of record, defendants, and bondsmen.

Amended effective October 9, 1997.

Rule 30.2. Call for Arraignment

Before arraignment the court shall inquire whether the accused is represented by counsel and, if not, inquire into the defendant's desires and financial circumstances. If the defendant desires an attorney and is indigent, the court shall authorize the immediate appointment of counsel.

Upon the call of a case for arraignment, unless continued for good cause, the accused, or the attorney for the accused, shall answer whether the accused pleads "guilty," "not guilty" or desires to enter a plea of *nolo contendere* to the offense or offenses charged; a plea of not guilty shall constitute the joining of the issue.

Upon arraignment, the attorney, if any, who announces for or on behalf of an accused, or who is entered as counsel of record, shall represent the accused in that case throughout the trial, unless other counsel and the defendant notify the judge prior to trial that such other counsel represents the accused and is ready to proceed, or counsel is otherwise relieved by the judge.

Amended effective October 9, 1997.

Rule 30.3. List of Witnesses

Upon request of defense counsel, the district attorney shall furnish to defense counsel as an officer of the court, in confidence, the addresses and telephone numbers of the state's witnesses to the extent such are within the knowledge of the district attorney, unless for good cause the judge allows an exception to this requirement, in which event defense counsel shall be afforded an opportunity to interview such witnesses prior to the witness being called to testify.

Rule 31. MOTIONS, DEMURRERS, SPECIAL PLEAS, AND SIMILAR ITEMS IN CRIMINAL MATTERS

Rule 31.1. Time for Filing; Requirements

All motions, demurrers, and special pleas shall be made and filed at or before the time set by law unless time therefor is extended by the judge in writing prior to trial. Unless otherwise provided by law, notice of the state's intention to introduce child victim hearsay statements, notice of the defense's intention to raise the issue of insanity, mental illness, or intellectual disability by using expert or non-expert evidence, or the defense's intention to introduce evidence of specific acts of violence by the victim against third persons, shall be given and filed at least 10 days before trial unless the time is shortened or lengthened by the judge. Such filing shall be in accordance with the following procedures.

Amended effective December 30, 1993; amended November 4, 1999, effective December 16, 1999; amended effective August 12, 2004; amended effective November 28, 2013; amended effective June 4, 2015; amended effective July 13, 2017.

Rule 31.2. Time for Hearing

All such motions, demurrers, special pleas and notices shall be heard and considered at such time, date, and place as set by the judge. Generally, such will be heard at or after the time of arraignment and prior to the time at which such case is scheduled for trial.

Rule 31.3. Notice of Prosecution's Intent to Present Evidence of Similar Transactions

(Deleted in light of OCGA §§ 24-4-404 (b), 24-4-412 — 24-4-414, and 24-4-417, which set forth procedures for addressing the admissibility of "other crimes, wrongs, or acts.")

Deleted effective June 4, 2015.

Rule 31.4. Motion and Order for Evaluation Regarding Mental Competency to Stand Trial

(A) In pending superior court cases, except in proceedings for involuntary treatment under OCGA Title 37, or proceedings for the appointment of a guardian under Title 29, where the mental competency of an accused is brought into question, the judge may, upon a proper showing, exercise discretion and require a mental evaluation at public expense. A motion for mental evaluation may be filed in writing, setting out allegations and grounds for such motion, praying for a court-ordered evaluation. The judge may enter an order requiring a mental evaluation of the defendant for the purposes of evaluating competency to stand trial. The judge may direct the Department of Behavioral Health and Developmental Disabilities to perform the evaluation at a time and place to be set by the Department in cooperation with the county sheriff or counsel for the defendant if the defendant is not in custody. The Clerk shall forward a copy of the order to the Department accompanied by a copy of the indictment, accusation or specification of charges, and where available, a copy of the police arrest report, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Counsel for the defendant shall forward any other background information available to the evaluator to assist in performing adequately the requested services. Unless otherwise ordered by the court, the Department shall submit its report to the requesting judge for distribution to the defendant's attorney. The evaluation shall be placed under seal and shall not be released absent a

court order. Upon the filing of a Plea of Mental Incompetency to Stand Trial, the Court shall submit a copy of the Department's evaluation to the prosecuting attorney.

(B) Upon the filing of a Plea of Mental Incompetency to Stand Trial, the judge shall conduct a bench trial to determine the issue of mental competency to stand trial unless the state or the defendant, within twenty days of filing of the plea, demands a special jury trial.

(C) Copies of suggested orders are attached as Specimen Order for Mental Evaluation Re: Competency to Stand Trial, and Specimen Judgment and Order of the Court on the Defendant's Plea of Mental Incompetency to Stand Trial.

Specimen Order for Mental Evaluation Re: Competency to Stand Trial:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA INDICTMENT NO.
V._____ CHARGE(S):

ORDER FOR MENTAL EVALUATION
Re: COMPETENCY TO STAND TRIAL

WHEREAS the mental competency to stand trial of the above defendant has been called into question, and this court has found that it is appropriate for evaluation to be conducted at public expense;

IT IS HEREBY ORDERED that the Department of Behavioral Health and Developmental Disabilities conduct an evaluation of said defendant, provide treatment of the defendant, if appropriate, and provide to this court a report of diagnosis, prognosis and its findings, with respect to:

Competency to Stand Trial. Whether the defendant is capable of understanding the nature and object of the proceedings; whether the defendant comprehends his or her own condition in reference to such proceedings; and, whether the defendant is capable of rendering to counsel assistance in providing a proper defense.

IT IS FURTHER ORDERED that the Department arrange with the county sheriff, or if the defendant is not in custody, with the defendant's attorney, for the prompt evaluation of said defendant, either at the county jail, at a designated hospital, or at a location agreed with defense counsel, with transportation of the defendant to be provided by the sheriff, where necessary, with transportation costs to be borne by the county. Upon completion of the evaluation, if the defendant is in custody, the evaluating facility shall notify the sheriff, who shall promptly reassume custody of the defendant. Unless otherwise ordered by the court the Department shall submit its report to the requesting judge for distribution.

The Clerk shall forward a copy of this order to the Department accompanied by a copy of the indictment, accusation or specification of charges, and where available, a copy of the police arrest report, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Counsel for the defendant shall forward any other background information available to the evaluator to assist in performing adequately the requested services.

SO ORDERED, this the _____ day of _____, 20__.

_____ JUDGE, SUPERIOR COURT

_____ JUDICIAL CIRCUIT, GEORGIA

Specimen Judgment and Order of the Court on the Defendant's Plea of Mental Incompetency to Stand Trial:

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA
V._____

INDICTMENT NO.
CHARGE(S):

JUDGMENT AND ORDER OF THE COURT ON THE
DEFENDANT'S PLEA OF MENTAL INCOMPETENCY
TO STAND TRIAL

The above stated case came on regularly before the undersigned for trial this date. The defendant was represented by counsel.

After a hearing on defendant's plea of mental incompetency and due consideration, the plea of Mental Incompetency to Stand Trial is sustained.

IT IS, THEREFORE, THE ORDER of this court that the defendant be now delivered to the sheriff of this County and that the defendant be delivered by the sheriff, or the sheriff's lawful deputy, to the Department of Behavioral Health and Developmental Disabilities, as provided by OCGA § 17-7-130.

However, pursuant to OCGA § 17-7-130(c), the Court finds that the defendant is charged with a nonviolent offense and the Court exercises its discretion, and directs that the evaluation is to be performed on an outpatient basis.

The Court orders the Department of Behavioral Health and Developmental Disabilities to have a Department physician or licensed psychologist evaluate and diagnose the defendant as to whether there is a substantial probability that the defendant will attain mental competency to stand trial in the foreseeable future. Such evaluation shall be performed within 90 days after the Department has received actual custody of the defendant or, in the case of an outpatient, a court order requiring evaluation of the defendant.

IT IS FURTHER ORDERED that at such time as it is determined that the defendant is capable of understanding the nature and object of the proceedings, comprehends his or her own condition in reference to such proceedings, and is capable of rendering to counsel assistance in providing a proper defense, the defendant be delivered by the Department of Behavioral Health and Developmental Disabilities to the sheriff of this county, or the sheriff's lawful deputy, with transportation costs to be borne by the county.

IT IS FURTHER ORDERED that, should the Department of Behavioral Health and Developmental Disabilities determine that in light of present day medical knowledge that recovery of the defendant's legal mental competency to stand trial is not expected at any time in the foreseeable future, the defendant shall be dealt with by the Department as provided in OCGA § 17-7-130.

SO ORDERED, this the _____ day of _____, 20__.

_____ JUDGE, SUPERIOR COURT

_____JUDICIAL CIRCUIT, GEORGIA

Amended effective October 9, 1997; November 10, 2005; May 23, 2013.

Rule 31.5 Notice of Intention of Defense to Raise Issue of Insanity, Mental Illness, or Intellectual Disability at the Time of the Act

(A) If, in any criminal proceeding, the defense intends to raise the issue that the defendant or accused was insane, mentally ill, or intellectually disabled at the time of the act or acts charged against the accused, by using expert or non-expert evidence, such intention must be stated, in writing, in a pleading denominated as "Notice of Intent of Defense to Raise Issue of Insanity, Mental Illness, or Intellectual Disability." This notice shall be filed and served upon the prosecuting attorney in accordance with Rule 31.1. Upon the filing of such notice, the judge shall determine from the prosecuting attorney and the defense attorney whether such issue requires any further mental examination of the accused *or* any further non-jury hearing relative to this issue.

Upon defense motion, the judge may enter an order requiring a mental evaluation of the defendant for the purposes of evaluating the degree of criminal responsibility or insanity at the time of the act in question. The judge may direct the Department of Behavioral Health and Developmental Disabilities to perform the evaluation at a time and place to be set by the department in cooperation with the county sheriff. A copy of the order shall be forwarded to the department accompanied by a copy of the indictment, accusation, or specification of charges, a copy of the police arrest report, where available, a copy of the defendant's Notice of Intent of Defense to Raise Issue of Insanity, Mental Illness, or Intellectual Disability if filed, and a brief summary of any known or alleged previous mental health treatment or hospitalization involving this particular person. Any other background information available to the court shall also be forwarded to the evaluating department to assist in performing adequately the requested services. Unless otherwise ordered by the court, the department shall submit its report to the requesting judge and the defendant's attorney. Contemporaneous with filing the Notice of Intent of Defense to Raise Issue of Insanity, defendant's attorney shall provide a copy of the report to the prosecuting attorney and shall so certify in writing attached to the notice.

(B) Except for good cause shown, the issue of insanity shall not be raised in the trial on the merits unless notice has been filed and served ahead of trial as provided in these rules.

(C) A copy of a suggested order is attached as Specimen Order for Mental Evaluation re: Degree of Criminal Responsibility or Insanity at the Time of the Act.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

THE STATE OF GEORGIA

	)	
	)	
	)	INDICTMENT NO.
v.	)	
	)	CHARGE(S):
_____,	)	

ORDER FOR MENTAL EVALUATION
re: DEGREE OF CRIMINAL RESPONSIBILITY OR INSANITY
AT THE TIME OF THE ACT

WHEREAS, the defendant's sanity at the time of the act has been called into question, and evidence presented in the matter, and this court has found that it is appropriate for an evaluation to be conducted at public expense;

IT IS HEREBY ORDERED that the Department of Behavioral Health and Developmental Disabilities conduct an evaluation of the defendant, provide treatment of the defendant, if appropriate, and provide to this court a report of diagnosis, prognosis and its findings, with respect to:

Degree of Criminal Responsibility or Insanity at the Time of the Act. Whether or not the accused had the mental capacity to distinguish right from wrong in relation to the alleged act; or whether or not the presence of a delusional compulsion overmastered the accused's will to resist committing the alleged act.

IT IS FURTHER ORDERED that the department arrange with the county sheriff, or the sheriff's lawful deputies, for the prompt evaluation of said defendant, either at the county jail or at a specified hospital, with transportation costs to be borne by the county. Upon completion of the evaluation, the evaluating facility shall notify the sheriff, who shall promptly reassume custody of the accused. The department shall submit its report to the requesting judge and the defendant's attorney. Contemporaneous with filing the Notice of Intent of Defense to Raise Issue of Insanity, defendant's attorney shall provide a copy of the report to the prosecuting attorney and shall so certify in writing attached to the notice.

Copies of documents supporting this request are attached hereto, as follows:
( ) Indictment/Accusation
( ) Summary of previous mental health treatment and prior mental health records
( ) Copy of arrest report
( ) Other _____

So ordered, this the ____ day of _____, 20____.

_____
JUDGE, SUPERIOR COURT

_____
JUDICIAL CIRCUIT, GEORGIA

SPECIMEN ORDER FOR MENTAL EVALUATION re:
DEGREE OF CRIMINAL RESPONSIBILITY OR INSANITY
AT THE TIME OF THE ACT

Amended effective October 9, 1997; November 10, 2005; July 13, 2017.

Rule 31.6. Notice of Intention of Defense to Present Evidence of Acts of Violence by the Victim

(A) The defense may upon notice filed in accordance with Rule 31.1, claim justification and present during the trial of the pending case evidence of relevant specific acts of violence by the victim against third persons.

(B) The notice shall be in writing, served upon the state's counsel, and shall state the act of violence, date, county and the name, address and telephone number of the person for each specific act of violence sought to be introduced. The judge shall hold a hearing at such time as may be appropriate and may receive evidence on any issue of fact necessary to determine the request, out of the presence of the jury. The burden of proving that the evidence of specific acts of violence by the victim should be admitted shall be upon the defendant. The defendant may present during the trial evidence of only those specific acts of violence by the victim specifically approved by the judge.

(C) Notice of the state's intention to introduce evidence in rebuttal of the defendant's evidence of the victim's acts of violence and of the nature of such evidence, together with the name, address and telephone number of any witness to be called for such rebuttal, shall be given defendant's counsel and filed within five days before trial unless the time is shortened or lengthened by the judge.

Amended effective December 30, 1993; amended November 4, 1999, effective December 16, 1999.

Rule 31.7. Status Conference

At any time prior to the trial of a criminal case, the judge may schedule a status conference sua sponte or at the request of any party. At the status conference, the judge may examine and inquire into any issue pending in the case. The status conference shall be attended by all attorneys of record and the defendant(s) as required by law or ordered by the court.

Adopted effective January 24, 2019.

Rule 32. CRIMINAL TRIAL CALENDAR

Rule 32.1. Calendar Preparation

All indictments and special presentments shall be set for trial within a reasonable time after arraignment. The judge or designee shall prepare a trial calendar, shall deliver a copy thereof to the clerk of court, and shall give notice in person or by mail to each counsel of record, the bondsman (if any) and the defendant at the last address indicated in court records, not less than 7 days before the trial date or dates. The calendar shall list the dates that cases are set for trial, the cases to be tried at that session of court, the case numbers, the names of the defendants and the names of the defense counsel.

Amended effective October 9, 1997.

Rule 32.2. Removal from Calendar

No case shall be postponed or removed from the calendar except by the judge.

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.

(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. [In state court, see State Court Rule 33.1.]

Rule 33.2. Aid of Counsel–Time for Deliberation

(A) A defendant shall not be called upon to plead before having an opportunity to retain counsel, or if defendant is eligible for appointment of counsel, until counsel has been appointed or right to counsel waived. A defendant with counsel shall not be required to enter a plea if counsel makes a reasonable request for additional time to represent the defendant's interest, or if the defendant has not had a reasonable time to consult with counsel.

(B) A defendant without counsel should not be called upon to plead to any offense without having had a reasonable time to consider this decision. When a defendant without counsel tenders a plea of guilty or nolo contendere to an offense, the court should not accept the plea unless it is reaffirmed by the defendant after a reasonable time for deliberation, following the advice from the court required in section 33.8.

Rule 33.3. Propriety of Plea Discussions and Plea Agreements

(A) In cases in which it appears that the interests of the public in the effective administration of criminal justice (as stated in section 33.6) would thereby be served, the prosecuting attorney may engage in plea discussions for the purpose of reaching a plea agreement. The prosecuting attorney should engage in plea discussions or reach a plea agreement with the defendant only through defense counsel, except when the defendant is not eligible for or does not desire appointment of counsel and has not retained counsel.

(B) The prosecuting attorney, in reaching a plea agreement, may agree to one or more of the following, as dictated by the circumstances of the individual case:

(1) to make or not to oppose favorable recommendations as to the sentence which should be imposed if the defendant enters a plea of guilty or nolo contendere;

(2) to seek or not to oppose dismissal of the offense charged if the defendant enters a plea of guilty or nolo contendere to another offense reasonably related to defendant's conduct; or

(3) to seek or not to oppose dismissal of other charges or potential charges against the defendant if the defendant enters a plea of guilty or nolo contendere.

Amended effective October 9, 1997.

Rule 33.4. Relationship Between Defense Counsel and Client

(A) Defense counsel should conclude a plea agreement only with the consent of the defendant, and should ensure that the decision to enter or not enter a plea of guilty or nolo contendere is ultimately made by the defendant.

(B) To aid the defendant in reaching a decision, defense counsel, after appropriate investigation, should advise the defendant of the alternatives available and of considerations deemed important by him in reaching a decision.

Rule 33.5. Responsibilities of the Trial Judge

(A) The trial judge should not participate in plea discussions.

(B) If a tentative plea agreement has been reached, upon request of the parties, the trial judge may permit the parties to disclose the tentative agreement and the reasons therefor in advance of the time for the tendering of the plea. The judge may then indicate to the prosecuting attorney and defense counsel whether the judge will likely concur in the proposed disposition if the information developed in the plea hearing or presented in the presentence report is consistent with the representations made by the parties. If the trial judge concurs but the final disposition differs from that contemplated by the plea agreement, then the judge shall state for the record what information in the presentence report or hearing contributed to the decision not to sentence in accordance with the plea agreement.

(C) When a plea of guilty or nolo contendere is tendered or received as a result of a plea agreement, the trial judge should give the agreement due consideration, but notwithstanding its existence, must reach an independent decision on whether to grant charge or sentence leniency under the principles set forth in section 33.6 of these rules.

Amended effective October 9, 1997.

Rule 33.6. Consideration of Plea in Final Disposition

(A) It is proper for the judge to grant charge and sentence leniency to defendants who enter pleas of guilty or nolo contendere where the interests of the public in the effective administration of criminal justice are thereby served. Among the considerations which are appropriate in determining this question are:

(1) that the defendant by entering a plea has aided in ensuring the prompt and certain application of correctional measures;

(2) that the defendant has acknowledged guilt and shown a willingness to assume responsibility for conduct;

(3) that the leniency will make possible alternative correctional measures which are better adapted to achieving rehabilitative, protective, deterrent or other purposes of correctional treatment, or will prevent undue harm to the defendant from the form of conviction;

(4) that the defendant has made public trial unnecessary when there are good reasons for not having the case dealt with in a public trial;

(5) that the defendant has given or offered cooperation when such cooperation has resulted or may result in the successful prosecution of other offenders engaged in equally serious or more serious criminal conduct;

(6) that the defendant by entering a plea has aided in avoiding delay (including delay due to crowded dockets) in the disposition of other cases and thereby has increased the probability of prompt and certain application of correctional measures to other offenders.

(B) The judge should not impose upon a defendant any sentence in excess of that which would be justified by any of the rehabilitative, protective, deterrent or other purposes of the criminal law merely because the defendant has chosen to require the prosecution to prove the defendant's guilt at trial rather than to enter a plea of guilty or nolo contendere.

Amended effective October 9, 1997.

Rule 33.7. Determining Voluntariness of Plea

The judge shall not accept a plea of guilty or nolo contendere without first determining, on the record, that the plea is voluntary. By inquiry of the prosecuting attorney and defense counsel, the judge should determine whether the tendered plea is the result of prior plea discussions and a plea agreement, and, if it is, what agreement has been reached. If the prosecuting attorney has agreed to seek charge or sentence leniency which must be approved by the judge, the judge must advise the defendant personally that the recommendations of the prosecuting attorney are not binding on the judge. The judge should then address the defendant personally and determine whether any other promises or any force or threats were used to obtain the plea.

Amended effective October 9, 1997.

Rule 33.8. Defendant to Be Informed

The judge should not accept a plea of guilty or nolo contendere from a defendant without first:

(A) Determining on the record that the defendant understands the nature of the charge(s);

(B) Informing the defendant on the record that by entering a plea of guilty or nolo contendere one waives:

(1) the right to trial by jury;

(2) the presumption of innocence;

(3) the right to confront witnesses against oneself;

(4) the right to subpoena witnesses;

(5) the right to testify and to offer other evidence;

(6) the right to assistance of counsel during trial;

(7) the right not to incriminate oneself; and that by pleading not guilty or remaining silent and not entering a plea, one obtains a jury trial;

(C) Where a defendant is not represented by counsel, informing the defendant of his right to be assisted by counsel in entering the plea, as well as at trial, and that the defendant is knowingly and voluntarily waiving that right; and

(D) Informing the defendant on the record:

(1) of the terms of any negotiated plea;

(2) that a plea of guilty may have an impact on his or her immigration status if the defendant is not a citizen of the United States;

(3) of the maximum possible sentence on the charge, including that possible from consecutive sentences and enhanced sentences where provided by law; and/or

(4) of the mandatory minimum sentence, if any, on the charge.

This information may be developed by questions from the judge, the prosecuting attorney or the defense attorney or a combination of any of these.

Amended effective March 22, 2001; amended effective December 10, 2015.

Rule 33.9. Determining Accuracy of Plea

Notwithstanding the acceptance of a plea of guilty, the judgment should not be entered upon such plea without such inquiry on the record as may satisfy the judge that there is a factual basis for the plea.

Amended effective October 9, 1997.

Rule 33.10. Stating Intention to Reject the Plea Agreement

If the trial court intends to reject the plea agreement, the trial court shall, on the record, inform the defendant personally that (1) the trial court is not bound by any plea agreement; (2) the trial court intends to reject the plea agreement presently before it; (3) the disposition of the present

case may be less favorable to the defendant than that contemplated by the plea agreement; and (4) that the defendant may then withdraw his or her guilty plea as a matter of right. If the plea is not then withdrawn, sentence may be pronounced.

Rule 33.11. Record of Proceedings

A verbatim record of the proceedings 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. [In State Court, see State Court Rule 33.11.]

Rule 33.12. Plea Withdrawal

(A) After sentence is pronounced, the judge should allow the defendant to withdraw a plea of guilty or nolo contendere whenever the defendant, upon a timely motion for withdrawal, proves that withdrawal is necessary to correct a manifest injustice.

(B) In the absence of a showing that withdrawal is necessary to correct a manifest injustice, a defendant may not withdraw a plea of guilty or nolo contendere as a matter of right once sentence has been pronounced by the judge.

Amended effective October 9, 1997.

Rule 34. UNIFIED APPEAL

Publisher's Note

The Unified Appeal is set forth at:
https://www.gasupreme.us/wp-content/uploads/2018/06/UNIFIED_APPEAL-06_06_18.pdf

Rule 35. POST–SENTENCE INFORMATION

Rule 35.1. Notification to Department of Corrections

As soon as practical after the imposition of the sentence or modification of an earlier disposition, the clerk shall notify the commissioner of the Department of Corrections of the sentence, and shall mail to such department the documentation required by law. Disposition reports shall be forwarded to the Georgia Crime Information Center (GCIC) not more than 30 days after disposition decisions.

Amended effective March 9, 1989.

Rule 35.2. Sentencing and Sentence Review

Sentences shall be imposed and reviewed in accordance with OCGA § 17-10-1 et seq., as amended from time to time.

Rule 36. FILING AND PROCESSING

Rule 36.1. Preparation of Documents

Except as authorized or directed by a judge, to the extent practical, all materials presented for filing in any superior 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 a good quality, grade and weight. Manuscript covers and backings shall be omitted wherever practical. [In State Court, see State Court Rule 36.1.]

Amended effective December 22, 2005; amended effective September 22, 2016.

Rule 36.2. Time of Docketing

Actions shall be entered by the clerk in the proper docket immediately or within a reasonable period after being received in the clerk's office.

Rule 36.3. Caption

Every document or pleading presented for filing in a superior court shall bear a caption which sets out the *exact* nature of the pleading or the type of complaint.

Rule 36.4. Signatures on Documents Filed of Record

All proposed judgments and orders shall bear the printed name of the responsible attorney or party who prepared the document, with the preparer's bar number, proper address, telephone number, fax number and e-mail address typed or printed underneath.

To the extent practicable, signature pages of documents filed of record including pleadings, agreements and orders shall not be set forth on a page separated from the contents of the document.

On any document filed of record, including but not limited to pleadings, agreements and orders, where a signature is set forth on a separate page from the contents of the document, the signature page must identify the parties, the case number, and the document.

Amended effective May 24, 2012.

Rule 36.5. Location of Original

All original documents, petitions and pleadings in both civil and criminal matters shall remain in the custody of the clerk except as provided by the judge, these rules, or as otherwise provided by law; provided, however, that this rule shall not prohibit an attorney of record's checking the file out for transportation to the judge for a hearing.

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 shall be recorded after completion. (This does not include adoptions.) After recording, the original may be destroyed according to the state retention schedule or stored off premises as provided by law. [In State Court, see State Court Rule 36.6.]

Rule 36.7. Filing of Transcripts

Transcripts in all matters shall be filed as provided by law and the clerk shall not be required to record or preserve these in a bound book or on microfilm.

Rule 36.8. File Categories

The categories of files to be established by the clerk shall be civil, criminal, and adoptions. [In State Court, see State Court Rule 36.8.]

Rule 36.9. Identification

Each matter, civil, criminal, adoption, or otherwise, shall be identified by year of filing, type of case, consecutive case number and judge assignment where required. The sequence shall be as follows: year of filing–type of case–consecutive case number–judge assignment.

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, a civil case initiation form, 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. Judgments, settlements, dismissals and other dispositions presented to the clerk for filing shall be filed only when accompanied by a civil case disposition form. [In State Court, see State Court Rule 36.10.]

Amended effective January 18, 1990.

Rule 36.11. Return of Service–Civil

Entry of return of service shall be made by the sheriff or other authorized person on a form provided by the clerk and filed with the clerk.

Rule 36.12. Advance Costs–Civil

Advance costs paid upon filing shall be the minimum costs in a case.

Rule 36.13. Filing Requirements–Criminal

All indictments, no bills, and accusations presented to the clerk shall be filed and should be accompanied by all applicable documents including arrest warrants, if issued, and the Georgia Crime Information Center OBTS form, if the offense is one for which an OBTS form is applicable.

Rule 36.14. Filing of No Bills

The clerk shall prepare a list of all no bills, a copy of which shall be recorded in the Minutes and Final Records. No bills shall be filed chronologically by date of filing.

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 $100.00. Any surcharge provided for by law shall be in addition. [In State Court, see State Court Rule 36.15.]

Rule 36.16. Electronic Filing

(A) Availability. Electronic filing shall be available when required by law and may be made available in a court, or certain classes of cases therein, in conformity with statewide minimum standards and rules for electronic filing adopted by the Judicial Council.

(B) Documents that may be filed electronically. Where electronic filing is available, a document may be electronically filed in lieu of paper by the court, the clerk and any registered filer unless electronic filing is expressly prohibited by law, these rules or court order. Electronic filing is expressly prohibited for documents that according to law must be filed under seal or presented to a court in camera, or for documents to which access is otherwise restricted by law or court order. Original depositions are not "sealed documents" within the meaning of this paragraph and may be filed electronically. See Judicial Council Rule 9.

(C) Signatures. An electronically filed document is deemed signed by the registered filer submitting the document as well as by any other person who has authorized signature by the filer. By electronically filing the document, the filer verifies that the signatures are authentic.

(D) Time of filing. An electronic document is presumed filed upon its receipt by the electronic filing service provider, which provider must automatically confirm the fact, date and time of receipt to the filer. Absent evidence of such confirmation, there is no presumption of filing.

(E) Electronic service. Upon filing, an electronically filed document is deemed served on all parties and counsel who have waived any other form of service by registering with the electronic filing system to receive electronic service in the case and who receive notice via the system of the document's filing.

(F) System or user filing errors. If electronic filing or service is prevented or delayed because of a failure of the electronic filing system, a court will enter appropriate relief such as the allowance of filings nunc pro tunc or the provision of extensions to respond.

(G) Force and effect. Electronically filed court records have the same force and effect and are subject to the same right of public access as are documents filed by traditional means.

(H) Pro se parties. To protect and promote access to the courts, courts shall reasonably accommodate pro se parties by accepting and then converting and maintaining in electronic form paper pleadings or other documents received from pro se filers.

(I) Procedure for handling misfiled or otherwise deficient or defective e-filings. Upon physical acceptance and review of an e-filing and discovery that it was misfiled or is otherwise deficient or defective, a clerk shall as soon as practicable provide the e-filer notice of the defect or deficiency and an opportunity to cure or, if appropriate, reject the filing altogether. In any case, the clerk shall retain a record of the action taken by the court in response, including date, time, and reason. Such records shall be maintained until a case is finally concluded including the exhaustion of all appeals. Absent a court order to the contrary, such records shall be accessible to the parties and public upon request without the necessity for a subpoena.

Adopted effective June 4, 2015; amended effective January 16, 2020.

Rule 36.17. Sensitive Information

(A) In accord with OCGA § 9-11-7.1 and in order to promote public electronic access to case files while also protecting sensitive information, pleadings and other papers filed with a court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court shall include only:

(1) The last four digits of a social security number;

(2) The last four digits of a taxpayer identification number;

(3) The last four digits of a financial account number; and

(4) The year of an individual's birth.

(B) The responsibility for omitting or redacting these personal identifiers rests solely with counsel and the parties. The clerk will not review filings for compliance with this rule.

(C) A party having a legitimate need for the above information may obtain it through the ordinary course of discovery without further order of the court.

(D) This rule does not create a private right of action against a court, a clerk, counsel or any other individual or entity that may have erroneously included identifying information in a filed document that is made available electronically or otherwise.

(E) This rule does not amend or modify Uniform Superior Court Rule 21, Limitation of Access to Court Files.

Adopted effective June 4, 2015.

Rule 37. COURT ADMINISTRATORS

(A) The district court administrator performs such district administrative duties as are prescribed from time to time.

(B) The courts of various counties may, with the consent of local governing authorities, appoint a local court administrator, with such compensation, duties, and term as may be specified in such

appointment. The local court administrator may perform general administrative and managerial supervision over the administrative activities and functions of the court and the personnel connected therewith, except the staff of any elected official.

The court administrator may be responsible for the enforcement of the courts' administrative policies and procedures and may directly supervise and direct the employees who are necessary to the operation of the courts.

Rule 38. FILING OF REMITTITUR AND JUDGMENT

After receiving the remittitur and judgment of an appellate court, a copy of the notice of appeal, the remittitur and the index of each appeal shall be filed with the original action and the balance of the copy of the record destroyed, although the original shall be retained. If two or more cases are involved in one appeal, the above-referenced material shall be placed in one of the case files and a cross-reference to that file shall be noted in the remaining file(s).

Rule 39. DOCKETING AND INDEXING

Rule 39.1. Dockets to be Maintained

Each clerk shall maintain the dockets as provided in this Rule 39 of the following, each of which shall include the information required under these rules. Each docket shall bear the name of the docket, the county, and a unique consecutive number. No other dockets shall be required to be kept except those relating to real estate.

Rule 39.2. The Civil Docket

The Civil Docket shall contain separate case number entries for all civil actions filed in the office of the clerk including: complaints, motions, URESA's, domestic relations, contempt actions, modifications on closed civil actions, and all other actions civil in nature, except adoptions. Each action in the civil docket shall be indexed by the names of all parties to the action number or the civil docket book and page number. This docket shall contain entries of the following information:

(A) Action Number–a unique case number shall be assigned to each action as prescribed in Rule 36.9;

(B) Cause of Action–an entry of the specific type of action filed;

(C) Names of all attorneys of record;

(D) Names of all parties;

(E) Date of filing;

(F) Advance cost paid;

(G) Additional costs paid;

(H) Date of service;

(I) Type of service, including whether a second original is sent and where;

(J) The date and type of specific disposition of the action, including clear entries for:

(1) Dismissals (with or without prejudice);

(2) Settlements;

(3) Judgments and the type of judgment, i.e., summary, default, on the pleadings, consent, on the verdict, notwithstanding the verdict, directed and so forth. In the event the case is a divorce, enter final decree and the type of judgment;

(4) Five-year or other administrative termination; and

(5) Transfer to court with proper jurisdiction and venue.

(K) Whether the verdict or judgment is for the plaintiff or the defendant;

(L) Whether there was a mistrial;

(M) The date of the trial, if any;

(N) Whether the case was tried (with or without jury);

(O) The name of the judge making the final disposition of the case;

(P) Date a Fi. Fa. was issued;

(Q) A cross-reference to the minutes and final record and page number;

(R) A cross-reference to the records storage area and box number if the case file is stored off-site; and

(S) A summary of all pleadings in the case and the dates of their filings, transcripts filed, motions for new trial, notices of appeal, and remittiturs.

Rule 39.2.1. Civil Case Initiation Form

The clerk shall require the attorney filing a civil action to complete the civil case initiation form. The clerk shall enter the action number for the case on the civil case initiation form and the form shall become part of the file for the case. The clerk shall use the cause(s) of action indicated by the attorney completing the form to enter the cause(s) of action upon the civil docket of the court, unless it appears to the satisfaction of the clerk by an inspection of the pleadings that the cause(s) of action has been recorded in error by the attorney. If the wrong cause(s) of action has been recorded, the clerk shall correct the civil case initiation form and enter the correct cause(s) of action upon the civil docket of the court.

Amended effective January 18, 1990.

Rule 39.2.2. Modification of the Civil Case Initiation Form

If additional information is deemed necessary by the court at filing, the civil case initiation form may be modified to include new items by using the blank space available at the bottom of the form.

Amended effective January 18, 1990.

Rule 39.2.3. Civil Case Disposition Form

Any order disposing of a civil action presented for consideration to a judge by any attorney or party shall be accompanied by a completed civil case disposition form. If the order is prepared or reframed by the court, the court shall cause the civil case disposition form to be completed or corrected, if necessary. The civil case disposition form shall be sent to the clerk along with the relevant order to become part of the file for the case. The clerk shall require any attorney or party filing a voluntary dismissal or settlement of a civil action to complete a civil case disposition form. The form shall become part of the file for the case. The clerk shall use the specific type of disposition found on the completed civil case disposition form to enter the specific type of disposition upon the civil docket of the court, unless it appears to the satisfaction of the clerk by an inspection of the order that the type of disposition has been recorded in error. If the wrong type of disposition has been recorded, the clerk shall correct the civil case disposition form and enter the correct type of disposition upon the civil docket of the court.

Amended effective January 18, 1990.

Rule 39.2.4. Modification of the Civil Case Disposition Form

If additional information is deemed necessary by the court at disposition, the civil case disposition form may be modified to include new items by using the blank space available at the bottom of the form.

Amended effective January 18, 1990.

Rule 39.3. The Criminal Docket

The Criminal Docket shall contain a record of all criminal indictments in which true bills are rendered and all accusations filed in the office of the clerk of superior court and a summary of the pleadings in each case. Entries shall be made of the following information:

(A) Number–a unique number shall be assigned to each indictment which receives a true bill or accusation filed pursuant to Rule 36.9;

(B) Date of filing;

(C) Names of defendants and their OBTS numbers (the preprinted Offender Tracking No. found on the GCIC final disposition report);

(D) Names of defense attorneys;

(E) An enumeration of the specific types of offenses (counts);

(F) Whether the case was brought by accusation or indictment;

(G) Whether each count is a felony or misdemeanor, or a traffic ticket, and if a traffic ticket, the citation number;

(H) The name of the judge making the final disposition of the case;

(I) The plea and date of plea for each count in the case, including whether the plea was guilty, not guilty, nolo contendere, mentally incompetent to stand trial, and whether or not the plea was negotiated;

(J) Whether the case was tried with or without a jury;

(K) The disposition for each count in the case and the date of disposition including whether the count was dismissed, a nolle prosequi entered, a verdict of guilty was rendered, a verdict of not guilty was rendered, a verdict of not guilty by reason of insanity, or a verdict of guilty but mentally ill;

(L) A listing of the dates and types of proceedings in the case including motions for new trials;

(M) The date and type of sentence including term, conditions, and amount of costs, fines or restitution for each defendant;

(N) The date of issuance of a bench warrant and officer's return;

(O) The date of issuance of a judgment absolute;

(P) The date of issuance of scire facias;

(Q) The date the transcript was filed;

(R) The date application was made for sentence review;

(S) The date notice of appeal was filed;

(T) The date the remittitur was filed;

(U) A cross-reference to the minutes and final record and page number; and

(V) A cross-reference to the records storage area and box number if the case file is stored off-site.

Rule 39.3.1. Semi-Annual Lists of Felony Cases

No later than 30 days after January 1 and July 1 of each calendar year, the superior court clerk of the county or counties in each judicial circuit shall submit a list of all felony cases either pending judgment on a motion for new trial or transmission of a record on appeal in that court to the judges of that court in a format specified by the Administrative Office of the Courts. The list shall include the following information: sentencing judge, assigned judge, counsel of record, the date of the sentence, the date the transcript was filed, the date a motion for new trial or an amended motion for new trial was filed, whether a motion for new trial has been ruled upon, the

date a notice of appeal was filed, and whether the record is ready for transmittal. The cases shall be listed in order of length of time pending.

No later than 10 days from receipt of the initial list, the chief judge of the superior court for each judicial circuit shall submit a final list electronically to the clerk of the Supreme Court. The list shall be filed in the superior court clerk's office as a court record available pursuant to Rule 21. The list also shall be provided to the district attorney and the circuit public defender. The Supreme Court shall make the list available to the public.

The Supreme Court may take such other action to address unjustified delays in cases as may be appropriate.

Adopted effective January 1, 2019.

Rule 39.4. Lis Pendens Docket

The Lis Pendens Docket shall contain all lis pendens filed with the clerk and shall be properly indexed by the names of the parties.

Rule 39.5. General Execution Docket

The General Execution Docket shall contain all Fi. Fas. 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. [In State Court, see State Court Rule 39.5.]

Rule 39.6. Adoption Docket

The original files shall suffice as the Adoption Docket. Each adoption shall be given a unique consecutive case number pursuant to Rule 36.9. The adoption index shall contain the names of the petitioners. All adoptions shall be recorded in a separate adoption minutes and final record which shall be properly indexed. All adoption records, including the index, shall be kept sealed and locked and shall be confidential unless otherwise ordered by the judge.

Rule 39.7. Required Forms

(A) The forms listed below shall be required for use in all superior courts in this state.

(B) It is the intent of this rule that all forms listed herein be uniform in appearance for purposes of efficiency and accuracy. Upon recommendation by its Uniform Rules Committee, the Council of Superior Court Judges may revise forms to reflect changes to the law. The rule also does not prohibit the use of stylistic additions such as check boxes. No heading is required when forms are reproduced.

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 Felony Confinement Sentence
SC–6.1 [Deleted]
SC–6.2 Final Disposition Felony Sentence With Probation
SC–6.3 Final Disposition Misdemeanor Sentence
SC–6.4 Special Conditions of Probation:
- SC–6.4(A) Index of Special Conditions of Probation
- SC–6.4(B) Inventory of Special Conditions of Probation
- SC–6.4(C) Sex Offender Special Conditions of Probation
- SC–6.4(D) Special Conditions of Probation for Conviction of an Offense Against a Minor or a Dangerous Sexual Offense
- SC–6.4(E) Special Conditions of Probation for Violation of OCGA §§ 16-5-90 or 16-5-91 (Stalking or Aggravated Stalking)

SC–6.5 Final Disposition Continuation of Sentence
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–10 [Deleted]
SC–11 [Deleted]
SC–12 [Deleted]
SC–13 [Deleted]
SC–14 [Deleted]
SC–15 Family Violence Ex Parte Protective Order
SC–16 Family Violence Twelve Month Protective Order
SC–17 Stalking Ex Parte Temporary Protective Order
SC–18 Stalking Twelve Month Protective Order
SC–19 Dismissal of Temporary Protective Order
SC–20 Order for Continuance of Hearing and Ex Parte Protective Order
SC–21 Order to Modify Prior Protective Order
SC–22 Family Violence Three Year/Permanent Protective Order
SC–23 Stalking Permanent Protective Order Pursuant to Criminal Conviction
SC–24 Stalking Three Year/Permanent Protective Order
SC–25 Child Support Addendum to Family Violence Protective Order

SC–26 Petition for Temporary Protective Order
SC–27 Defendant Identifying Information/Protected Parties Information

Amended effective January 18, 1990; October 23, 2008; January 1, 2013; June 4, 2015; September 22, 2016; August 30, 2018; January 24, 2019.

Rule 39.8. [Reserved]

Rule 39.9. Court Information

The chief judge of each circuit may require the superior court clerk of each county of that circuit to furnish to the chief judge within 10 days after the end of each month, a general civil, domestic relations and a criminal caseload management report. The Chief Justice of the Georgia Supreme Court may request copies of the information that is furnished to the Chief Judges of the circuits 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/domestic relations) to include the following data:

(i) case number,

(ii) style,

(iii) case type,

(iv) filing date,

(v) next event scheduled,

(vi) date of that event; and

(E) any other information the Chief Judge requests that is contained within court standardized computer programs.

Rule 39.9 adopted effective March 13, 1997.

Rule 40. COMPUTER APPLICATIONS AND STANDARDS

When the clerk of a superior court elects to store for computer retrieval any or all records, the same data elements used in a manual system shall be used, and the same integrity and security maintained.

Rule 41. MOTIONS FOR NEW TRIAL

Rule 41.1. Time for Hearing

Counsel are reminded of their general ethical obligation to make reasonable efforts to expedite litigation consistent with the interests of their clients.

The motion for new trial shall be heard and decided as promptly as possible.

When the defendant's presence is required by law, the defendant shall be procured for the motion for new trial unless the defendant waives his or her presence in writing. If the defendant is in custody, the state shall procure the defendant; if the defendant is not in custody, counsel for the defendant shall procure the defendant. A ruling on the motion shall be rendered within the time period required by law upon the record on the motion being complete and the transcript and post-hearing motions or other matters being submitted.

Amended effective January 1, 2019.

Rule 41.2. Status Conference and Transcript Preparation

In criminal cases, the transcript shall be prepared as promptly as possible.

The court shall schedule a status conference regarding the motion for new trial not later than 120 days after sentencing. Counsel of record for both the state and the defendant shall appear at any conference; such conference may be conducted telephonically or electronically at the discretion of the court. At the conference the court shall confirm that the defendant has appellate counsel and that the transcript has been ordered, and shall determine by whom the exhibits are held. The court shall ensure the production of the transcript.

If the transcript has not been filed by the court reporter within 120 days of the date of sentencing, the court shall issue a show cause notice to the court reporter to provide reasons for the delay. The court may impose conditions as required to ensure timely completion of the transcript.

The court shall schedule status conferences regarding the motion for new trial approximately every 180 days after the first conference until the motion for new trial is heard. Such status conferences shall be conducted telephonically or electronically unless otherwise ordered by the court.

Any conference required by this rule shall be on the record, or the court shall enter a status conference order memorializing the conference if a court reporter is unavailable.

It is the court's responsibility to monitor the progress of the case. Priority should ordinarily be given to cases pending the longest.

Amended effective January 1, 2019.

Rule 41.3. Transcript Costs

Except where leave to proceed in forma pauperis has been granted, an attorney who files a motion for new trial, or a notice of appeal which specifies that the transcript of evidence or

hearing shall be included in the record, shall be personally responsible for compensating the court reporter for the cost of transcription. The filing of such motion or notice shall constitute a certificate by the attorney that the transcript has been ordered from the court reporter. The filing of such motion or notice prior to ordering the transcript from the reporter shall subject the attorney to disciplinary action by the court.

Amended effective January 1, 2019.

Rule 41.4. Transmission of the Record

Upon filing of a notice of appeal, the clerk shall compile and transmit the record in accordance with the requirement of the appropriate appellate court as required by OCGA § 5-6-43. Failure to do so within 60 days of the deadlines imposed by OCGA § 5-6-43 may subject the clerk to a show cause hearing before the sentencing court.

Adopted effective January 1, 2019.

Rule 42. SPECIAL COUNSEL

Rule 42.1. Private Special Prosecutors

Private special prosecutors retained by the family or relatives of one named as a victim in an indictment or accusation may not participate in the prosecution of a criminal case. Special assistant district attorneys appointed by the district attorney including attorneys from personnel of public agencies may prosecute criminal cases.

Rule 42.2. Appointment of Counsel to Assist Retained Counsel

During the pendency of a criminal case, the trial judge may appoint additional counsel to assist retained counsel in the representation of a defendant prior to, during, or after trial.

Rule 43. MANDATORY CONTINUING JUDICIAL EDUCATION (MCJE)

Rule 43.1. Program Requirements

(A) Every superior court judge, including senior superior court judges, shall attend approved creditable judicial education programs or activities, totaling a minimum of twelve hours every year. At least one hour of the mandated twelve hours per year shall be devoted to the topic of legal or judicial ethics or legal or judicial professionalism. If a judge completes more than twelve 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.

(B) Each new judge must attend the pertinent Institute of Continuing Judicial Education (ICJE) in-state program of instruction for new judges or its locally administered individual new judge orientation course. Either activity must be attended as soon as possible after the judge’s election or appointment and, preferably, before hearing cases, but in any event, within one year after assuming office. Each new judge is also encouraged to attend a nationally-based basic course for general jurisdiction trial judges.

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

(D) Qualifying creditable judicial education programs and activities shall include:

(1) Programs sponsored by the Institute of Continuing Judicial Education of Georgia;

(2) Programs of continuing legal education accredited by the State Bar of Georgia's Commission on Continuing Lawyer Competency, such as all Institute of Continuing Legal Education (ICLE) programs;

(3) Additional programs approved on behalf of the Council of Superior Court Judges by its Committee on Mandatory Continuing Judicial Education;

(4) Courses at a Georgia-based law school, whether for credit or not, that qualify an individual for a degree or to sit for the Georgia bar examination;

(5) Teaching any of the above;

(6) Service on the Judicial Qualifications Commission (JQC) or the State Bar Disciplinary Board for legal or judicial ethics or legal or judicial professionalism credit.

(E) For teaching, the following credits shall be given:

(1) Three additional hours for each hour of instructional responsibility as a lecturer when no handout paper is prepared, and six hours for each hour of lecture when a handout paper is required.

(2) Two hours for each hour as a panelist or mock trial judge.

(3) When the same lecture or other instructional activity is repeated in a single calendar year, additional credit shall be given equivalent to the actual time spent.

Amended effective October 28, 1993; amended effective September 2, 1999.

Rule 43.2. Administration of the Program

Administrative implementation of this program of mandatory continuing judicial education shall be conducted solely by the Council of Superior Court Judges.

Amended effective October 28, 1993.

Rule 43.3. Council of Superior Court Judges Committee on Mandatory Continuing Judicial Education

The President of the Council of Superior Court Judges shall appoint a Committee on Mandatory Continuing Judicial Education, including at least one member of ICJE, which shall on behalf of the Council approve for credit judicial educational programs not otherwise automatically accredited by the MCJE rule, regardless of whether sponsored by a legal or judicial organization; and the committee shall impose the prescribed private and public sanctions on judges who fail to comply with the mandatory training plan.

Amended effective October 28, 1993.

Rule 43.4. Sanctioning Procedures

(1) In December of each year, the Committee on Mandatory Continuing Judicial Education will receive a report from the Council of Superior Court Judges detailing the creditable participation of judges in MCJE activities for that year. At the same time, every superior court judge will also receive from the Council of Superior Court Judges a report on his or her creditable activity.

Judges failing to attain the required twelve hours in any year will be notified by the committee chair that they have not met the MCJE participation requirement for that year. Following receipt of such notice, a judge shall submit a plan for making up any deficiency in education requirements. Education credit hours earned thereafter shall first be credited to the deficiency for any prior year.

(2) Judges who fail to earn a minimum of twenty-four hours over a two-year period shall receive a private administrative admonition issued from the Committee on Mandatory Continuing Education of the Council of Superior Court Judges detailing the consequences of failure to fulfill the training requirements

(3) Upon a judge's failure to fulfill the training requirements at the end of three years, the President of the Council of Superior Court Judges shall issue a public reprimand, with a copy spread upon the minutes of each county in the circuit where the judge serves.

Amended effective October 28, 1993; amended effective September 2, 1999.

Rule 43.5. Exemptions

The Committee on Mandatory Continuing Judicial Education of the Council of Superior Court Judges shall receive and act upon requests for exemptions to MCJE requirements of these rules.

Amended effective October 28, 1993.

Rule 44. HABEAS CORPUS PROCEEDINGS IN DEATH SENTENCE CASES

Rule 44.1. Application

This rule shall apply to all petitions seeking, for the first time, a writ of habeas corpus in state court proceedings for those cases in which the petitioner has received a sentence of death. OCGA § 9-14-47.1**.**

Amended effective January 11, 1996.

Rule 44.2. Request for Judicial Assignment

Within ten days of the filing of such a petition, the superior court clerk of the county where the petition is filed shall serve a copy of the petition upon the Executive Director of the Council of Superior Court Judges of Georgia. This service may be effected by mail and will constitute a request for judicial assistance under OCGA § 15-1-9.1 (b) (3)**.**

Amended effective January 11, 1996.

Rule 44.3. Respondent's Answer or Motion to Dismiss

The respondent shall answer or move to dismiss the petition within 20 days after the filing of the petition or within such further time as the court may set for good cause shown.

Amended effective January 11, 1996.

Rule 44.4. Assignment of Judge for Habeas Corpus Proceedings

(A) The Executive Committee of the Council of Superior Court Judges shall promulgate guidelines for the assignment of such cases to the various superior court judges throughout Georgia, and shall provide that the case will not be assigned to a judge within the circuit in which the sentence was imposed. Within 30 days after the Executive Director receives the petition, the president of the council shall assign the case to a judge in accordance with the guidelines.

(B) Pending assignment of a judge, or during a later vacancy of an assigned judge, a presiding judge of the court in which the petition is filed shall be authorized to act on emergency matters unless otherwise disqualified by Uniform Superior Court Rule 25.

Amended effective January 11, 1996.

Rule 44.5. Preliminary Conference and Scheduling

The assigned judge may wish to consider scheduling a preliminary conference with counsel for the petitioner and respondent as soon as practical. This conference may be conducted by telephone. The court may also wish to enter a scheduling order establishing specific dates in accordance with the guidelines set forth in this rule. The court may on its own or on motion of either party shorten any time period set forth hereinafter, and may extend such time period for good cause.

Amended effective January 11, 1996.

Rule 44.6. Motions

Within 60 days after the filing of the petition, the petitioner may file pretrial motions. Within 90 days after the filing of the petition, the respondent may file any motions. Responses to motions shall be governed by Rule 6.2.

Amended effective January 11, 1996.

Rule 44.7. Amendments to the Petition; Discovery

No later than 120 days after the filing of the petition, the petitioner may amend the petition, and if discovery is allowed pursuant to OCGA § 9-14-48 it shall be completed.

Amended effective January 11, 1996.

Rule 44.8. Pretrial Conference

The court may wish to schedule a pretrial conference with counsel for the petitioner and the respondent and enter an appropriate pretrial order for proceedings in the case. This conference may be conducted with counsel only and by telephone if appropriate.

Amended effective January 11, 1996.

Rule 44.9. Evidentiary Hearing

Within 180 days after the filing of the petition, the court shall conduct an evidentiary hearing as provided by OCGA §§ 9-14-47 and 9-14-48.

Amended effective January 11, 1996.

Rule 44.10. Preparation of Transcript

The evidentiary hearing shall be transcribed by a court reporter designated by the court hearing the case as set forth in OCGA § 9-14-50**.** Within 30 days after the evidentiary hearing, the transcript of the evidentiary hearing shall be made available to the parties and the court.

Amended effective January 11, 1996.

Rule 44.11. Briefing

Within 60 days after the evidentiary hearing, the petitioner may file any brief and if so directed by the court shall file proposed findings of fact and conclusions of law and a proposed order. Within 90 days after the evidentiary hearing, the respondent may file any responsive brief and if so directed by the court shall file proposed findings of fact and conclusions of law and a proposed order. Within 100 days after the evidentiary hearing, the petitioner may file any additional responsive brief.

Amended effective January 11, 1996.

Rule 44.12. Ruling on Petition

Within 90 days of the filing of the respondent's brief, or the petitioner's reply brief if one is filed, the court shall issue its ruling on the petition and its written findings of fact and conclusions of law as required by OCGA § 9-14-49.

Amended effective January 11, 1996.

Rule 44.13. Effect of Rule

Upon application of any party, the Supreme Court may order such relief as it finds necessary to assure compliance with this Rule. This Rule provides procedural guidelines and no substantive rights are hereby conferred upon any person. No violation of this Rule shall be the basis of any grant of habeas corpus relief.

Amended effective January 11, 1996.

Rule 45. COURT SECURITY AND EMERGENCY OPERATIONS

Courts within a judicial circuit shall prepare for emergencies by developing both a security plan to address the safety of the public and employees and a judicial emergency operations plan to provide for an immediate response to any type of crisis and provide for continuity of operations during such crisis.

(A) Courthouse Security Plan. The Sheriff, in consultation with the Chief Judge of the Superior Court of the circuit, shall develop and implement a comprehensive plan for the security of the county courthouse and any courthouse annex. A comprehensive plan for courthouse security shall be considered a confidential matter of public security and shall not be disseminated except as in accordance with OCGA § 15-16-10(a)(10). The plan shall be reviewed and updated annually, and employees shall be educated annually on their role, if any, in said plan.

(B) Emergency Operations Plan. The Chief Judge, or his/her designee, shall develop and implement an Emergency Operations Plan for each county courthouse and/or courthouse annex in the jurisdiction. The plan shall at a minimum include:

(1) A method for collecting and maintaining contact information for all employees to be utilized during an emergency;
(2) Identification of relocation sites and provisions for preparing such sites;
(3) Identification of essential activities and functions to be performed;
(4) Identification of employees designated to perform essential activities and method for training of said employees at least annually;
(5) A person designated to provide information to the public and the press, during and immediately following an emergency;
(6) Identification of vital records and equipment and provisions for their protection or back-up.

The Council of Superior Court Judges shall maintain and make available materials to assist Chief Judges in complying with this rule.

(C) Judicial Operations Emergency Order. Pursuant to OCGA § 38-3-60 et seq., upon his/her own motion or after consideration of a request from another judge or court official, the Chief Judge of the circuit experiencing an emergency or disruption in operations may issue an order authorizing relief from time deadlines imposed by statutes, rules, regulations, or court orders until the restoration of normal court operations or as specified.

The emergency order may also designate one or more facilities as temporary courthouses that shall be suitable for court business and located as near as possible to the county seat.

The order shall contain (1) the identity and position of the judge, (2) the date, time, and place executed, (3) the jurisdiction affected, (4) the nature of the emergency, (5) the period of duration, and (6) other information relevant to the suspension or restoration of court operations. The duration of a court emergency order is limited to a maximum of 30 days. The order may only be extended twice by the issuing judge for additional 30-day periods, and any extension must contain the information required in the original order.

Adopted effective December 2, 2004; amended effective March 22, 2018.

Rule 46. SPECIAL MASTERS

(A) Appointment, Removal and Substitution

(1) Unless a statute provides otherwise, upon the motion of any party or upon the court's own motion, the court of record may appoint a master:

(a) to perform duties consented to by the parties;

(b) to address pretrial and post-trial matters that the court cannot efficiently, effectively or promptly address;

(c) to provide guidance, advice and information to the court on complex or specialized subjects, including, but not limited to technology issues related to the discovery process;

(d) to monitor implementation of and compliance with orders of the court or, in appropriate cases, monitoring implementation of settlement agreements;

(e) to investigate and report to the court on matters identified by the court;

(f) to conduct an accounting as instructed by the court and to report upon the results of the same;

(g) upon a showing of good cause, to attend and supervise depositions conducted outside of the jurisdiction; and

(h) to hold trial proceedings and make or recommend findings of fact on issues to be decided by the court without a jury if appointment is warranted by

(i) some exceptional condition, or

(ii) the need to perform an accounting, to resolve a difficult computation of damages or if the matter involves issues for which a special substantive competence would be beneficial.

(2) A master must not have a relationship to the parties, counsel, action, or court that would require disqualification of a judge under applicable standards, unless the parties consent with the court's approval to appointment of a particular person after disclosure of all potential grounds for disqualification.

(3) In appointing a master, the court should consider the fairness of imposing the likely expenses on the parties and should protect against unreasonable expense and delay, taking into account the burdens and the benefits such an appointment would produce. The appointment of a special master shall not deprive any party access to the courts or the civil justice system.

(4) A special master may be removed or substituted by order of the court, upon motion of a party or sua sponte.

(B) Order Appointing Master

(1) Notice. The court must give the parties notice and an opportunity to be heard before appointing a master.

(2) Contents. The order appointing a master must direct the master to proceed with all reasonable diligence and must state:

(a) the master's duties, including any investigative or enforcement duties, and any specific limits on the master's authority;

(b) the circumstances, if any, in which the master may communicate ex parte with the court or a party;

(c) the nature of the materials to be preserved and filed as the record of the master's activities;

(d) the time limits, method of filing the record, other procedures, and standards for reviewing the master's orders, findings, and recommendations; and

(e) the basis, terms, and procedure for fixing the master's compensation pursuant to subparagraph (H) hereof.

(3) Entry of Order of Appointment. The court may enter the order appointing a master only after the master has filed an affidavit: (i) disclosing whether there is any ground for disqualification and, if a ground for disqualification is disclosed, after the parties have consented with the court's approval to waive the disqualification; and (ii) certifying that the master shall discharge the master's duties as required by law and pursuant to the court's instructions without favor to, or prejudice against any party.

(4) Amendment**.** The order appointing a master may be amended at any time after notice to the parties, and an opportunity to be heard.

(C) Master's Authority. Unless the appointing order expressly directs otherwise, a master has authority to regulate all proceedings and take all appropriate measures to perform fairly and efficiently all assigned duties. Unless otherwise indicated in the court's order of appointment, the master shall have the power to take evidence, to hear motions and to pass on questions of law and fact within the scope of the referral order. The master may by order impose upon a party any noncontempt sanction provided by OCGA §§ 9-11-37 and 9-11-45, and may recommend to the court a contempt sanction against a party and any sanction against a nonparty.

(D) Evidentiary Hearings. Unless the appointing order expressly directs otherwise, a master conducting an evidentiary hearing may exercise the power of the appointing court to compel, take, and record evidence.

(E) Master's Orders. A master who makes an order must promptly serve a copy on each party.

(F) Master's Reports. Unless otherwise indicated in the appointment order, a master must report to the court:

(1) all motions submitted by the parties;

(2) all rulings made on all issues presented and all conclusions of law and findings of fact; ;

(3) all evidence offered by the parties and all rulings as to the admissibility of such evidence; and

(4) such other matters as the master may deem appropriate.

The master must file the report and promptly serve a copy of the report on each party, unless the court directs otherwise.

(G) Action on Master's Order, Report, or Recommendations.

(1) Action. In acting on a master's order, report, or recommendations, the court must afford the parties an opportunity to be heard and to object to any portion thereof. The court may receive evidence, and may adopt or affirm, modify, reject or reverse in whole or in part, or resubmit all or some issues to the master with instructions.

(2) Time To Object or Move. A party may file a motion to reject or to modify the master's order, report, or recommendations within 20 days from the date on which the master's order, report, or recommendations are served, unless the court sets a different time. The master's order, report, or recommendations shall be deemed received three days after mailing by United States mail or on the same day if transmitted electronically or by hand-delivery. In the absence of a motion to reject or modify an order, report or recommendations within the time provided, the order, report or recommendations shall have the force and effect of an order of the court.

(3) Fact Findings. The court must decide de novo all objections to findings of fact made or recommended by a master, unless the parties stipulate with the court's consent that:

(a) the master's findings will be reviewed for clear error, or

(b) the findings of a master appointed under subsections (A) (1) (a) or (b) will be final.

(4) Legal Conclusions. The court must decide de novo all objections to conclusions of law made or recommended by a master.

(5) Procedural Matters. Unless the order of appointment establishes a different standard of review, the court may set aside a master's ruling on a procedural matter only for an abuse of discretion.

(H) Compensation

(1) Fixing Compensation**.** The court shall fix the master's compensation on the basis and terms stated in the order of appointment, but the court may set a new basis and terms after notice and an opportunity to be heard.

(2) Payment. The compensation fixed must be paid either:

(a) by a party or parties; or

(b) from a fund or subject matter of the action within the court's control.

(3) Allocation. The court must allocate payment of the master's compensation among the parties after considering the nature and amount of the controversy, the means of the parties, and the extent to which any party is more responsible than other parties for the reference to a master. An interim allocation may be amended to reflect a decision on the merits.

Adopted effective June 4, 2009; amended effective June 4, 2015.

Rule 47. ADOPTION – EXPEDITING UNCONTESTED AGENCY ADOPTION HEARINGS

(A) In order to expedite and bring finality to petitions for adoptions brought under OCGA § 19-8-4, a Superior Court judge should conduct a final hearing as provided in OCGA § 19-8-14 (e) and (f) on a petition for adoption pursuant to OCGA § 19-8-4 within fifteen days of receipt by the judge of certification by the petitioner or petitioner's counsel that all statutory requirements are complete. In the event the judge is unable to conduct the hearing within fifteen days, the hearing should be conducted as soon thereafter as possible.

(B) In order to expedite the hearing of an uncontested adoption, a judge may, with the consent of the petitioner or petitioner's counsel, conduct a final hearing in any county in the judge's circuit regardless of the county in which the petition was filed.

(C) The required certification shall state as follows:

I certify that all statutory requirements for the grant of this adoption have been met and the matter is ready to be heard. The undersigned consents to the judge hearing this matter in any county of the circuit.

Adopted effective May 5, 2011.

Rule 48. INQUIRY REGARDING WEAPONS CARRY LICENSE

(A) A judge shall make the inquiry required by OCGA § 16-11-129 (e):

(1) When sentencing for conviction of: any felony;[1] any charge of carrying a weapon without a license;[2] any charge of carrying a weapon or long gun in an unauthorized location;[3] any misdemeanor involving the use or possession of a controlled substance;[4] or any misdemeanor crime of domestic violence as defined in 18 USC § 921 (a) (33);[5]

(2) When addressing any criminal defendant adjudicated mentally incompetent to stand trial;[6]

(3) When addressing any criminal defendant adjudicated not guilty by reason of insanity;[7]

(4) When addressing any person who is subject to a restraining order as described in 18 USC § 922 (g) (8).

(B) Where required by OCGA § 16-11-129 (e), the judge shall inquire whether a person convicted of any crime or otherwise adjudicated in a matter which would make the maintenance of a weapons carry license by such person unlawful is the holder of a weapons carry license. If such person is the holder of a weapons carry license, then the sentencing judge shall inquire of the person the county of the probate court which issued such weapons carry license, or if the person has ever had his or her weapons carry license renewed, then of the county of the probate court which most recently issued the person a renewal license. Unless otherwise ordered by the court, within 10 days of the inquiry, the clerk shall notify the judge of the probate court of such county of the matter which makes the maintenance of a weapons carry license by the person to be unlawful pursuant to OCGA § 16-11-129 (b) by forwarding to the probate judge notice of the matter disqualifying the person from holding a weapons carry license.

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[1] OCGA § 16-11-129 (b) (2) (B).
[2] OCGA § 16-11-129 (b) (2) (H) (i).
[3] OCGA § 16-11-129 (b) (2) (H) (ii).
[4] OCGA § 16-11-129 (b) (2) (I).
[5] OCGA § 16-11-129 (b) (2) (E); 18 USC § 922 (g) (9).
[6] OCGA § 16-11-129 (b) (2) (K).
[7] OCGA § 16-11-129 (b) (2) (L).

Adopted effective July 21, 2016; amended effective August 30. 2018.

Rule 49. EMERGENCY DISPOSSESSORY

(A) A landlord who files a dispossessory before August 25, 2020 under OCGA § 44-7-50 (a) seeking possession of a residential premises for nonpayment of rent shall submit verification, filed and served with the complaint, indicating whether the property is exempt from the moratorium provided for in the federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") (Public Law No. 116-136). In the event that the dispossessory action was filed prior to the enactment of this rule, the required verification shall be submitted to the court prior to or during the dispossessory hearing; if the tenant does not file an answer, the required verification shall be submitted prior to the writ of possession being issued.

(B) A landlord shall use "CARES Act Affidavit" if the property is not defined as a "covered property" under section 4024 (a) (2) of the CARES Act or otherwise exempt from the moratorium provided for in the CARES Act.

(C) If the property is a covered property, a landlord shall comply with the 30-day notice requirement contained within section 4024 (c) of the CARES Act prior to filing any proceeding for nonpayment of rent pursuant to OCGA § 44-7-50. The required 30-day notice shall not be sent prior to July 26, 2020.

Adopted effective May 4, 2020.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

CARES ACT AFFIDAVIT

Case No. _____	
_____ Plaintiff	_____ Defendant(s)
_____ Address	_____ Property Address
_____ City State Zip	_____ City State Zip
_____ E-mail Address	

Personally appeared before me, the undersigned officer, the Plaintiff, his agent or attorney who on oath deposes and says as follows:

(1)

I am personally familiar with the residential property occupied by the Defendant, the Defendant's tenancy, the property's ownership, the financing arrangements and any and all liens that may exist on the property.

(2)

The property is not a "covered property" as defined by section 4024 (a) (2) of the CARES Act, or the property is otherwise exempt from the moratorium imposed therein.

(3)

It is not part of a covered housing program (as defined in section 41411 (a) of the Violence Against Women Act of 1994 (34 USC § 12491 (a)) or the rural housing voucher program under section 542 of the Housing Act of 1949 (42 USC § 1490r).

(4)

There are no mortgages, deeds to secure debt, nor liens of any other sort which are made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the United States Government or in connection with a housing or urban development program administered by the U.S. Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5)

The debt on the property is not receiving a forbearance pursuant to section 4023 of the CARES Act.

I swear under penalty of perjury that the above information is true and correct and made of my own personal knowledge. I understand further proof may be required at trial.

Sworn to /Subscribed/ filed before me

This _____ day of_____, _____.

_____
Deputy Clerk/ Notary Public

This _____ day of _____, _____.

_____
Attorney/ Owner/ Agent Phone#

CARES Act
Public Law No. 116-136
Explanation of Terms

Sec. 4024 TEMPORARY MORATORIUM ON EVICTION FILINGS.

(a) DEFINITIONS.—In this section:

(1) COVERED DWELLING.— The term "covered dwelling" means a dwelling that—

(A) is occupied by a tenant—

(i) pursuant to a residential lease; or

(ii) without a lease or with a lease terminable under State law; and

(B) is on or in a covered property.

(2) COVERED PROPERTY.—The term "covered property" means any property that—

(A) participates in—

(i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a);

or

(ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r); or

(B) has a—

(i) Federally backed mortgage loan; or

(ii) Federally backed multifamily mortgage loan.

(3) DWELLING.—The term "dwelling"—

(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and

(B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b).

(4) FEDERALLY BACKED MORTGAGE LOAN.—The term "Federally backed mortgage loan" includes any loan (other than temporary financing such as a construction loan) that —

(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.—The term "Federally backed multifamily mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.