

LOCAL PROCEDURES OF THE ATLANTA JUDICIAL CIRCUIT

NOTE: Effective December 31, 1994, the term "local rules" is no longer used.

These local procedures supplement the Uniform Rules of Superior Court and apply only in the Atlanta Judicial Circuit.

JUDGES OF THE ATLANTA JUDICIAL CIRCUIT

Judge Doris L. Downs, Chief Judge
Judge Thelma Wyatt Cummings Moore
Judge Gail S. Tusan
Judge Alford J. Dempsey, Jr.
Judge Stephanie B. Manis
Judge Bensonetta Tipton Lane
Judge Constance C. Russell
Judge Wendy L. Shoob
Judge Cynthia Wright
Judge T. Jackson Bedford, Jr.
Judge Melvin K. Westmoreland
Judge John J. Goger
Judge Jerry W. Baxter
Judge Marvin S. Arrington, Sr.
Judge M. Gino Brogdon
Judge Thomas R. Campbell
Judge Ural D. Glanville
Judge Michael D. Johnson
Judge Craig L. Schwall

Judge JoAnn Bayneum, Chief Magistrate

SENIOR JUDGES OF THE ATLANTA JUDICIAL CIRCUIT

Judge John S. Langford
Judge Joel J. Fryer
Judge Don A. Langham
Judge Isaac Jenrette
Judge Elizabeth E. Long
Judge Alice D. Bonner
Judge Philip F. Etheridge

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TABLE OF CONTENTS
SUPERIOR COURT RULES
ATLANTA JUDICIAL CIRCUIT

Introduction

- 3. Assignment of Cases
 - 3 (b) Civil Cases
 - 3 (c) Criminal Cases
 - 3 (d) Special Cases Requiring Immediate Assignment
 - 3 (e) Emergency Case Activity

- 23. (B) Withdrawal of Funds From Court

- 37. Court Administrator
 - 37.8 Appointment of Local Court Administrator

- 100. Holidays

- 105. Sessions of Court

- 110. Presiding Judge

- 120. Duties of Chief/Administrative Judge

- 130. Prohibition as to Gratuities

- 140. Testimony of Judges

- 150. Security in the Fulton County Superior Court
 - 150.10 Chief Security Officer
 - 150.20 Applicability
 - 150.30 Inspection
 - 150.40 Admission to the Building
 - 150.50 Preservation of the Building
 - 150.60 Conformity with Signs and Directives
 - 150.70 Disturbances
 - 150.80 Alcoholic Beverages and Narcotics
 - 150.81 Dogs and Other Animals
 - 150.82 Distribution of Handbills
 - 150.90 Weapons and Explosives
 - 150.91 Law Enforcement Personnel
 - 150.92 Enforcement
 - 150.93 Penalties

- 160. Video Hearings

- 1000. Civil Arbitration

ATLANTA JUDICIAL CIRCUIT SUPERIOR COURT RULES

Rules 1-99 of the Atlanta Judicial Circuit, Fulton Superior Court, have been numbered to correspond with the same rule for the Uniform Superior Court Rules, State of Georgia. Rules 100 forward are rules that do not supplement the Uniform State Rules.

**RULE 3. (A.J.C.)
ASSIGNMENT OF CASES
(Effective 7/1/85)**

This Rule is adopted pursuant to the local authority granted under Section 3.4 of the Uniform Rules for the Superior Courts (253 GA 799).

(a) All cases and actions in Fulton Superior Court shall be assigned by a computer assisted assignment system operated under the direction and supervision of the Fulton County Superior Court Administrator. Said assignment system shall be designed to prevent any person from choosing the Judge to whom an action is to be assigned. The Court Administrator's duties are ministerial only in this respect, and his responsibility is to carry out the method of assignment according to procedures established by this Court.

(b) CIVIL CASES

1. The Clerk, acting in cooperation with the Court Administrator, shall cause all civil cases to be placed upon the civil docket in numerical order as of the time of filing, each case being given a separate consecutive number.

2. Cases shall be assigned as expeditiously as possible, but not less than once per week.

3. The Court Administrator shall advise each Judge of each case assigned to his/her Division, along with the style and case number, the nature of the action and the name of counsel.

4. Related Civil Cases

(aa) When practical, all actions involving substantially the same parties, subject matter, or the same factual issues, whether pending simultaneously or not, shall be assigned to the same Judge. Whenever such action is refiled or derivative or companion action is filed or refiled, such action 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 case number is or was assigned.

(bb) Counsel shall, at the time of filing any civil action, inform the Clerk of the fact that the case filed is related to any action under the definition contained in paragraph (aa) above.

(cc) Upon notice from any source of a related case not initially assigned under paragraph (aa) above, the Court Administrator shall make a determination as to the necessity to reassign a previously assigned case. Reassignment shall occur only with the consent of the assigned Judge.

(c) CRIMINAL CASES

1. The Clerk, acting in cooperation with the Court Administrator, shall cause all indictments to be placed on the criminal docket in numerical order as of the time said indictments are returned. Assignments shall be routinely made by a computer assisted random assignment system designated to equalize the number of assignments made to each Judge. No person shall be allowed to select the Judge to whom any particular case shall be assigned.

2. Indictments returned by the Grand Jury during any particular week shall be assigned on or before Wednesday of the following week.

3. The Court Administrator shall advise each Judge of each case assigned to his/her Division, along with the case number, name of the defendant(s) and nature of the charge(s).

4. Related Criminal Cases

(aa) When practical, all cases arising out of the same transaction, or involving an alleged criminal relationship between the accused or involving the same criminal act or related acts stemming from the initial crime, or the identical accused against whom another case is presently pending (or who is serving a confinement or probated sentence on a previous action) shall be assigned to the same division of the Court as that case first assigned (lowest number).

(bb) The Office of the District Attorney shall, at the time of indictment, file a request for related assignment with the Court Administrator and Clerk on all cases that fall within the definitions contained in paragraph (aa) above.

(cc) Upon notice from any source of a related case not initially assigned under paragraph (aa) above, the Court Administrator shall make a determination as to the necessity to reassign a previously assigned case. Reassignment shall occur only with the consent of the assigned Judge.

5. Capital Case Assignment

Upon filing of the State's Notice Of Intent To Seek The Death Penalty, the procedure of this Court shall require the random assignment of death penalty cases. The Court Administrator shall create a list of the Judges of this Court eligible for death penalty cases but not presently assigned an active death penalty case. The Clerk of Superior Court, in the presence of the Chief Judge or his or her designee, shall draw the assigned Judge from this list.

(aa) An active case shall be defined as a case pending before the trial court prior to verdict or other disposition.

(bb) Any related criminal cases shall automatically be reassigned to the Judge to whom the capital case is assigned, notwithstanding that they have lower numbers.

(cc) Any capital cases pending when a judge assumes the position of Chief Judge, transfers to Family Court, completes his/her term without being reelected, vacates office, or becomes disqualified or otherwise incapacitated, shall be immediately reassigned to another Judge according to this random assignment system detailed.

(dd) A newly appointed Judge as well as a Judge elected to a first term shall not be added to the random assignment system until they have served in office for six (6) months as a Superior Court Judge.

(ee) When any Judge becomes eligible to hear death penalty cases (the exceptions listed in (cc) and (dd) are no longer applicable), that Judge's name shall be added to the list of Judges eligible for death penalty cases but not presently assigned any active death penalty cases.

(d) SPECIAL CASES REQUIRING IMMEDIATE ASSIGNMENT

1. Domestic "Rule Nisi" Cases

New Domestic actions requiring a Rule Nisi date at the time of filing shall be assigned by a manual card draw system prepared by the Court Administrator's Office and maintained in the office of the weekly Presiding Judge. The Clerk assigned to the Presiding Judge shall insert, on the Rule Nisi, a date for the interlocutory hearing according to a calendar prepared by the Court administrator for this purpose, before the Judge to whom the case is assigned as a result of this draw.

2. Family Violence Act Cases

Actions filed under the Domestic Family Violence Act requiring temporary emergency orders shall be presented to the Presiding Judge and remain "unassigned" on the case assignment system. A Rule Nisi issued as a result of said filing shall be scheduled to a date certain before the then Presiding Judge or, with his/her consent, to a future Presiding Judge.

3. Uncontested Domestic Cases

Uncontested divorce actions, though initially given a specific judge assignment, may be presented to any Judge of this Court for final disposition. Any Judge of this Court may enter a final order in "uncontested" divorce actions.

(e) EMERGENCY CASE ACTIVITY

Nothing contained in these Rules shall prohibit a Judge of this Court, in the case of an explicit certified emergency where the assigned Judge is not immediately available, from entering an order in an action assigned to another Judge of this Court.

**RULE 23. (B) (A.J.C.)
WITHDRAWAL OF FUNDS FROM COURT**

In addition to the certificate required under Uniform Rules of the Superior Court, Rule 23, the following shall be required in the Fulton County Superior Court:

(b) Upon an order being presented to a Judge requiring the Clerk to pay funds from the Registry of the Court in condemnation cases, counsel for the condemnee or the condemnee shall contemporaneously therewith submit to the Court the following certificate executed by the Clerk:

I hereby certify that I have inspected the Bar Docket Book kept in this office and have found that all tax liens, assessments, or any other claims in this proceeding filed on behalf of local, State or Federal governmental units, have been provided for in this proposed order.

DATE: _____

DEPUTY CLERK

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)

**RULE 37. (A.J.C.)
COURT ADMINISTRATOR**

**37.8 (A.J.C.)
APPOINTMENT OF LOCAL COURT ADMINISTRATOR**

The local court administrator for Fulton County, Atlanta Judicial Circuit, may, in addition to general duties authorized by the Uniform Rules for the Superior Court, have specific duties to include:

- 1.**
- Serving ex-officio as the District Court Administrator for the Fifth Judicial District.
- 2.**
- Supervise the administrative assistant authorized by this District under Ga. L. 1976, p. 782.
- 3.**
- Serve as Director of the Superior Court's Pre-Trial Release Project.
- 4.**
- Supervise the Superior Court Jury Clerk and staff authorized by Ga. L. 1982, p. 2107.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE JULY 20, 1985)

**RULE 100. (A.J.C.)
HOLIDAYS**

(a) The Court shall observe the following holidays, during which time Court will not be in session and the office of the Presiding Judge will be closed, except on emergency matters upon direction of the Presiding Judge.

New Year's Day	1 January
*Martin Luther King, Jr. Birthday	Third Monday in January
National Memorial Day	Last Monday in May
Independence Day	4 July
Labor Day	First Monday in September
Veterans Day	11 November
Thanksgiving Day	Fourth Thursday in November
*Friday After Thanksgiving	
*Christmas Eve	24 December
Christmas Day	25 December

(b) Whenever any of the above days fall on Saturday, the preceding Friday shall be observed as a holiday; and whenever any of the above days fall on Sunday, the following Monday shall be observed as a holiday.

(c) Additionally, the Court shall observe any holiday observed by Fulton County, provided, however, the Presiding Judge shall, on such holiday, be available and perform all of the duties as Presiding Judge provided by law and the Rules of the Court.

Provided further, each member of the Court may exercise discretion in determining if a case on trial may proceed on such holiday.

*(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)
APPROVED BY FULTON COUNTY COMMISSION

**RULE 105. (A.J.C.)
SESSIONS OF COURT**

Sessions of the Fulton Superior Court shall begin at 9:00 A.M. each day of the week, except Saturday, Sunday, and holidays, unless otherwise directed by the Judge.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE JULY 20, 1985)

**RULE 110. (A.J.C.)
PRESIDING JUDGE**

(a) Every week one of the Judges will be designated as "Presiding Judge". All applications for writs of certiorari, temporary injunctive relief, habeas corpus, including applications for habeas corpus involving minor children and other applications for

extraordinary legal or equitable relief, should be presented to the Presiding Judge or to the Judge who may be temporarily serving for him/her. The Presiding Judge shall also screen all cases presented for initial filing by pro se plaintiffs in which a pauper's affidavit is presented.

(b) The name of the Presiding Judge shall be prominently displayed in the courthouse lobby and elevators. The Presiding Judge shall be rotated every week so that one of the regular Judges will serve in this capacity every week. It will be the responsibility of the Presiding Judge to arrange his/her calendar during this week to provide sufficient time for these additional duties.

(c) The Presiding Judge shall use the courtroom regularly assigned to him/her and shall occupy his/her usual chambers adjacent thereto for the dispatch of the business of this division of the Court during the week of his/her service.

(d) The Presiding Judge shall be available in the performance of his/her duties from 9:00 o'clock A.M., until 5:00 o'clock P.M. during the week of his/her service. The period of service of the Presiding Judge shall begin at 9:00 o'clock A.M. Monday, and shall extend until 9:00 o'clock A.M. the following Monday. The Presiding Judge shall remain reasonably available during his/her week of service.

(e) The Presiding Judge shall receive all requests for excusing jurors on an emergency basis as presented by the Jury Clerk or Court Administrator.

(f) The Presiding Judge shall be authorized to issue final judgments in uncontested domestic relations matters, irrespective of the initial Judge assignment made to the action.

(g) The Presiding Judge shall hear all applications for bond filed in Criminal cases when the case has not been assigned to a Judge of this Court.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)

(h) The Presiding Judge shall be authorized to grant leaves of absence for cases assigned to other Judges within this circuit upon the representation of counsel that such case or cases do not appear on any published or otherwise noticed trial, hearing, or motions calendar during the period of the leave. When a case or cases shall appear on a trial, hearing, or motions calendar, the Presiding Judge shall exclude such case or cases from any leave granted, and counsel must seek a continuance of such case or cases from the Judge to whom the case has been assigned.

***(Paragraph (h) added and approved by Supreme Court on October 3, 1985
Effective: November 3, 1985)***

**RULE 120. (A.J.C.)
DUTIES OF CHIEF/ADMINISTRATIVE JUDGE**

(a) In order to regulate the manner in which the Judges of this Court shall dispose of the business thereof, the Chief/Administrative Judge, with the assistance of the Court

Administrator, shall be responsible for the administration and the expeditious disposition of the business of this Court. To this end the Chief Judge shall have the power from time to time to establish procedures and to amend, modify or revoke the same as he/she shall deem necessary or proper so long as such procedures are not inconsistent with these Rules and do not conflict with the general laws of this State.

(b) In the event of illness of a Judge or other unusual circumstances, the Chief/Administrative Judge may make provision for the orderly trial and disposition of cases and legal matters pending in any division of the Court. Included in this authority is the power of the Chief/Administrative Judge to call in a Senior Judge or visiting Judge as the need may arise growing out of illness or unusual circumstances. No Judge, other than the Chief/Administrative Judge, may call upon the service of a visiting Judge except with the approval of the Chief Judge.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)

**RULE 130. (A.J.C.)
PROHIBITION AS TO GRATUITIES**

(a) No attorney or party shall give, either directly or indirectly, any gratuity or gift to any employee of any court, or of any officer serving a court, where such attorney has had or is likely to have any professional or official transaction with such court; nor shall any employee of any court, or any officer serving a court, accept any gratuity or gift either directly or indirectly from any attorney or other person who has had or is likely to have any professional or official transactions with such court or office.

(b) This prohibition shall not include the reasonable compensation for officers of the court for services rendered during off duty hours.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)

**RULE 140. (A.J.C.)
TESTIMONY OF JUDGES**

PREAMBLE

The Court recognizes that all persons are subject to the law and no person is above the law, and the Court promulgates this Rule as an exercise of its inherent rule-making powers to protect the Fulton Superior Court from harassment, annoyance and frivolous legal proceedings; to order, administer and control procedures before it; to ensure the continued orderly, efficient and expeditious business of the Fulton Superior Court in the reasonable administration of such business, and to prevent the disruption of the normal schedules of trials and hearings by requiring one or more Fulton Superior Court Judges under subpoena to be at a hearing or trial in Fulton County as a witness to testify. The Court promulgates this Rule in the exercise of powers delegated to it under the Civil Practice Act and other statutes and in the exercise of its sound judicial discretion as a protective order. Anything in this Rule which is in conflict with the Civil Practice Act or other statutes shall yield to such controlling law or becomes so under the facts and circumstances of a particular case.

(a) A Judge whose testimony is sought may waive the application of the provisions of this Rule hereinafter set forth, and in such event, his/her testimony shall be scheduled as not to interfere with the reasonable administration of the Court's prior trial and hearing calendars and he/she shall be "on-call" for such appearance.

(b) A party seeking the testimony of a Superior Court Judge at a hearing or trial in the Court of another Superior Court Judge, or in the Court of any other Judge, shall first submit a written motion which shall state the reason for the testimony, the relevance of the testimony, the availability of such evidence from an alternative source.

(c) Said motion shall be made to the Judge to whom the case has been assigned at least fifteen (15) days prior to the date of the trial or hearing, or to the Presiding Judge if there is less than fifteen (15) days until the hearing or trial, or to the Presiding Judge if the Judge to whom the case has been assigned is not available.

(d) The Judge to whom the case has been assigned shall hear the motion as soon as possible and at least five (5) days prior to the trial or hearing date; when the motion is presented to the Presiding Judge, the motion will be heard as soon as all parties can be scheduled to appear for hearing.

(e) If the Judge before whom the motion is heard shall determine at the hearing that the testimony is relevant, that it is probative, and that the substantial equivalent of such testimony is not otherwise available, then the Court shall determine:

- (1) Whether or not a stipulation can be made as to the proposed testimony;
- (2) Whether or not other witnesses or evidence can provide all or part of such testimony;

(3) Where the identification of documents or physical evidence is the testimony sought, whether or not there can be either a stipulation, affidavit by the Judge or deposition on written interrogatories to provide such testimony;

(4) If there is relevant material and probative testimony that only the Judge or Judges can give, then the hearing Judge shall determine the terms and conditions for such testimony to be given by the Judge.

(f) Except in cases of extraordinary and compelling need, the Judge shall not be required to testify in person and his/her testimony shall be taken in his/her chambers before a court reporter at the movant's expense, and such oral deposition or deposition on written interrogatories shall be scheduled so as not to unduly disrupt, delay or interfere with previously scheduled trial or hearing calendars of the deponent Judge.

(g) Where the hearing Judge determines that the Judge will need to testify in person, the witness Judge will be on call and will make himself/herself available when his/her testimony is scheduled by the Judge who is hearing or trying the case. The Judge hearing or trying the case will schedule, insofar as possible, such testimony by such Judge at such time as is mutually convenient and will not unduly delay such hearing or trial, with due regard to the prior trial or hearing calendars of the Judge who will testify.

(h) The direct examination of the Judge shall be limited to the matters set forth in the motion for his/her testimony; cross-examination under Georgia practice is not limited to the direct testimony, but a cross-examination which is not relevant, material and probative to the issues of the case and which is long, harassing, irrelevant, and impertinent may be contemptuous.

(i) At all times, the Court before whom another Judge is to testify or appear must be mindful that all Superior Court Judges are of equal authority and dignity.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)

**RULE 150. (A.J.C.)
SECURITY IN THE FULTON COUNTY SUPERIOR COURT BUILDING**

**150.10
CHIEF SECURITY OFFICER:**

The Sheriff of Fulton County shall be the chief security officer for the Court, and shall be responsible for security of the building.

**150.20
APPLICABILITY:**

The rules and regulations shall apply to the Superior Court Building, 136 Pryor Street, S.W., Atlanta, Georgia, and to all persons entering the building. Each occupant, agency or department shall be responsible for the observance of the rules and regulations.

**150.30
INSPECTION:**

Packages, briefcases, and other containers brought into, or being removed from the building are subject to electronic, magnetic or x-ray inspection by security personnel.

**150.40
ADMISSION TO THE BUILDING:**

The Superior Court Building shall be open to the public during normal business hours. The building may be closed to the public during normal business hours when situations require this action to ensure safety and the orderly conduct of court business. The decision to close the building during normal business hours shall be made by the Chief Judge or his designee. The building shall be closed to the public after normal business hours.

**150.50
PRESERVATION OF THE BUILDING:**

The willful destruction of or damage to the building or its contents, the creation of any hazard in the building or persons or things, and the throwing of articles of any kind within the building or from the building is prohibited.

150.60

CONFORMITY WITH SIGNS AND DIRECTIVES:

Persons entering the building shall at all times comply with official signs of a prohibitory, regulatory or directory nature and with instructions and directives of authorized security personnel.

150.70

DISTURBANCES:

Any unwarranted loitering, disorderly conduct, or other conduct in the building which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual entrances, foyers, lobbies, corridors, offices, elevators, stairways, courtroom; which otherwise impedes or disrupts the performance of official duties by Court personnel, or which prevents the general public from obtaining the services provided in the building in a safe and timely manner is prohibited.

150.80

ALCOHOLIC BEVERAGES AND NARCOTICS:

No person shall enter into or remain in the building while under the influence of alcoholic beverages or drugs. This prohibition shall not apply in cases where a drug is being used as prescribed for a patient by a licensed physician.

150.81

DOGS AND OTHER ANIMALS:

Dogs and other animals, except Seeing Eye dogs or other guide dogs, shall not be brought into the building for other than official purposes.

150.82

DISTRIBUTION OF HANDBILLS:

Posting or affixing materials, such as pamphlets, handbills, or flyers, on the bulletin boards or elsewhere within the building or on the building is prohibited, except as authorized.

150.90

WEAPONS AND EXPLOSIVES:

No unauthorized person shall enter into, or while in the building carry or possess firearms, other dangerous weapons or deadly weapons, explosives or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed.

150.91

LAW ENFORCEMENT PERSONNEL:

Peace officers and other public officials who are required to carry firearms in the performance of their official duties shall observe the following procedures when carrying firearms in the building.

(A) NO PERSON SHALL CARRY A FIREARM INTO ANY SUPERIOR COURTROOM WITHOUT FIRST OBTAINING PERMISSION FROM THE JUDGE OF THAT COURT OR HIS DESIGNEE, EXCEPT THE SHERIFF OF THE COURT AND OTHER DEPUTIES ASSIGNED TO THE COURT.

(B) AUTHORIZED PERSONS BRINGING FIREARMS INTO THE BUILDING OR CARRYING FIREARMS IN THE BUILDING MUST BE IN UNIFORM OR IF IN CIVILIAN CLOTHES, MUST DISPLAY IN CLEAR VIEW ON THEIR PERSON THEIR OFFICIAL BADGE OR THEIR AGENCY'S OFFICIAL I.D. CARD.

150.92

ENFORCEMENT:

The Sheriff shall enforce these and other security rules and regulations. Any person refusing to comply with these procedures shall be removed from the building or detained and immediately brought before the Presiding Judge or any other Judge of the Superior Court.

150.93

PENALTIES:

Whoever shall be found guilty of violating any of these rules and regulations may be held in contempt of Court and subject to a fine of not more than \$500 or imprisonment of not more than 20 days, or both.

Nothing in these rules and regulations shall be construed to abrogate any other State, County or local laws, rules and regulations applicable to this property.

(APPROVED BY ORDER OF THE SUPREME COURT JUNE 20, 1985 EFFECTIVE: JULY 20, 1985)

RULE 160. VIDEO HEARINGS

The Superior, State and Magistrate Courts of the Atlanta Judicial Circuit are authorized to conduct hearings with the defendant (and counsel if appropriate) remaining at the jail, and the Judge remaining at the courthouse. Only the following matters will be handled by audiovisual means:

- a. Determination of indigence and appointment of counsel;
- b. Hearings on appearance and appeal bonds;

- c. Probable cause hearings;
- d. Arraignment or waiver of arraignment;
- e. Entry of pleas in criminal cases;
- f. Imposition of sentences upon pleas of guilty or nolo contendere. However, the sentence may not require additional confinement, but may include time already served plus appropriate probation;
- g. Probation revocation hearings, provided that the revocation does not result in additional confinement;
- h. All sentences or revocations of probation which will require additional incarceration will not be imposed by audiovisual means;
- i. Acceptance of special pleas of insanity (incompetency to stand trial);
- j. Extradition hearings.

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

(APPROVED BY ORDER OF THE SUPREME COURT EFFECTIVE FEBRUARY 22, 1991)

Rule 1000 (A.J.C.)
Revised 1997
Civil Arbitration

1. Referral

1a.

All civil actions filed and seeking primarily money damages of twenty-five thousand dollars (\$25,000) or less, or for damages in an unstated amount, shall be required to go through compulsory, but non-binding, arbitration. Any party to an action not otherwise qualifying, or to a domestic relations case wherein appropriate issues are to be determined, excluding custody and divorce, may petition the Court that the case or issues be scheduled for arbitration, when it is not for the purpose of delay. The trial judge to whom the case has been assigned may order arbitration at any time, at his or her discretion, on any case, whether or not it otherwise qualifies for arbitration; or the Court may, at its discretion, remove a case from arbitration, or limit the issues to be arbitrated.

1b.

Parties may, at their own expense, choose private arbitration.

2. Timing of the Arbitration Process

2a.

Upon filing the complaint with the clerk, the docket clerk shall stamp all cases,

including service copies, with an ad damnum of twenty-five thousand dollars (\$25,000) or less, or with unstated monetary damages, with the date and time for arbitration. Cases assigned to arbitration by order of the judge shall be assigned an arbitration date and time at the request of the judge.

2b.

The Alternative Dispute Resolution Program (ADRP) Administrator shall schedule and set dates for arbitration hearings and shall furnish such dates to the docket clerk to assign on a basis of the order of filing; the ADRP Administrator shall set such arbitration dates not less than 180 days subsequent to filing, and as close to such period as is reasonable and practical, so that arbitration hearings shall be held approximately 180 days after filing. In domestic relations cases the ADRP Administrator shall set arbitration dates.

2c.

The ADRP Administrator, or designee, shall determine the number of cases to be set on a date and during each period during such date; in accordance with such schedule, the docket shall assign cases to the periods 9:00 a.m., 11:30 a.m., or 2:30 p.m., as directed by the ADRP Administrator, in the sequence of their filing.

2d.

The ADRP Administrator, or designee, shall arrange for places for arbitration hearings to be held in the courthouse, or adjacent thereto, for each hearing date; the locations of such arbitration hearings will be posted outside the ADRP Office on the day of the hearing.

3. Exemption

3a.

All domestic relations cases involving custody and/or divorce, all civil cases filed and seeking primarily money damages in excess of twenty-five thousand (\$25,000), and all cases alleging malpractice against health care providers shall be excluded from arbitration, unless requested by a party or ordered by the Court.

3b.

Any party may petition the Court to have a case removed from arbitration or reassigned to another form of alternative dispute resolution.

4. Appointment of Arbitrators

Lawyers willing to serve as arbitrators will submit to the ADRP Administrator, or designee, a written application which will indicate years of trial experience, any training or experience in alternative dispute resolution methods and proof of registration with the Georgia Office of Dispute Resolution as an arbitrator. The ADRP Administrator, or designee, will compile two lists of arbitrators: 1) Lawyers with five (5) consecutive years of trial experience and 2) all other lawyers willing to so serve. Such lists shall be updated annually. No arbitrator may hear more than twenty-four (24) arbitration cases in the Program in a given calendar year.

5. Qualifications of Arbitrators

5a.

All arbitrators must maintain current registration as such with the Georgia Office of Dispute Resolution.

5b.

Any neutral so registered with the Georgia Office of Dispute Resolution shall be qualified to serve as an arbitrator in this Program provided said neutral is authorized to practice law in the State of Georgia and is appointed under Paragraph Four of this Rule.

5c.

An arbitration panel shall consist of the Chief Arbitrator, who shall preside, and two arbitrators; the Chief Arbitrator shall be randomly selected from the list of lawyers with five consecutive years of trial experience. All arbitrators are to be selected and assigned randomly to a panel except where special experience or expertise is requested in writing and agreed upon by the parties.

5d.

Any party may move for an order disqualifying an arbitrator for good cause. If the ADRP Administrator, or designee, receives two or more complaints as to an arbitrator's conduct from another arbitrator, a party or counsel, then inquiry shall be made as to the conduct of the arbitrator about whom the complaints were made; if two or more complaints are made, the ADRP Administrator, or designee shall notify said arbitrator in writing of the charges and ask if he or she wishes a hearing; if a hearing is requested, it shall be held before a panel of arbitrators selected in the normal fashion and evidence of the conduct presented; if the charges are found justified, or if no hearing is requested, the lawyer's name shall be stricken from the arbitration rolls.

6. Compensation of Arbitrators

Arbitrator's fees shall be determined from time to time by the Court. Any lawyer serving as an arbitrator may waive such compensation, and at the end of the year, the arbitrator will be publicly recognized for such public service contributed during such calendar year.

7. Immunity

An arbitrator in a civil arbitration hearing shall not be held civilly liable for any decision, action, statement or omission made during arbitration, except in circumstances where the decision, action, statement or omission was made with willful disregard of the property or safety of any party to the arbitration process, or was made with malice or gross negligence.

8. Confidentiality

8a.

Non-binding arbitration is not confidential. Any statement made during arbitration undertaken pursuant to these rules is not confidential, is subject to disclosure, and may be used in evidence in any subsequent administrative or judicial proceeding for any lawful purpose. Any document or other evidence generated in connection with such an arbitration proceeding is subject to discovery.

8b.

Any agreement resulting from such an arbitration is not immune from discovery, unless all parties to the proceeding so agree in writing. Notwithstanding the foregoing, any otherwise discoverable material is not rendered immune from discovery by use in an arbitration held pursuant to this rule.

8c.

No arbitrator may be required to testify concerning an arbitration and the

arbitrator's notes or other records are not subject to discovery. Notwithstanding the foregoing, evidence may be admitted from an arbitrator with regard to the existence of an agreement reached in the arbitration involving the arbitrator. Moreover, confidentiality does not extend to any actual or threatened violence which occurs during an arbitration. Confidentiality does not extend to documents or communications relevant to legal claims brought against an arbitrator of the ADR program or arising out of an arbitration procedure.

9. Appearance

9a.

The appearance of all parties or their attorneys is required by the court at non-binding arbitration hearings. Appearance by telephone may be required on non-resident parties.

9b.

On the arbitration date, the ADRP Administrator, or designee, shall call the calendar of the arbitration cases at each preset time and shall assign such cases to an arbitration panel as such panel becomes available.

9c.

In the event that a party fails to appear, argument will be heard and evidence will be received from those parties appearing.

10. Sanctions for Failing to Appear

Failure to appear at an arbitration as required by the Court may subject those absent to a citation for contempt and the imposition of sanctions permitted by law, including dismissal or entry of judgment after notice to the non-attending party and failure by the party to show good cause to appear.

11. Communication Between the Neutral and the Parties

The parties and their attorneys are not permitted to engage in ex parte communications with the neutral, prior to the conclusion of the arbitration procedure, regarding the substance of the dispute to be resolved. Additionally, in non-binding arbitration no such communication is permitted until 31 days after the posting of the award.

12. Communications with the Court

In order to preserve the objectivity of the Court and the neutrality of the arbitrator, there should be no communication between the arbitrator and the Court unless it is in writing with copies to the parties or their attorneys, or through the ADR program administrator. With the consent of the parties, the arbitrator may communicate to the Court the arbitrator's assessment that the case is inappropriate for arbitration, or to request additional time to complete arbitration, or to advise of procedural action on the part of the Court which might facilitate the arbitration process, or to communicate information concerning discovery, pending motions or other action of the Court of any party which, if resolved or completed, would facilitate the progress of the arbitration process or the possibility of settlement.

13. Completion of the Arbitration Process

13a.

The arbitration procedure shall be completed within such time as may be ordered by the Court.

13b.

The scheduling of a case for arbitration hearing shall not remove the case from

assignment to a judge, discovery, motions practice for regular court procedures. From the time of filing until the arbitration date, parties may carry on discovery; all discovery disputes and other motions shall be determined by the judge to whom the case has been assigned in the regular practice under the Uniform Rules; discovery or motions pending shall not be grounds for the ADRP Administrator to allow the removal of a case from an arbitration date; a continuance from arbitration may only be granted for legal excuse or good cause shown. Legal excuse and good cause may include scheduling conflicts of which the ADRP Administrator has received notice pursuant to Uniform Superior Court Rule 17.1, illness, the addition of new parties, leaves of absence filed pursuant to Uniform Rule 16, written notice to the disposition of the case and removal or transfer to another court. Any discovery motions not ruled upon prior to the arbitration hearing date shall be deemed waived for the purpose of the arbitration hearing only, unless presented by the movant for determination on such date, and the presiding judge shall enter such order as is appropriate after hearing the motion. Such motions are limited to five (5) minutes of oral argument per side.

13c.

If the case is settled, or disposed of; prior to the arbitration date, the counsel for the parties shall notify not only the calendar clerk of the Judge to whom the case has been assigned, but shall also notify the ADRP Administrator (or designee) in writing. The ADRP Administrator shall schedule sufficient arbitration panels on each date to handle the remaining arbitration cases.

13d.

The arbitration panel shall swear witnesses and receive evidence; the rules of evidence shall be the same as followed in equitable proceedings or at temporary restraining order hearings, except as otherwise specified herein. Thirty (30) days prior to the arbitration hearing date, each party must specify in writing and provide to each party copies of all documents to be tendered into evidence. The opposing party must, by written demand made at least twenty (20) days prior to the arbitration date, state for which documents live testimony will be required for the purposes of cross-examination or attacking its authenticity. If the arbitrators decide that such live testimony is unnecessary for cross-examination, then the party requiring such witness to be in attendance, rather than allowing the document, shall be liable for such person's witness fee and travel expenses. Documents unobjected to prior to the twenty (20) days shall be deemed authenticated but subject to objections as to admissibility at the time of the hearing. Parties are free to make stipulations or to waive any rules of evidence by agreement for the purposes of such arbitration hearing only. Failure to serve such service copies in timely fashion prior to the hearing will require such party to have documents authenticated as provided by law at the time of the hearing, unless all parties agree to waive the service requirement.

13e.

At the arbitration hearing, the Chief Arbitrator shall rule on all objections, motions, and admissions of evidence; the Chief Arbitrator may confer with the other arbitrators prior to making any rulings, but the panel is not required to do so.

13f.

Arbitration hearings are intended to be brief evidentiary outlines of the case and not formal trials. Each side will be limited to a five (5) minute opening statement, unless there is a conflict of interest between the parties of such side, in which event each party with a conflict of interest may make a separate opening of five (5) minutes. At the discretion of the panel, testimony may be admitted into evidence by way of summarization by the attorney, if the witness is made available for examination.

Affidavits, depositions, or portions of depositions may also be admitted into evidence as appropriate. Witnesses may be subpoenaed as they would be to a trial. Closing argument shall be fifteen (15) minutes per side, unless there is a conflict of interest between the parties of such side, in which event such party with a conflict of interest may make a separate argument often (10) minutes.

13g.

At the close of the arbitration hearing, the arbitrators shall confer and return a written award for one side or the other, which shows the damages, if any and which shows any dissent. A simple majority of the arbitrators is required to return an award. The award is published to the parties, and the written award filed with the ADRP Administrator, or designee, on the day of the hearing. No written findings of fact and conclusions of law are required.

13h.

Arbitration hearings are not officially reported. Counsel, at his or her own expense, may engage a private court reporter to record the proceedings at the arbitration hearing.

13i.

Following a non-binding arbitration hearing, any party may file a demand for trial within thirty (30) days of the filing of the arbitration award, with ADRP Administrator, or designee who shall make a notation and entry of the date of filing of the award and the trial demand; the demand for trial shall be in the form of a pleading and shall contain the style of the case, the case number and a demand for jury or non-jury trial. Filing such demand for trial will entitle all parties to a de novo trial of all issues of fact or of law which were raised or could be raised in the arbitration hearing; such case will be tried before the judge to whom the case has been assigned in the ordinary procedure and course of time as if no arbitration hearing had been held. Arbitration proceedings shall not delay or impede the normal trial of such case.

13j.

If no party files a demand pursuant to paragraph 13i, it shall be deemed a consent to the arbitration award and shall constitute a waiver of trial. After the expiration of such thirty (30) days without the filing of a demand, an appropriate judgment, order, or dismissal may be entered.

13k.

Where a party, after demand for trial, does not substantially improve said party's position by trial or other judicial proceedings in the case, then the trial judge has discretion to tax the arbitration panel's fees against said party. For purposes of this rule, substantially improving a party's position shall mean either: (a) reversal of the award, or (b) increase or decrease of the award by 15% or more, depending upon whether the party demanding the trial is a plaintiff or defendant. The judge to whom the case has been assigned shall not be advised of the award, unless it is agreed to by all parties, until after a verdict or other disposition has been entered.

13l.

For purposes of taxing an arbitration panel's fees, it shall be determined by dividing the total dollar amount paid to the arbitrators who heard the case by the total number of cases decided by such arbitration panel on that date.

**RULE 1002 (A.J.C.)
(Effective 7/12/91)**

COMPLEX CIVIL CASE DIVISION

1.

The Judges of the Fulton Superior Court hereby create a "Complex Civil Case Division" (hereinafter referred to as "Division") that is to be comprised of two or more active judges who are assigned for periods of two years to such Division to manage, administer and try the cases assigned to this Division.

2.

The Court Administrator shall assign the Division's cases in rotation taking account of the reasonably estimated trial time as far as practical to fairly assign the case load within the Division.

3.

The Court Administrator should assign cases to the Division based upon the following criteria:

- a. The case is a products liability case;
- b. The case is a medical malpractice case;
- c. The case is reasonably expected to take over seven (7) trial days to try; whether jury or non-jury.

4.

The following definitions shall apply to this rule:

- a. A Division Judge is an active judge chosen to serve and serving on the Division;
- b. Regular assigned civil cases means all those civil cases previously assigned to any active judge prior to the effective date of this rule after all complex civil cases have been excluded from consideration, such cases after the effective date previously assigned to a Division Judge, or the cases assigned to a non-Division Judge both before and after the effective date excluding all complex civil cases;
- c. Arbitration means non-binding arbitration under Rule 1000;
- d. Mini-trial means that none binding offer of proof before a jury of twelve individuals taken as an entire jury panel without jury selection which follows Rule 1001;

e. Settlement process means any procedures or method to produce a voluntary case resolution instituted by a Division Judge;

f. Mediation means any non-binding method or procedure of mediation instituted by a Division Judge.

5.

After the nature of the case has been brought to the attention of the Court Administrator, the Court Administrator shall determine if the case meets the definition of a complex civil case; after determining that a case meets the definition, the Court Administration shall determine from counsel for each party the reasonable expected length of trial, whether jury or non-jury; the Court Administrator shall then assign the case to a Division Judge.

6.

When an active Judge's case has been reassigned to a Division Judge as a complex civil case, the active Judge shall have a minimum of four cases reassigned or assigned, and two additional cases for each week or portion of a week of trial time in excess of the reasonable estimated trial time of two weeks; the reassigned cases shall come first from the Division Judge's regular civil cases who has been assigned the complex case; when the Division Judge assigned the complex case has no regular civil cases, the reassigned cases shall come equally from the other Division Judge's regular civil cases; when no Division Judge shall have any regular civil cases, the cases will be reassigned sequentially from regular civil cases filed but unassigned or assigned but not delivered to the non-Division Judges.

7.

The Chief Judge/District Administrative Judge shall select or re-select all Division Judges from those active judges who have the most trial experience in handling and trying complex civil cases, who have demonstrated skill and efficiency in handling complex civil cases, and who volunteer for such assignment for a period of two years.

8.

An active judge volunteering for service as a Division Judge commits to serve a minimum of two years on the Division; at the end of each two year term, the Chief Judge/District Administrative Judge shall decide the continuation of such assignment if the Division Judge volunteers for continued service; where the Division Judge has consistently demonstrated an inability to efficiently administer and to try complex cases, in the exercise of sound discretion the Chief Judge/District Administrative Judge may reassign such Division Judge; for health or similar reasons such as increased administrative duties in the Atlanta Judicial Circuit, Judicial Council, District Administrative Judges, or Council of Superior Court Judges or other similar judicial service.

9.

Where a Division Judge for any reason does not continue in such assignment but returns to general assignment duty, the Division Judge will assume the reassignment of regular civil cases equal to the average number of such civil cases which the Superior Court Judge (other than those serving on the Complex Civil Case Division) have.

10.

The Division Judge upon assignment to the Division will receive no further assignments of regular civil cases but instead will be reassigned complex civil cases; such Judge will receive assigned criminal and domestic cases on the same basis as any other active judge; when the Division Judge calendars a complex civil case that is estimated realistically to take more than three trial weeks, a senior judge shall preside over a criminal trial or arraignment calendar every four weeks that such Division Judge is expected to be engaged on trial.

11.

The Division Judge may set cases for trial by special order; when a specially set trial shall reasonably be expected to last more than two trial weeks, the Division Judge shall not set down for trial more cases than he is reasonable expected to dispose of; the Division Judge may publish a backup calendar to the specially set case for cases that will reasonable take two weeks or less for the first week or two weeks of a multi-week trial calendar exceeding two weeks; if a trial calendar breaks down leaving no other cases on the calendar ready for trial, then the Division Judge is encouraged to assist in the trial of cases on the master calendar until the Division Judge can publish a trial calendar.

12.

Division Judges shall have the duty to try cases on the master civil calendar whenever a trial calendar break down occurs, or on those days in which no cases are calendared for trial, except when the Division Judge is sick, engaged in education, vacation, administrative duties, personal business, or calendared non-jury matters.

13.

Division Judges may require that a case go through pre-trial, arbitration, mediation, settlement conference; or mini-trial, none of which will be binding, before either setting the case for trial or trying the case; the Judge may use any other reasonable means of alternative dispute resolution available to achieve a voluntary resolution of the case even though counsel or the parties do not want to go through such procedures, provided that trial by jury will be available in the event of failure to resolve the case.

14.

Division Judges may conduct settlement conferences for each other, conduct joint trial calendars, transfer cases between each other by agreement, or handle by agreement non-jury matters for each other.

15.

Until the Division Judge fully disposes of assigned regular civil cases, each judge will be responsible for the administration and trial of all assigned cases whether regular or complex civil cases.

16.

It is recognized that the Complex Civil Case Division is being created as an experimental unit, and that any and all of the provisions contained herein may from time to time be adjusted, changed and/or eliminated.