

**Court of Appeals
Clerk's Summary of Rule Changes
Effective January 1, 2017**

NOTE: The effective date of these rule changes is January 1, 2017. However, the following rules have a grace period in that the Court will accept filings that conform with the old or new rule until February 15, 2017. Those Rules are:

Rule 24 - regarding, among other things, a word-count limit on briefs. This is a change from a page-count limit.

Rule 27 - that requires supplemental briefs be filed IAW Rule 24.

Rule 30 & 31 - have **major** changes related to filing interlocutory and discretionary appeals.

GENERAL CHANGES

Rule 1 and 2. The order is reversed to be in a more logical sequence.

Rule 15 is "Reserved." See details below.

Various section headings/titles changed and all main paragraphs, i.e., "(a)" "(b)" etc., were given descriptive headings to provide consistency throughout the rules and guidance on what each section relates to.

Numerous editing changes made throughout the rules to make them grammatically accurate, understandable, and provide a more logical flow. Not all changes are described below.

SPECIFIC CHANGES

I. GENERAL

Rule 1 now includes language that the Clerk's office is closed on state holidays and periods of inclement weather.

Rule 2 (a) adds requirements to include email addresses and state bar numbers of attorneys on all their submissions to the court.

Rule 2 (a) (1) allows signing documents by express permission under certain conditions.

Rule 2 (a) (2) (i) requires that all electronic submission be in a searchable PDF format.

Rule 2 (c) (3) specifies additional guidance regarding typeface requirements for computer-generated documents.

Rule 3 clarifies that Rule 3 applies to motions for reconsideration.

Rule 4 (a) & (b) added language to clarify that filings must be complete to be deemed filed on the date submitted, i.e., the docket date is when the item is filed in compliance with Court rules and fees are paid.

Rule 5 “Costs” was renamed “Filing Fees.” It clarifies that filing costs accrue upon docketing an appeal and that payment to file an application will waive the fee for the resultant direct appeal.

Rule 6 eliminates any need to file a copy with any paper filing; only the original need be filed. Also, it specifies when service of process must occur. Service shall be made contemporaneously with or before filing. It allows service between e-filers via email if a prior agreement with the other party is in effect.

Rule 7 (a), (b), & (d) clarifies the Court’s contempt powers and informs that contempt is not the sole remedy the Court may use. The Court may order compliance with its rules, dismiss an appeal, strike the brief, impose a money judgement against the attorney, and/or revoke the attorney’s license to practice in our Court (if there are repeated violations).

Rule 7 (e) allows the Court to dismiss an appeal for want of prosecution. Also, it directs payments of fines to the opposing party or their counsel.

II: ATTORNEYS

Rule 9 (a) allows the Court Clerk and deputies to administer the Court’s oath and allows Judges or the Clerk to administer oaths at locations away from the Court.

Rule 9 (c) (5) allows attorneys granted pro hac vice admission access to register and access the case via the Court’s eFast system.

Rule 9 (e) requires attorneys to update their contact information in the Court’s eFast system.

III: DOCKETS AND CALENDARS

Rule 12 informs of recent statutory changes relative to court terms.

Rule 15 was “reserved”, i.e., the substance of Rule 15 was combined into Rule 7.

IV: EXTENSIONS OF TIME TO FILE

Rule 16 reorganized.

Rule 16 (a) provides more detailed requirements for a request for an extension to file a notice of appeal.

Rule 16 (c) requires that requests for extensions of time to file discretionary applications be filed with this Court as Rule 40 (b) motions.

V: RECORDS AND TRANSCRIPTS

Rule 17 adds a requirement for the appellant, court reporters, and court clerks to cooperate to ensure that the record is complete.

Rule 18 (a) adds a requirement that the trial court clerk must certify each part of the record volume.

Rule 18 (c) requires that any video or audio recording of evidence submitted to the Court include the proprietary software necessary to play the recording.

VI: ENUMERATIONS OF ERROR

No changes.

VII: BRIEFS

Rule 23 (a) & (b) allows sanctions against the appellant and appellee for not filing their briefs on time. Rule 23 (a) also requires that consolidated appeals must have a brief filed in each appeal but allows the parties to adopt all or a portion of another brief. If adopting another brief, or portions thereof, the party must precisely identify the adopted parts.

Rule 24 (f) modifies the page limitation for briefs by substituting a word-count limitation. Unless there is a motion granted by the Court, responsive briefs are limited to 8,400 words in civil cases and 14,000 words in criminal cases if the submission is computer generated. (If the submission is by paper, the old page limits apply, i.e., 30 pages in civil cases and 50 pages in criminal cases.) Supplemental briefs, motions for reconsideration, and appellants' reply briefs are limited to 4,200 words if computer-generated or limited to 15 pages if prepared by a typewriter or hand-written. Any brief or motion for reconsideration that, without approval, exceeds the page limit for documents prepared on a typewriter shall include a certificate by the attorney or unrepresented party that the brief complies with the word count limit. The person signing the certificate may rely on the word count of the word-processing system used to prepare the brief.

Rule 24 (g) prohibits any attachments to briefs or motions for reconsideration.

Rule 24 (h) provides guidance to efilers to inform the court of changes of a defendant's address via a filing under "information" in the eFast system.

Rule 27 (a) specifies that supplemental briefs must conform to length limitations under Rule 24.

VIII: ARGUMENT

Rule 28 (d) deletes the old requirement to select 5, 10, or 15 minutes for oral argument. All oral arguments are now 15 minutes. (Counsel do not need to use all their time.)

Rule 28 (g) requires counsel to check in 30 minutes before oral argument and permits only counsel for the party to be seated at counsel table.

Rule 28 (h) allow parties to purchase recordings of oral arguments for \$30.00, if available. (Note that, since September 8, 2016, most oral arguments can be accessed for free from the Court's web page.)

IX: APPLICATIONS FOR INTERLOCUTORY APPEAL

Rule 30 (b) adds the requirement that the applicant bears the burden of persuading the Court that the application should be granted.

Rule 30 (d) prohibits the Clerk from accepting an application unless the filing fee is paid or an exception permits nonpayment. It also provides that the filing date is the date the application is received in conformity with court rules and payment of fees.

Rule 30 (g) (1) & (2) provides specific guidance for efilings applications and paper-filed applications. Failure to follow the detailed guidance contained in the rule may result in the application being dismissed or returned for preparation in accordance with Court rules.

Rule 30 (g) (1) requires: efilings of applications by represented parties; filing in accordance with Rule 24, i.e., a word count limit; that only documents relevant to the appeal may be filed; that each exhibit be labeled and uploaded separately; and requires an index that specifically identifies each exhibit to be uploaded separately. It also prohibits exceeding 100 pages of exhibits (combined) unless a signed certificate of good faith states, among other things, that the additional documents are necessary to apprise the Court of the appellate issues, and exempts from the 100-page limit the application brief, application index, trial court order, certificate of immediate review, motions with supporting documents, and any transcripts. Also, if documents are uploaded that are deemed unnecessary or contain duplicative exhibits, the party may be sanctioned.

X: APPLICATIONS FOR DISCRETIONARY APPEAL

Rule 31 (b) adds the requirement that the applicant bears the burden of persuading the Court that the application should be granted.

Rule 31 (b) (3) & (4) adds two additional rationales for the Court to accept a discretionary application, i.e., that the “further development of the common law, particularly in divorce cases, is desirable” and that the application is for leave to appeal a judgment and decree of divorce that is final under O.C.G.A. § 5-6-34 (a) (1), timely under O.C.G.A. § 5-6-35 (d), and determined to have possible merit. If a discretionary application is filed under this rationale, it must include a certificate of good faith stating that the application has merit. If the application is found to be frivolous, the party may be sanctioned.

Rule 31 (d) prohibits the Clerk from accepting an application unless the filing fee is paid or an exception allows nonpayment. It also provides that the filing date is the date the application is received in conformity with court rules and payment of fees.

Rule 31 (g) (1) requires: e-filing of applications by represented parties; filing in accordance with Rule 24, i.e., a word count limit; that only documents relevant to the appeal may be filed; that each exhibit be labeled and uploaded separately, and requires an index that specifically identifies each exhibit to be uploaded separately. It also prohibits exceeding 100 pages of exhibits (combined) unless there is a signed certificate of good faith that states, among other things, that the additional documents are necessary to apprise the Court of the appellate issues. Exempted from the 100-page limit are the application brief, application index, trial court order, certificate of immediate review, and motions with supporting documents. Also, if documents are uploaded that are deemed unnecessary or contain duplicative exhibits, the party may be sanctioned. Failure to follow the detailed guidance contained in the rule may result in the application being dismissed or returned for preparation in accordance with Court rules.

Rule 31 (i) informs that extensions of time to file a discretionary application must be made via Rule 40 (b) and clarifies that filing the Rule 40 (b) motion and the later applications are separate actions, each requiring separate filing fees.

XI: TRANSFER OF APPLICATIONS

The title of section XI was changed from “Time For Filing Applications to “Transfer of Applications.” Paragraphs (a) and (b) were placed in other locations and paragraph (c) was the only paragraph retained.

XII: OPINIONS AND JUDGMENTS

Rule 33 (a) replaces the phrase “seven or twelve-judge” with “nine or 15 judges.”

XIII: RECONSIDERATION

Rule 37 (b) clarifies that the filing deadline is subject to Rule 3, Due Date, and Rule 4 (e), Electronic Filings.

Rule 37 (d) requires the Clerk to return a second motion for reconsideration unless it was allowed by a prior court order.

XIV: CERTIORARI

Rule 38 (a) (2) & (b) (2) relates to the time of filing both certiorari with the Supreme Court and filing the notice of petitioning for certiorari in the Court of Appeals. The change substitutes the language “on the same day as” for the prior language, “simultaneously with.”

XV: REMITTITUR

No changes.

XVI: SUPERSEDEAS AND EMERGENCY MOTIONS

No changes.

XVII: MOTIONS AND RESPONSES

Rule 41 (b) prohibits attaching any document to a motion or a response to a motion.

Rule 41 (c) relates specifically to motions to supplement the record. It requires that such motions specifically describe the materials to be supplemented and include the date the material was filed in the trial court. It also requires the movant to assist the trial court clerk in locating the material.

XVIII: DOCUMENT RETENTION

The title “Office Papers” was changed to “Document Retention.”

Rule 42 (a) informs that the Court will maintain the record of an appeal for one year after the remittitur date unless a party asks the Court in writing to maintain the record for an additional six months, and explains why. The requesting party must send an additional request fourteen days before the expiration of each six-month period to avoid the record being destroyed. The Court will not provide any notice that the record is being destroyed other than that contained in the notice of remittitur.

XIX. PARTIES

Editing changes only.

XX. DISQUALIFICATIONS AND RECUSALS.

Editing changes only.

XXI. EXPEDITED APPEALS UNDER THE PARENTAL NOTIFICATION ACT.

Editing and reorganization changes made throughout. Statutory references were updated. Rule 45 (c) clarifies that such cases must be filed as emergency motions under Rule 40 (b).

XXII. ELECTRONIC FILING OF DOCUMENTS.

Rule 46. This rule provides clarity regarding which documents must be filed electronically. It specifies that documents that are rejected, or returned, to the filer will not be dated as “filed” when the original filing was first submitted. The filing date will be the date the documents(s) are filed in accordance with Court requirements.

It also provides that attorneys that fail to register in the Court’s eFast system will not receive communications via the U.S. postal service, i.e., those attorneys will not receive any communications from the Court.

And, it requires attorneys to update the personal information in the Court’s eFast system and specifies that the Court will not make such changes.