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Court of Appeals of Georgia
Internal Operations Manual

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Historical Copy

Year: 1997 - 1999

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Court of Appeals

Memorandum

To: Kaye Carter
W. Martin
From: William L. Martin, III
Subject: IOM Update
Date: February 23, 1998

Attached please find the most recent change to the Internal Operations Manual section on Purchasing Policy. The change effects paragraph XVI. D. dealing with the number of staff attorneys who may attend the annual CASA conference at Court expense. The source is the change as noted at the end of that paragraph. If you have any questions, please contact me.

Attachment

XVI. PURCHASING POLICY

- A. The Court of Appeals shall purchase such books, pamphlets, or other publications and such other supplies and services as the judges thereof may deem necessary. (Source: OCGA § 15-3-12). See also: I, K. PURCHASING COMMITTEE.
- B. Georgia Legal History Foundation fees of \$30 per judge per year, and the American Bar Association and Judicial Administrative Division annual dues, shall be paid from court funds.
- C. Effective July 1, 1994, the Court will pay basic State Bar dues for staff attorneys.
- D. The court will send two staff attorneys per year to the annual CASA meeting and reimburse for expenses. The attending attorney's first year of ABA/CASA membership dues will be paid by the Court with the understanding that the staff attorney will be expected to maintain membership at personal expense thereafter. (Source: Vote of the Court by Memorandum, February 13, 1998).
- E. The annual National Association for Court Management regular membership dues for the clerk/court administrator shall be paid from court funds. (Source: Minutes, August 1995 Banc meeting).
- F. The annual dues for each judge for the Judicial Section of the Atlanta Bar Association shall be paid from court funds. (Source: Minutes, August 1995 Banc meeting).

J. CLE AND COURT LEAVE

1. The court will pay tuition for CLE seminars approved prior to attendance on approval request form (Appendix 4). Court leave will be granted for CLE. This shall be limited to the minimum CLE hours required and shall be subject to the approval of the judge with respect to time required as per the approval request form. Reimbursement for parking will be approved but there shall be no reimbursement for travel or subsistence. Any amount of continuing legal education over 12 hours must be approved in advance by the Executive Council.
2. The court will no longer reimburse for transportation, travel, and/or subsistence for staff attorneys to attend the annual State Bar Convention, other than to pay for the cost of actual CLE attended. The court will allow court leave for attendance at CLE attended at the State Bar.
3. Staff Attorneys shall satisfy all CLE requirements incumbent upon members of the Bar to include alternative dispute resolution training. (Source: November 1996 Banc meeting).
4. These rules do not apply to judges.

K. MAIL CLERK/FILE CLERK

The mail clerk/file clerk will perform those duties assigned to the him/her by the clerk/court administrator of the Court of Appeals. The mail clerk/file clerk is not available to perform personal errands, and/or banking for any court personnel, including judges. Any court personnel desiring to use the mail clerk/file clerk for any duties or tasks not assigned to the mail clerk/file clerk shall clear such requests through the clerk/court administrator of the Court.

L. FLOATING STAFF ATTORNEYS/CENTRAL STAFF ATTORNEYS

1. Requests for leave shall be made in writing to the Judge in charge of the Floating Staff Attorneys/Central Staff Attorneys, which Judge shall keep the leave record and send it to the fiscal officer. The judge to whom the floating staff attorney is assigned shall determine the time of the daily arrival and departure.
2. The judge in charge of the Floating Staff Attorneys/Central Staff Attorneys shall schedule the



Court of Appeals

Memorandum

To: Chief Judge Gary B. Andrews
From: *W. L. Martin, III*
Subject: Annual CASA Meeting--Change of IOM
Date: February 17, 1998

I have changed paragraph D. in the section on the purchasing policy (XVI. Purchasing Policy) on page 43 of the IOM to reflect the Court's action taken in response to your memorandum of February 13, 1998. It is my understanding the Court wishes to delete the word "one" in paragraph D. of that section and add the word "two" so that two staff attorneys per year will attend the Annual CASA meeting at the Court's expense.

I am unclear from your memorandum if the other language in paragraph D. will stay in or be removed. Specifically, are attending attorneys required to maintain membership at personal expense in CASA?

Please let me hear from you regarding this matter.

Thank you.

cc: Kaye Carter

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IX. PERSONNEL

A. EQUAL OPPORTUNITY

It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment to all employees and applicants for employment on a non-discriminatory basis. No person shall, on the basis of race, color, religion, national origin, age, sex, or mental or physical handicap be excluded from employment by, participation in, be deprived of, or be subject to discrimination. It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment, compensation, promotion, training, and other conditions of employment, on the basis of assessed qualifications, responsibility level and demonstrated performance.

B. ANNUAL AND SICK LEAVE POLICY AND RECORDS

1. All staff will keep a record of the exact dates of any leave taken, on a form provided by the fiscal officer and approved by the Chief Judge. The form shall include the type of leave, and shall be submitted to the fiscal officer at the end of each month, signed by the employee and the judge. The form shall constitute the official public records for retirement and other official purposes. Accrued annual leave is the difference between how much annual leave a person was entitled to earn (Reg. B. Par. B201 governs, based on years of service) and the amount of time actually taken (depending on the Judge's policy) since the date of employment. (See Appendix 2.)
2. Allowing compensatory time to staff attorneys shall be up to the discretion of each judge, but it shall add no monetary cost to the court.
3. The period for computing vacation time runs from July 1 to June 30, beginning in 1986. Leave earned which is in excess of that allowed for actual vacation leave will carry over and accumulate up to a maximum of 45 days and be paid for when the employee leaves the court.
(Source: December 1997 Banc Meeting)

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2. Allowing compensatory time to staff attorneys shall be up to the discretion of each judge, but it shall add no monetary cost to the court.
3. ~~Vacation time of employees is not to be used in excess of that earned during the current year (maximum of 21 working days, excluding weekends and holidays.)~~ The period for computing vacation time runs from July 1 to June 30, beginning in 1986. Leave earned which is in excess of that allowed for actual vacation leave will carry over and accumulate up to a maximum of 45 days and be paid for when the employee leaves the court.
(Source: December 1997 Banc Meeting)



Court of Appeals

Memorandum

To: Kaye Carter
Fiscal Officer

From: *WJ Martin*
William L. Martin, III

Subject: IOM Updates

Date: September 10, 1997

Attached please find a copy of the current IOM. I have attached the pages of IOM changes since October 1996.

There are two changes which were approved at the January 1994 Banc meeting which were never incorporated into IOM. They will be presented at the September Banc meeting.

Do you have the numbers and the dates for the section on Liability Coverage for this year?

*NOT
YET*

What do you think about putting the IOM on the "S" drive so that changes which are approved by the Banc can be available to anyone? I would anticipate providing each judge's office with a hard copy as well.

Thank you.

NO

Attachments

MINUTES OF THE BANC MEETING

OF THE COURT OF APPEALS

December 17, 1997

The December Banc Meeting Court of Appeals of Georgia was held in the Court Banc Room on Wednesday, December 17, 1997, at 10:00 a.m. Those present were:

Chief Judge Gary B. Andrews
Presiding Judge William LeRoy McMurray, Jr.
Presiding Judge A. W. Birdsong, Jr.
Presiding Judge Marion T. Pope, Jr.
Judge Edward H. Johnson
Judge G. Alan Blackburn
Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge Frank M. Eldridge
Mr. Bill Martin, Administrator/Clerk

Those absent were:

Judge Dorothy Toth Beasley

1. CALL TO ORDER: Chief Judge Andrews called the meeting to order at 10:00 a.m.
2. APPROVAL OF THE MINUTES: The Minutes of the April 22 Banc Meeting were approved as submitted.

3. RULES REVISION: Chief Judge Andrews called upon the Banc to finalize the revision of the Court Rules.

Mr. Martin reported Judge Beasley wished the Court to consider revised Rule 21 regarding physical evidence, a copy of which was handed out to the Banc. After a brief discussion of that matter, Judge Johnson made a motion to leave Rule 21 as it is. The motion was seconded by Presiding Judge Pope and passed unanimously.

Chief Judge Andrews asked for a motion regarding the Rules in Agenda Item One. Judge Johnson moved for adoption, and the motion was seconded by Judge Blackburn and passed unanimously. (The language of said rules is attached hereto as Exhibit A.)

Presiding Judge Pope made a motion to add the language "to seek certiorari" after the phrase "notice of intent" in Rule 37 (d). Judge Johnson seconded the motion and after a brief discussion, the motion passed unanimously. Presiding Judge Pope also suggested that Rule 27 (c) (iii) be modified to reflect that all references must be to the specific page of the appellate record or transcript upon which the matter appears. After a general discussion, Mr. Martin was directed to meet with Presiding Judge Pope and any other Judge who wished to have input on that rule change. Chief Judge Andrews said the change would be perfected and circulated by a memorandum for adoption or rejection by the Court.

4. IOM REVISIONS: Chief Judge Andrews referred the Judges to the IOM revisions under Tab 2 of the Banc notebook. Chief Judge Andrews stated those revisions had been adopted in principle and he asked for a motion to approve the actual language. Presiding Judge Pope made such motion, seconded by Presiding Judge Birdsong, to adopt the IOM language. (The language of the IOM changes is attached hereto as Exhibit B.) The motion was passed unanimously. Presiding Judge Birdsong made a motion to amend IOM, Personnel IX (B) (3) by striking the first sentence in that subparagraph. Judge Eldridge seconded the motion. The effect of deleting that language would be to remove the court-imposed cap on the number of days of annual leave a court employee could take. After a thorough discussion of the motion, it passed with all Judges present voting in favor of it except Presiding Judge Pope who abstained.

Chief Judge Andrews directed Mr. Martin to make the appropriate change in the IOM and to meet with Ms. Carter of the Fiscal Office to reconcile the Court's leave policy regarding the Family Medical Leave Act, maternity leave, sick leave and annual leave.

5. RULE 37 (G) CHANGE: Chief Judge Andrews brought to the Banc's attention a memo from Scott Henwood of the Reporter's Office to request deleting Rule 37 (g) from the Court Rules and adding language to the Court's IOM to create an absolute deadline, or a

point in time, beyond which cases may not be recalled from the Reporter's Office, except to make editorial changes. After a thorough discussion of this issue, Presiding Judge Birdsong made a motion to strike Rule 37 (g) and add the appropriate language to the IOM. The motion was seconded by Presiding Judge Pope and all Judges present voted in favor except Judge Blackburn who abstained. (The language of the IOM changes is attached hereto as Exhibit C.) Chief Judge Andrews directed Mr. Martin to make the appropriate change in the rules and the IOM and said the Banc could always revisit the matter.

6. CLE/BAR DUES FOR JOB SHARING EMPLOYEES: Presiding Judge Pope asked the Banc to consider paying full Bar dues and 12 hours CLE for staff attorneys who job share. Presiding Judge Pope reported that presently four attorneys were in this category, and while the proposal would cost about \$1000 per year, the Court realizes over \$19,000 per year in savings on retirement and health costs that the Court does not pay for these employees. Additionally, he said, the Supreme Court pays all Bar dues and CLE requirements for its three part-time employees.

Judge Johnson moved for the passage of the proposal, which was seconded by Presiding Judge Pope and was passed unanimously.

7. REVISED OPINIONS: Judge Smith suggested a change to the IOM regarding XV *Case Management*, paragraph U., *Revised Opinions*. Judge Smith suggested the current provision only requires the first page of the revised opinion be marked to alert the reader that it is, in fact, revised and he would propose the addition of the language requiring that all revisions in the text be marked. Judge Johnson made a motion to adopt the IOM change which was seconded by Presiding Judge Pope and passed unanimously. (The language of the IOM changes is attached hereto as Exhibit D.) Mr. Martin was directed to make the appropriate changes to the IOM.

8. JUDGMENT LINES: Chief Judge Andrews brought to the attention of the Court the problems that can arise regarding judgment lines and authorship of opinions. There was a thorough discussion of the matter and the problems and unique situations that can occur. The Banc was in agreement that when these situations arise at the end of distress, it only exacerbates a cumbersome situation. Chief Judge Andrews said he did not expect a resolution of the matter at this meeting, but did urge the Judges to think about the situation and ways to avoid these judgment line pitfalls. He also cautioned the Judges about changing seven-judge cases to ten-judge cases. Chief Judge Andrews said this could really become a problem if the Court had twelve or thirteen judges.

9. ADVANCING DISTRESS: Chief Judge Andrews also asked the Judges to think about a solution to the problem of distress that some areas of the Court seem to have. He suggested that possibly the Court advance distress by a period three or four weeks.

Chief Judge Andrews said he knows this can be done because the Court did this for the Olympics by finishing three to four weeks early. He said it may be necessary to phase it in over a period of time and asked the Judges to be thinking about how long a period distress should be advanced; what period of time should be the phase in; and how should the Court enforce the advancement period.

He also asked the Court to be thinking about solutions to the problem of not voting on other Judges cases; how long a case should remain in a Judge's office without a vote or communications from the Judge to the authoring Judge; and what enforcement options the Court would have, whether it be through the Chief Judge or some other authority.

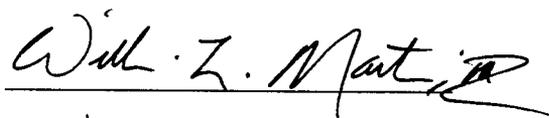
Chief Judge Andrews thanked the Judges for their attendance and their expeditious resolution of the Court's business.

10. NEW BUSINESS: Mr. Martin thanked the Judges for the cooperation of their offices in not sending down opinions after 2:00 p.m. He asked that the Court try to get their orders on motions and orders on applications down before 2:00 p.m. on the date they are dated. There was a general consensus of the Judges

to do this and they directed Mr. Martin to send a memo regarding the matter to their offices.

Upon hearing a motion to adjourn, made by Presiding Judge McMurray and seconded by several, Chief Judge Andrews adjourned the meeting at 11:20 a.m.

Respectfully submitted,



WILLIAM L. MARTIN, III

Administrator/Clerk

Court of Appeals of Georgia

Minutes approved by the Court
and Banc or via memorandum on
the _____ day of
_____, 1998.

Approved changes/additions to the Rules of Court of Appeals are underlined:

Rule 1, General, (e):

"The court does not accept facsimile filings."

Rule 4, General:

" A document shall be deemed filed when it is physically delivered to the Clerk's office, with sufficient costs, if applicable, and clocked in by the Clerk's office staff. A document is also deemed filed in the Clerk's office when it is deposited in the United States Postal Service registered or certified Mail, provided that the official United States Postal Service postmark date appears either (1) on the transmittal envelope or container, or (2) on the certified mail receipt provided by the United States Postal Service at the time the document is mailed, which receipt must be submitted upon request. An office or private postage meter date is not sufficient.

Motions for reconsideration are deemed filed only on the date they are physically received in the Clerk's office." See Rule 37.

Rule 9, Attorneys

(c), Appearance by Courtesy:

"As a matter of professional courtesy, a visiting attorney from another state, or from a district or territory, if admitted to practice in the highest court of the state, district, or territory of such attorney's residence, by leave of court, may be heard as associate counsel or counsel in a single case, without being admitted as a regular practitioner in this Court. A resident attorney who is not a member of the State Bar of Georgia, may petition this Court for courtesy appearance by showing that the attorney is certified in good-standing in the Bar of the highest court of another state."

No change:

Rule 17, Duty of Trial Court Clerks:

"The clerk of the trial court shall certify and transmit to the Clerk of this Court the original transcript and copies of all records as required within the time prescribed by statute. Transmittal shall be by the clerk or deputy personally or by first class United States mail or express mail, charges prepaid. Transmittal by a party or attorney is prohibited."

EXHIBIT A

Rule 37, Motions for Reconsideration

(d), Second Motion:

"No party shall file a second motion for reconsideration unless permitted by order of the Court. The filing of a motion for permission to file a second motion for reconsideration does not toll the 10 days for filing a notice of intent to apply for certiorari."

No change:

Rule 21, Physical Evidence:

"Any party relying on physical evidence may include as a part of the transcript a photograph of the evidence, together with an explanation or description if deemed necessary, in lieu of transmitting the original evidence. If the relying party deems the original evidence to be of such importance that a photograph or a description cannot suffice to demonstrate such party's contention, such party may apply to the trial court for an order directing the transmission of the evidence to this court. In no event, unless directed by this Court, shall physical evidence be sent up which is bulky, cumbersome, or expensive to transport, or which, by reason of its nature, is dangerous to handle."

EXHIBIT A (con't)

IOM changes are underlined and have been approved in concept but need approval of actual language.

I. DUTIES

H. OFFICE OF THE CLERK/COURT ADMINISTRATOR (page 5)

Judge in Charge: _____

1. The Judge in Charge of the Clerk's Office shall be the Judge next in line to be Chief Judge. (Source: November 1996 Banc meeting.)

VII. LIABILITY COVERAGE

A. BONDING OF COURT EMPLOYEES (page 15)

All employees of the Court of Appeals are covered by a blanket faithful performance bond in the amount of \$100,000 and a blanket honesty bond in the amount of \$5,000,000 under Policy No. 1450 00 110723 Wausau Insurance Company and Westchester No. 626 011675 2, dated October 1, 1989 and in effect until 9/30/98.

The fiscal officer shall be bonded in the amount of \$100,000.

B. COMPREHENSIVE GENERAL LIABILITY COVERAGE

A single liability insurance policy shall provide coverage for each employee and each judge on the court. Certification of coverage shall be supplied to each judge annually, Policy No. CGL-401-14-96 providing \$1,000,000 per person and \$3,000,000 per occurrence coverage, policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

C. STATE TORT CLAIMS POLICY

There is a single liability insurance policy providing coverage under the State Tort Claims Policy No. TCP-401-14-96 providing \$1,000,000 per person coverage or \$3,000,000 aggregate per occurrence coverage policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

EXHIBIT B

IX. PERSONNEL

C. SALARIES (page 18)

3. The following procedure shall be followed for any salary adjustment for Clerk's Office personnel and floating administrative assistants which is not a regular salary scale adjustment, a cost of living increase, merit increase or the like.
 - a. The Clerk/Court Administrator shall present the judge in charge of the Clerk's Office with a report stating the requested salary adjustment and the reasons therefore.
 - b. The report shall contain a work history and salary history of the employee while at the Court of Appeals.
 - c. The Fiscal Officer shall present the Judge in charge of the Clerk's Office with a complete fiscal history of the employee, a complete leave history of the employee and a fiscal note stating whether or not the Court has funds available for any salary increase and from which source or sources those funds are available.
 - d. The judge in charge of the Clerk's Office shall indicate on the report whether that judge recommends or does not recommend the proposed salary adjustment.
 - e. The Clerk/Court Administrator shall circulate a copy of the report and fiscal note along with the recommendation of the judge in charge of the Clerk's Office to all of the judges prior to the next scheduled Banc Meeting, at which time the Banc will take up the proposed salary adjustment.
(Source: November, 1996 Banc Meeting)

J. CLE AND COURT LEAVE (page 21)

3. Staff Attorneys shall satisfy all CLE requirements incumbent upon members of the Bar to include alternative dispute resolution training. (Source: November 1996 Banc meeting).

xv. CASE MANAGEMENT

J. DISSEMINATING CASES (page 34)

2. Opinions shall be released in any case whenever ready and in conformity with OCGA Section 15-2-4 (c), but not before oral argument if requested or the last date upon which oral argument may be requested. (Source: January 1994 Banc meeting).

N. ORDERS (page 36)

2. Orders shall be released whenever ready. See OCGA Section 15-4-2 (c). (Source: January 1994 Banc meeting).

W. OVERRULING PRIOR CASES (page 39)

1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a Judge who participated in that opinion is still on the Court, the overruling opinion should be circulated first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the Court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, the case shall be circulated, first to the overruling Judge's panel and then to all Judges on the Court.
3. If a Senior Judge is serving on the panel which is overruling a prior decision, and the Judge from whom the case was assigned to the Senior Judge is a Judge who sat on the panel of the case being overruled, then the case shall circulate to that Judge and the Judge junior most in time of service as a Judge of the Court of Appeals of Georgia on the panel next in succession to the panel overruling the prior decision, shall not participate in the decision, unless that Judge also sat on the panel of the case being overruled, in which case the junior most Judge on the Court, who is not on the panel overruling the prior case and who did not participate in the case being overruled, shall not participate in the decision.

EXHIBIT B (con't)

4. In no event a case be voted upon by more than ten Judges of the Court.
5. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

**XXXII. PROTOCOL ON DISQUALIFICATION
AND RECUSAL OF JUDGES**

A. **DISQUALIFICATIONS** (page 62)

Whenever a case is assigned to a judge to author or to vote on and that judge is disqualified, that judge shall notify the Clerk's Office by memorandum that that judge is disqualified and that the case is to be transferred to another judge.

1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel one, and so forth.
3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.

EXHIBIT B (con't)

5. If the judge who is disqualified is the Chief Judge, then the case shall be assigned to the judge on the division for whom the Chief Judge is sitting.
6. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
7. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel number; notify all judges' offices involved in the transfer by memorandum; change the judge and color code on the record; and deliver the record, transcript, exhibits, motions, briefs etc. to the newly assigned judge.
8. If, the case to be reassigned is a previous year's case, and the year's docket has closed, there will be no out-of-term assignment back to even the wheel. If the case to be reassigned is in the current docket year, the Court's docketing system will automatically even out the case assignments.
9. If upon reassignment to the next judge on the panel or the corresponding judge on the next panel, that next judge is also disqualified, then the assignment will be to the judge on the third panel in the corresponding slot. Should that judge also be disqualified, the Clerk shall comprise a panel of judges to hear the case. The next case docketed on the wheel will be assigned by the computer to the disqualified judge in order to keep the wheel in balance and assign cases equally, unless the previous year's docket has closed, and in such case there will be no out-of-term assignment back to even the wheel.

(Source: Minutes, November 1995 Banc meeting).

EXHIBIT B (con't)

Strike:

In the *Court of Appeals Rule Book*, Section XII, *Reconsideration*, Rule 37 (g) *Sua Sponte Revision*. (p.19)

"The Court may at any time reconsider and revise its opinions prior to the printing thereof in the official reports."

Add:

To the *Court of Appeals Internal Operations Manual*, Rule XV, *Case Management*, Section AA, (p.41)

"After the time for the motion for reconsideration has expired in any case, or an order denying the motion has been entered, the opinion may not be recalled from the Reporter's office except to make editorial changes therein."

EXHIBIT C

To the *Court of Appeals Internal Operations Manual, Rule XV, Case Management, Section U, Revised Opinion: (p.38)*

"When an opinion is revised after circulation, the revised opinion should be marked 'Second Circulation' or 'Revised' or whatever is appropriate, advising the reader that he/she may have seen the case before but not the changes made in the opinion."

ADD this sentence to the end of the provision:

"All revisions in the text should be separately marked to alert the reader to the specific nature of each and every revision."

EXHIBIT D



Court of Appeals

Memorandum

To: Kaye Carter
From: *WLM* William L. Martin, III
Subject: IOM Updates
Date: February 13, 1998

Attached please find the latest updates and changes to the Internal Operations Manual as approved by the Court en Banc at the December Banc Meeting. I believe this brings you up to date with IOM changes, however, if you think there is a problem or some changes missing, please let me know.

I shall soon give you a copy of the updated reprinted IOM. At that time, I would ask that you review it for changes from a ten judge to a twelve judge Court. It appears very likely that the legislation to add two judges to this Court will pass.

Thank you.

Attachments

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H. OFFICE OF THE CLERK/COURT ADMINISTRATOR (page 5)

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EXHIBIT B

G. EMERGENCY MOTIONS JUDGE

Judge in Charge: _____

1. The judge designated as the Emergency Motions Judge is authorized to handle on an ex parte and immediate manner those matters of urgency in which there is no pending case. Included in such category are:
 - a. Applications for stay.
 - b. Motions for extension of time that have become an emergency through no fault or neglect of the petitioner.
 - c. Other motions of a similar nature.
2. If doubt exists as to whether a particular motion should be handled routinely or specially, the clerk's office shall immediately cause the material to be hand carried to the Emergency Motions Judge for decision.
3. In his/her absence, the most senior judge present is authorized to act.

H. OFFICE OF THE CLERK/COURT ADMINISTRATOR

Judge in Charge: _____

1. The Judge in Charge of the Clerk's Office shall be the Judge next in line to be Chief Judge. (Source: November 1996 Banc meeting.) The clerk/court administrator of the Court of Appeals shall be responsible for the general oversight of operation of the clerk's office in consultation with the judge in charge to include:
 - a. Planning for layout, work flow, more efficient equipment, and future requirements projected for the court.
 - b. Determines appropriate number of persons needed for the most efficient and economical operation of the clerk's office.
 - c. Resolves matters of personnel discipline, termination of employment, and employment of replacement personnel. Proposed personnel actions pertaining to the clerk or deputy clerk shall be presented to the court en banc. No employee with 15 years' service, or more, shall be involuntarily separated without approval of the court.

VII. LIABILITY COVERAGE

A. BONDING OF COURT EMPLOYEES

All employees of the Court of Appeals are covered by a blanket faithful performance bond in the amount of \$100,000 and a blanket honesty bond in the amount of \$5,000,000 under Policy No. 1450 00 110723 Wausau Insurance Company and Westchester No. 626 011675 2, dated October 1, 1989 and in effect until 9/30/98.

The fiscal officer shall be bonded in the amount of \$100,000.

B. COMPREHENSIVE GENERAL LIABILITY COVERAGE

A single liability insurance policy shall provide coverage for each employee and each judge on the court. Certification of coverage shall be supplied to each judge annually, Policy No. CGL-401-14-96 providing \$1,000,000 per person and \$3,000,000 per occurrence coverage, policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

C. STATE TORT CLAIMS POLICY

There is a single liability insurance policy providing coverage under the State Tort Claims Policy No. TCP-401-14-96 providing \$1,000,000 per person coverage or \$3,000,000 aggregate per occurrence coverage policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

D. COPIES OF THE ABOVE POLICIES ARE AVAILABLE FOR INSPECTION IN THE FISCAL OFFICE.

In addition, the Department of Administrative Services has purchased a \$25,000,000 excess policy with Lexington Insurance Co., which provides liability coverage to State employees in conjunction with the State Employees Self-Insurance Liability Trust Fund. These employee coverages are designed to protect individual employees from suits brought against them in their individual capacities in actions brought pursuant to 42 U.S.C. § 1983, primarily in federal court.

IX. PERSONNEL

C. SALARIES (page 18)

3. The following procedure shall be followed for any salary adjustment for Clerk's Office personnel and floating administrative assistants which is not a regular salary scale adjustment, a cost of living increase, merit increase or the like.
 - a. The Clerk/Court Administrator shall present the judge in charge of the Clerk's Office with a report stating the requested salary adjustment and the reasons therefore.
 - b. The report shall contain a work history and salary history of the employee while at the Court of Appeals.
 - c. The Fiscal Officer shall present the Judge in charge of the Clerk's Office with a complete fiscal history of the employee, a complete leave history of the employee and a fiscal note stating whether or not the Court has funds available for any salary increase and from which source or sources those funds are available.
 - d. The judge in charge of the Clerk's Office shall indicate on the report whether that judge recommends or does not recommend the proposed salary adjustment.
 - e. The Clerk/Court Administrator shall circulate a copy of the report and fiscal note along with the recommendation of the judge in charge of the Clerk's Office to all of the judges prior to the next scheduled Banc Meeting, at which time the Banc will take up the proposed salary adjustment.
(Source: November, 1996 Banc Meeting)

J. CLE AND COURT LEAVE (page 21)

3. Staff Attorneys shall satisfy all CLE requirements incumbent upon members of the Bar to include alternative dispute resolution training. (Source: November 1996 Banc meeting).

If an employee suffers a lengthy sickness and uses all accumulated sick leave, it is up to the discretion of the judge whether additional days be charged against excess annual leave or the 21-day actual yearly vacation leave. Also in the judge's discretion is when the employee takes the 21 days. (See Appendix 2.)

4. All employees of the Court of Appeals of Georgia will be subject to the Family Medical Leave Act and shall have the benefits thereof.

C. SALARIES

1. As determined by the court and legislature. Categories by experience are generally in line with the State Merit System. "Experience" means years since admission to any Bar together with active practice of law and service as staff attorneys of this Court or the Supreme Court. (Source of this sentence: Order of 9/30/64, as stated in Minute Book 15, p. 294) One-half of the salaries of the Reporter, Assistant Reporter, Assistant to the Reporter, and Reporter's Clerk, all as set by the Supreme Court, shall be paid by the Court of Appeals.

The salaries of the staff attorneys and of the Deputy Clerk shall be the same as those respective positions in the Supreme Court insofar as possible. The salaries of Research Associates (summer interns) shall be set by the Court.

2. Employees are entitled to retain juror and witness fees earned by them and to take court leave for such service.
3. The following procedure shall be followed for any salary adjustment for Clerk's Office personnel and floating administrative assistants which is not a regular salary scale adjustment, a cost of living increase, merit increase or the like.
 - a. The Clerk/Court Administrator shall present the judge in charge of the Clerk's Office with a report stating the requested salary adjustment and the reasons therefore.
 - b. The report shall contain a work history and salary history of the employee while at the Court of Appeals.
 - c. The Fiscal Officer shall present the Judge in charge of the Clerk's Office with a complete fiscal history of the employee, a complete leave history

1. Documented Period:

Officially certified records kept on each individual employee reflecting the amounts of sick and annual leave accumulated and used.

2. Undocumented Period:

For periods of time where no officially certified leave records were kept on employees, the forfeited leave computation of 12.5 days/year is to be used when certifying to the Employees' Retirement System in accordance with Act 761 of the 1985 General Session of General Assembly. (See Appendix 3.)

Effective July 1, 1994, employees who are members of the Employees' Retirement System "New Plan" can also receive service credit for unused annual and sick leave. However, such benefits shall be subject to reduction or repeal by subsequent legislation and shall not be considered an element of any contract of employment.

H. NAME ON DOOR

Staff attorneys shall not have their names on the office doors.

I. OFFICE HOURS

1. Office hours for each judge's office shall be left to the discretion of each judge.
2. The clerk/court administrator's office will be open to the public from 8:30 a.m. to 4:30 p.m.

J. CLE AND COURT LEAVE

1. The court will pay tuition for CLE seminars approved prior to attendance on approval request form (Appendix 4). Court leave will be granted for CLE. This shall be limited to the minimum CLE hours required and shall be subject to the approval of the judge with respect to time required as per the approval request form. Reimbursement for parking will be approved but there shall be no reimbursement for travel or subsistence. Any amount of continuing legal education over 12 hours must be approved in advance by the Executive Council.

2. The court will no longer reimburse for transportation, travel, and/or subsistence for staff attorneys to attend the annual State Bar Convention, other than to pay for the cost of actual CLE attended. The court will allow court leave for attendance at CLE attended at the State Bar.
3. Staff Attorneys shall satisfy all CLE requirements incumbent upon members of the Bar to include alternative dispute resolution training. (Source: November 1996 Banc meeting).
4. These rules do not apply to judges.

K. MAIL CLERK/FILE CLERK

The mail clerk/file clerk will perform those duties assigned to the him/her by the clerk/court administrator of the Court of Appeals. The mail clerk/file clerk is not available to perform personal errands, and/or banking for any court personnel, including judges. Any court personnel desiring to use the mail clerk/file clerk for any duties or tasks not assigned to the mail clerk/file clerk shall clear such requests through the clerk/court administrator of the Court.

L. FLOATING STAFF ATTORNEYS/CENTRAL STAFF ATTORNEYS

1. Requests for leave shall be made in writing to the Judge in charge of the Floating Staff Attorneys/Central Staff Attorneys, which Judge shall keep the leave record and send it to the fiscal officer. The judge to whom the floating staff attorney is assigned shall determine the time of the daily arrival and departure.
2. The judge in charge of the Floating Staff Attorneys/Central Staff Attorneys shall schedule the assignments of the Floating Staff Attorneys to the judges' offices on this court.

M. NEW EMPLOYEE ORIENTATION GUIDELINE

The judge hiring the employee, the fiscal officer and/or the clerk/court administrator where appropriate, should direct new employees to the Internal Operations Manual and the Rules of the Court of Appeals for specifics about the court and the court's fiscal policies. Also, new employees should be oriented on the role of the judiciary; the important part each employee plays in fulfilling the court's public service role; the court's chain of command; each person's area of responsibility; and the following:

xv. CASE MANAGEMENT

J. DISSEMINATING CASES (page 34)

2. Opinions shall be released in any case whenever ready and in conformity with OCGA Section 15-2-4 (c), but not before oral argument if requested or the last date upon which oral argument may be requested. (Source: January 1994 Banc meeting).

N. ORDERS (page 36)

2. Orders shall be released whenever ready. See OCGA Section 15-4-2 (c). (Source: January 1994 Banc meeting).

W. OVERRULING PRIOR CASES (page 39)

1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a Judge who participated in that opinion is still on the Court, the overruling opinion should be circulated first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the Court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, the case shall be circulated, first to the overruling Judge's panel and then to all Judges on the Court.
3. If a Senior Judge is serving on the panel which is overruling a prior decision, and the Judge from whom the case was assigned to the Senior Judge is a Judge who sat on the panel of the case being overruled, then the case shall circulate to that Judge and the Judge junior most in time of service as a Judge of the Court of Appeals of Georgia on the panel next in succession to the panel overruling the prior decision, shall not participate in the decision, unless that Judge also sat on the panel of the case being overruled, in which case the junior most Judge on the Court, who is not on the panel overruling the prior case and who did not participate in the case being overruled, shall not participate in the decision.

EXHIBIT B (con't)

I. CIRCULATION OF CASES

1. Each case will go to the other two judges on the division for review and initials. If one writes a dissent, the case must be shown to the judge to whom the case is assigned, and shown again to the other judge if he/she has already voted, and then it must be marked "Whole Court" and circulated. The prevailing judge will put the case out, correcting the judgment line on the last page of the opinion to include those concurring and those dissenting.
2. If a judge writes a special concurrence, it is not necessary to circulate to the whole court unless it is otherwise a whole court case, but it is necessary that the opinion be shown to the assigned judge and the other judge on the division. Any time something new has been written, the case must be recirculated to all who have seen it before. Any memo or writing between judges shall be dated so as to show chronology, should circulate to author of the opinion first, and then recirculate.

J. DISSEMINATING CASES

1. After all the necessary judges have initialed the draft and it is returned to the assigned judge, the administrative assistant shall prepare the final opinion, photocopy eleven copies, put a brad in the original, staple remaining copies, complete the judgment line, and take the record with the original and nine copies to the clerk's office to be disseminated. If there are any dissents or special concurrences, they also must be collected and assembled behind the majority opinion before dissemination of the case. The judgment line must be changed to reflect any dissents or special concurrences. At the option of the judge-in-charge, photocopies shall be made by the clerk/court administrator's office.
2. Opinions shall be released in any case whenever ready and in conformity with OCGA Section 15-2-4 (c), but not before oral argument if requested or the last date upon which oral argument may be requested. (Source: January 1994 Banc meeting).
3. Examples of proposed, suggested and approved judgment lines are attached in Appendix 9 and should be used whenever possible to maintain uniformity.
4. In certain cases involving security risks, judgment lines may disseminate as "Division Per Curiam, All Judges Concur." (Source: Minutes, January 1996 Banc meeting).

discretionary applications throughout the year.
(Source: September 1996 Banc meeting).

2. Separate appeals by joint defendants shall be assigned to the same judge.

M. PUBLICATION

1. In cases where no motion for reconsideration is made, the opinion of the court shall be disseminated for publication immediately after the expiration of 10 days from the date of the decision. In cases where motions for rehearing are made, the opinions are to be put out for publication immediately after the expiration of 10 days from the final disposition of the motion. In cases where notice of intention to apply for the writ of certiorari is given, in order to avoid delay in the printing of the court's opinions, the Reporter, acting in cooperation with the clerk/court administrator, shall use a photostatic copy or any other true and correct copy of the opinion, and have the opinions of the Court of Appeals published without waiting for the expiration of 30 days from the denial of the motion for reconsideration. It is the purpose of this resolution to expedite the publication of the opinions of the Court of Appeals, and the clerk/court administrator and the reporter, in order to carry out the intention of this resolution, may disregard the chronological date of the decisions of the court and in doing so may use their discretion to this end.
2. In the event of disagreement as to the application of Rule 34, the matter will be handled the same as a dissent.
3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.
4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

1. Judges shall draw their own orders except for routine orders. The clerk/court administrator, when obtaining orders or directions from a judge or judges, shall reduce the same to writing and shall obtain thereon the initials of the judge or judges who gave the order or direction. Such orders or directions shall be maintained in the file.

2. Orders shall be released whenever ready. See OCGA Section 15-4-2 (c). (Source: anuary 1994 Banc meeting).

O. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court:

- a. Only the order of transfer shall be sent to the Supreme Court along with the case, unless the transferring judge desires the opinion to be published. The remittitur does not go out. The judge assigned to the case may also send up a copy of the file memorandum analyzing the reason for transfer.
- b. Each judge shall devise a system in his/her office to ferret out early those cases over which the Supreme Court, rather than this court, has jurisdiction, for prompt transfer. Transfers at the end of a term should be prevented.
- c. The central staff attorney shall draw the entire order on transfer.

2. From: The Supreme Court:

- a. The docketing date in this Court of a case transferred from the Supreme Court is the date on which the record is received in this Court.
- b. When no briefs have been filed and an appeal is transferred from the Supreme Court and docketed in this Court, the time for filing briefs runs from the date of docketing in this Court.
- c. If appellant's brief and enumeration of errors and appellee's brief have been filed in the Supreme Court, no additional briefing is required in this Court.
- d. However, the time for filing of the appellees' brief always runs from the date of filing of appellant's brief and enumeration of errors, whether the appellant's brief and enumeration of errors is filed in this Court or the Supreme Court.

P. EXTENDING TERM - EXPEDITING CASES

1. In the case of an emergency, based on the authority of Fuller v. State of Georgia, 232 Ga. 581 (1974), and Shore v. Shore, 253 Ga. 183 (1984), the court may render a judgment until the last day of the term if necessary,

2. A vote of two to one is sufficient to impose a penalty on appeals deemed frivolous. A dissent shall not cause the issue of frivolous appeals to go whole court.

S. VOTING ON OPINIONS

When a judge writes a concurrence or dissent or memo, he/she shall cross out all signatures above his/hers and recirculate. The author of the majority is responsible for recirculating with every new writing.

T. COURTESY COPY

When an opinion cites a case which emanates from a court other than the Court of Appeals of Georgia or the Supreme Court of Georgia, or is an unpublished opinion of one of those two courts, the citing Judge should attach a copy of it to the circulating case.

U. REVISED OPINION

When an opinion is revised after circulation, the revised opinion should be marked "Second Circulation" or "Revised" or whatever is appropriate, advising the reader that he/she may have seen the case before but not the changes made in the opinion. All revisions in the text should be separately marked to alert the reader to the specific nature of each and every revision.

V. DATING COMMUNICATIONS

Votes, memos, other writings involving cases should always be dated by the author of the communication. The court-provided memorandum forms (8-1/2" x 11" paper or 5-1/2" x 8-1/2" pads) should be used.

W. OVERRULING PRIOR CASES

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1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a Judge who participated in that opinion is still on the Court, the overruling opinion should be circulated first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the Court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, the

case shall be circulated, first to the overruling Judge's panel and then to all Judges on the Court.

3. If a Senior Judge is serving on the panel which is overruling a prior decision, and the Judge from whom the case was assigned to the Senior Judge is a Judge who sat on the panel of the case being overruled, then the case shall circulate to that Judge and the Judge junior most in time of service as a Judge of the Court of Appeals of Georgia on the panel next in succession to the panel overruling the prior decision, shall not participate in the decision, unless that Judge also sat on the panel of the case being overruled, in which case the junior most Judge on the Court, who is not on the panel overruling the prior case and who did not participate in the case being overruled, shall not participate in the decision.
4. In no event a case be voted upon by more than ten Judges of the Court.
5. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

X. REBRIEFING

When Rule 23 of the Rules of Court is not complied with, any member of the panel may initiate through the assigned judge a request for a corrected brief which shall comply with the Rule. If a Rule-complying brief is not submitted within the time granted, the case may be considered in default as to that party.

Y. FORMAT

1. Opinion shall be double-spaced when the opinion goes to the clerk's office for mailing out. (Effective: All cases docketed on or after September 15, 1991; all other pending cases, January 1, 1992.)
2. Margins shall be justified.
3. If a drafter uses "held," only the "H" will be capitalized.
4. "In the Court of Appeals of Georgia" shall not be centered or capitalized. The Judge's name and the case name shall be capitalized.
5. When opinions are released, they will not bear the judge's personal number or the words "affirmed or reversed" at the top of the first page, but the court's short number will appear. The judge's personal number and "affirmed or reversed" will appear only for circulating purposes.

4. In no event a case be voted upon by more than ten Judges of the Court.
5. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

**XXXII. PROTOCOL ON DISQUALIFICATION
AND RECUSAL OF JUDGES**

A. DISQUALIFICATIONS (page 62)

Whenever a case is assigned to a judge to author or to vote on and that judge is disqualified, that judge shall notify the Clerk's Office by memorandum that that judge is disqualified and that the case is to be transferred to another judge.

1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel one, and so forth.
3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.

EXHIBIT B (con't)

5. If the judge who is disqualified is the Chief Judge, then the case shall be assigned to the judge on the division for whom the Chief Judge is sitting.
6. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
7. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel number; notify all judges' offices involved in the transfer by memorandum; change the judge and color code on the record; and deliver the record, transcript, exhibits, motions, briefs etc. to the newly assigned judge.
8. If, the case to be reassigned is a previous year's case, and the year's docket has closed, there will be no out-of-term assignment back to even the wheel. If the case to be reassigned is in the current docket year, the Court's docketing system will automatically even out the case assignments.
9. If upon reassignment to the next judge on the panel or the corresponding judge on the next panel, that next judge is also disqualified, then the assignment will be to the judge on the third panel in the corresponding slot. Should that judge also be disqualified, the Clerk shall comprise a panel of judges to hear the case. The next case docketed on the wheel will be assigned by the computer to the disqualified judge in order to keep the wheel in balance and assign cases equally, unless the previous year's docket has closed, and in such case there will be no out-of-term assignment back to even the wheel.

(Source: Minutes, November 1995 Banc meeting).

EXHIBIT B (con't)

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1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel one, and so forth.
3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.
5. If the judge who is disqualified is the Chief Judge, then the case shall be assigned to the judge on the division for whom the Chief Judge is sitting.
6. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
7. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel number; notify all judges' offices involved in the transfer by memorandum; change the judge and color code on the record; and deliver the record, transcript, exhibits, motions, briefs etc. to the newly assigned judge.

8. If, the case to be reassigned is a previous year's case, and the year's docket has closed, there will be no out-of-term assignment back to even the wheel. If the case to be reassigned is in the current docket year, the Court's docketing system will automatically even out the case assignments.
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(Source: Minutes, November 1995 Banc meeting).

B. RECUSALS

When a motion to recuse a judge from a particular case is filed, the following protocol shall be used.

1. Whenever a judge is presented with a motion to recuse or disqualify, accompanied by an affidavit, the judge shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming the facts in the affidavit are true, whether recusal is warranted.
2. If it is found that the motion is timely, the affidavit sufficient and the recusal would be authorized if some or all of the facts set forth in the affidavit are true, the judge shall report that fact to the Chief Judge, who shall assign another judge to pass on the motion to recuse.
3. If the assigned judge finds that sufficient facts are presented which would authorize the recusal of the judge from the case, the assigned judge shall so notify, by memorandum, the Chief Judge and the judge against whom the motion was filed.
4. In the event of recusal, the Chief Judge shall notify the Clerk's Office and the protocol on disqualification of judges and shall assign another judge to the matter.
5. If the assigned judge finds there are insufficient facts before the court to authorize a recusal of the judge against whom the motion is filed, that fact shall be made known to the Chief Judge by memorandum with a copy to the judge against whom the motion to recuse was filed.

Strike:

In the *Court of Appeals Rule Book*, Section XII, *Reconsideration*, Rule 37 (g) *Sua Sponte Revision*. (p.19)

"The Court may at any time reconsider and revise its opinions prior to the printing thereof in the official reports."

Add:

To the *Court of Appeals Internal Operations Manual*, Rule XV, *Case Management*, Section AA, (p.41)

"After the time for the motion for reconsideration has expired in any case, or an order denying the motion has been entered, the opinion may not be recalled from the Reporter's office except to make editorial changes therein."

EXHIBIT C

of the employee and a fiscal note stating whether or not the Court has funds available for any salary increase and from which source or sources those funds are available.

- d. The judge in charge of the Clerk's Office shall indicate on the report whether that judge recommends or does not recommend the proposed salary adjustment.
- e. The Clerk/Court Administrator shall circulate a copy of the report and fiscal note along with the recommendation of the judge in charge of the Clerk's Office to all of the judges prior to the next scheduled Banc Meeting, at which time the Banc will take up the proposed salary adjustment.
(Source: November, 1996 Banc Meeting)

D. PRACTICE OF LAW

1. Staff attorneys and other personnel shall not engage in the practice of law as defined in OCGA § 15-19-50, whether for remuneration or not, except in the furtherance of the business of the court.
2. Staff attorneys and other personnel should regulate their extra judicial activities to minimize the risk of conflict with their judicial duties and they should not engage in any activities that would detract from the dignity of their office or the court.
3. Staff attorneys and other personnel should refrain from inappropriate political activity.

E. EMPLOYMENT APPROVAL

1. The employment of the clerk/court administrator, deputy administrator, deputy clerk, fiscal officer, floating staff attorneys, computer specialists, central staff attorneys, and floating administrative assistants shall be by the Court sitting en banc. A written application shall be made on a "personnel history form." Each judge is free to hire and fire his/her staff.
2. No person who is related by blood or marriage to a sitting judge on the Court of Appeals is eligible for employment or to continue in employment by the court or any of its offices. In the event an employee of the

- aa. After the time for the motion for reconsideration has expired in any case, or an order denying the motion has been entered, the opinion may not be recalled from the Reporter's office except to make editorial changes therein.

Z. WITHDRAWAL OF APPEAL

An order granting permission to withdraw an appeal will not be issued unless all motions are ruled on, are withdrawn or are moot.

To the *Court of Appeals Internal Operations Manual, Rule XV, Case Management, Section U, Revised Opinion: (p.38)*

"When an opinion is revised after circulation, the revised opinion should be marked 'Second Circulation' or 'Revised' or whatever is appropriate, advising the reader that he/she may have seen the case before but not the changes made in the opinion."

ADD this sentence to the end of the provision:

"All revisions in the text should be separately marked to alert the reader to the specific nature of each and every revision."

EXHIBIT D

2. A vote of two to one is sufficient to impose a penalty on appeals deemed frivolous. A dissent shall not cause the issue of frivolous appeals to go whole court.

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W. OVERRULING PRIOR CASES

1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a Judge who participated in that opinion is still on the Court, the overruling opinion should be circulated first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the Court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, the

Internal Operations Manual

**COURT OF APPEALS
STATE OF GEORGIA**

March 1998

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I. DUTIES

A. CHIEF JUDGE

1. The Chief Judge shall be chosen by the judges of the court for a term of two years; and thereafter, automatic rotation of the office of the Chief Judge among the members of the court shall be based on seniority of service on the Court of Appeals. If a vacancy occurs for any reason, a successor shall be chosen promptly and his/her term shall begin as of the date of such selection. In the event a judge leaves the court for any reason, his/her successor on the court shall not stand in his/her stead of priority in serving as Chief Judge, but the successor goes to the bottom of the list as junior judge. A judge on becoming eligible for selection as Chief Judge may waive all or any part of the term to which he/she is entitled.
2. If the Chief Judge is absent or otherwise unable to discharge his/her duties, the judge next in the line of succession for Chief Judge is authorized to perform any emergency or otherwise urgently required duty of the Chief Judge pending his/her return to duty.
3. The Chief Judge is responsible for the administration of the court and the dispatch of its business. The responsibilities include:
 - a. Insures that major policies and procedures for the operation of the court have been established by a majority vote of the judges thereof, and acts within the scope of such authority.
 - b. Presides at meetings of the Executive Council and when the court is en banc, and shall prepare and distribute a written agenda for the court the day prior to the meeting.
 - c. Supervises fiscal affairs, accounting, planning, preparation, and presentation of the budgets; and renders financial reports to the court and required agencies.
 - d. Initiates policies concerning the court's internal operations and its position on external matters affecting the court.
 - e. Appoints standing and special committees to aid in the administration of the court.

- f. Represents the court in its relations with the Supreme Court, other agencies of government, the bar, general public, news media, and ceremonial functions.
- g. Appoints Special Prosecutors in bar disciplinary matters.
- h. Supervises preparation of an annual statistical analysis report reflecting caseload of the court, and such other periodic reports deemed necessary by the court.
- i. Performs such other administrative duties as may be required and which are not otherwise provided for by law or rule.

B. EXECUTIVE COUNCIL

- 1. Shall be composed of the Chief Judge and the three Presiding Judges and shall act on all matters referred to the Chief Judge and Council as provided by committee assignments.
- 2. If not otherwise provided, shall determine which administrative matters should be presented to the full court.
- 3. Advise and counsel the Chief Judge on matters relating to the court.
- 4. If a tie vote occurs on a matter under consideration by the Chief Judge and Council, the matter shall be referred to the full court.
- 5. Purchases of \$500 or more shall be submitted to the Executive Council for consideration and approval.

against whom the motion is filed, that fact shall be made known to the Chief Judge by memorandum with a copy to the judge against whom the motion to recuse was filed.

6. Whether the judge against whom the motion was filed is recused or is not recused, an order shall issue from the Clerk's Office granting or denying the motion to recuse, as appropriate.
7. If the Chief Judge is the judge against whom the motion to recuse is filed, then the judge next in line for Chief Judge shall make the assignment.

on the record; and deliver the record, transcript, exhibits, motions, briefs etc. to the newly assigned judge.

8. If, the case to be reassigned is a previous year's case, and the year's docket has closed, there will be no out-of-term assignment back to even the wheel. If the case to be reassigned is in the current docket year, the Court's docketing system will automatically even out the case assignments.
9. If upon reassignment to the next judge on the panel or the corresponding judge on the next panel, that next judge is also disqualified, then the assignment will be to the judge on the third panel in the corresponding slot. Should that judge also be disqualified, the Clerk shall comprise a panel of judges to hear the case. The next case docketed on the wheel will be assigned by the computer to the disqualified judge in order to keep the wheel in balance and assign cases equally, unless the previous year's docket has closed, and in such case there will be no out-of-term assignment back to even the wheel.

(Source: Minutes, November 1995 Banc meeting).

B. RECUSALS

When a motion to recuse a judge from a particular case is filed, the following protocol shall be used.

1. Whenever a judge is presented with a motion to recuse or disqualify, accompanied by an affidavit, the judge shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming the facts in the affidavit are true, whether recusal is warranted.
2. If it is found that the motion is timely, the affidavit sufficient and the recusal would be authorized if some or all of the facts set forth in the affidavit are true, the judge shall report that fact to the Chief Judge, who shall assign another judge to pass on the motion to recuse.
3. If the assigned judge finds that sufficient facts are presented which would authorize the recusal of the judge from the case, the assigned judge shall so notify, by memorandum, the Chief Judge and the judge against whom the motion was filed.
4. In the event of recusal, the Chief Judge shall notify the Clerk's Office and the protocol on disqualification of judges and shall assign another judge to the matter.
5. If the assigned judge finds there are insufficient facts before the court to authorize a recusal of the judge

XXXII. PROTOCOL ON DISQUALIFICATION AND RECUSAL OF JUDGES

A. DISQUALIFICATIONS

Whenever a case is assigned to a judge to author or to vote on and that judge is disqualified, that judge shall notify the Clerk's Office by memorandum that that judge is disqualified and that the case is to be transferred to another judge.

1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel one, and so forth.
3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.
5. If the judge who is disqualified is the Chief Judge, then the case shall be assigned to the judge on the division for whom the Chief Judge is sitting.
6. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
7. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel number; notify all judges' offices involved in the transfer by memorandum; change the judge and color code

2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and the final vote with names shall be shown but not written dissent shall be published.
3. No motion for reconsideration shall be allowed.

G. PUNISHMENT

The court may impose punitive and/or remedial measures in consequence of a finding of contempt. Punitive measures may include a fine of up to \$1000; a public reprimand, to be included in the official reporter; a private reprimand, issued in order form to the contemnor; temporary or permanent suspension from the bar of this court. Remedial measures may include suspension from the bar of this court until any order of this court is obeyed.

H. NOTICE TO STATE BAR

In any case in which an order finding contempt is entered, the clerk/court administrator of this court shall forward the record of such proceeding to the Disciplinary Board of the State Bar of Georgia.

I. FRIVOLOUS APPEAL

1. Whenever the court enters an order finding any party or attorney in contempt, and assessing a fine for contempt or whenever the court awards damages for a frivolous appeal or any other monetary sanctions, the court shall issue a separate order, separate and apart from the opinion, specifically stating what monetary damages are assessed against which attorney or which party and to whom the monetary damages should be paid.
2. Any such orders on contempt, frivolous appeals or monetary sanctions shall be flagged and copies of such orders shall be sent to the clerk/court administrator, and the clerk/court administrator shall follow-up on the matter and ascertain that the court's orders are being followed.

XXXI. CONTEMPT PROCEDURES

A. INITIATION OF PROCEEDINGS

1. If any division member believes that the conduct of an attorney may be contemptuous, that judge shall prepare a show cause order specifying the conduct at issue and the rules, statutes, or other standards claimed to have been violated.
2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and final vote with names shall be shown but no written dissent shall be published.

B. SERVICE

The show cause order shall be served by certified mail, return receipt requested.

C. CONTEMNOR'S RESPONSE

The order shall give the option to the contemnor to respond at an oral hearing or by the filing of a sworn affidavit. The date of said hearing or date for filing said affidavit shall be set by the presiding judge of the division from which the order issues.

D. HEARING

If a sworn affidavit is not filed by the date specified, the clerk/court administrator shall assume a hearing is chosen and shall make arrangements for a court reporter to record the proceedings. It shall be the court's option to cast the costs of takedown and transcription upon the contemnor.

E. FILING

Filing for purposes of this rule shall mean received in the clerk/court administrator's office of this Court, and the contemnor shall be so informed.

F. DECISION

1. Following the hearing or receipt of the affidavit, the initiating judge shall prepare a written order, including findings of fact and conclusions of law based upon the record before the Court. The beyond reasonable doubt standard shall be applied if the order imposes punitive measures.

C. CREDITABLE ACTIVITIES

Continuing education programs for which a judge may receive qualifying credit shall include:

1. Programs of the Appellate Judges Conference sponsored by the American Bar Association;
2. Programs sponsored by the Institute of Continuing Judicial Education of Georgia;
3. Programs of continuing legal education accredited by the Commission of Continuing Lawyer Competency of the State Bar of Georgia, including all programs of the Institute of Continuing Legal Education;
4. Programs sponsored by any law school accredited by the American Bar Association;
5. Such other programs of continuing judicial or legal education as may be approved by the Court of Appeals of Georgia.

D. CREDIT FOR TEACHING

For teaching in a program qualifying under Section (C) above, a judge shall be given three hours credit for each hour of instructional responsibility when no handout paper is required but preparation is necessary and is conducted, and six hours for each hour of instructional responsibility when a handout paper is required and prepared. When the same lecture or instructional activity is repeated in a single fiscal year, additional credit shall be given equivalent to the actual time spent in delivering that presentation.

E. NONCOMPLIANCE

1. In the event a judge shall fail to comply with the requirements of the rules for Mandatory Continuing Judicial Education at the end of an applicable period, such judge may submit to the Court of Appeals a specific plan for making up the deficiency of necessary hours within sixty (60) days after the last day for the reporting of activities for the preceding year.
2. In the event such plan is not submitted, or in the event a plan is submitted but not complied with during the sixty (60) day period, the Court of Appeals shall administer a reprimand to the noncomplying judge and the fact of such reprimand may be noted and published in the Court of Appeals Reports.

XXX. MANDATORY CONTINUING JUDICIAL EDUCATION

A. MINIMUM

1. Each judge of the Court of Appeals of Georgia shall complete a minimum of twelve (12) hours of actual instruction in an approved continuing judicial or legal education activity during each year beginning January 1, 1986. If a judge completes more than twelve hours in a year, the excess credit may be carried forward and applied to the educational requirement for the succeeding two year period.
2. Each judge shall complete a minimum of two (2) hours of continuing judicial legal education activity during each year beginning January 1, 1986, in the area of legal or judicial ethics. These hours are to be included in, but not in addition to, the twelve hour requirement. If a member completes more than two hours in ethics during a year, the excess ethics credit may be carried forward to a maximum of four (4) hours and applied to the ethics requirements for two succeeding years.
3. The Court of Appeals may exempt a judge from the continuing judicial education requirements but not from the reporting requirements of this rule for a period of not more than one year upon a finding by the court of special circumstances unique to that member constituting undue hardship.

B. REPORTING

1. On or before January 31 of each year commencing in 1987, each judge shall make and file with the clerk/court administrator of the Court of Appeals evidence of compliance with the requirements of the program for mandatory continuing judicial education. If available, there shall be attached to such report a certification from the sponsor of the programs in which the reporting judge participated stating the fact of the participation.
2. Each judge shall keep his/her certificates of attendance, or file them with the clerk/court administrator along with the certificate of compliance herewith. Questions as to full or partial credit, or whether the course qualifies for credit, shall be left with each judge.

XXIX. PROCESSING OF OPINIONS

1. It is the duty of every judge to give his/her prompt attention to an opinion prepared by an associate. This duty results not only from common judicial courtesy but from the necessity of processing cases with reasonable diligence in view of the workload of the court. THE REVIEW OF OPINIONS PREPARED BY OTHER JUDGES SHALL HAVE FIRST PRIORITY OVER THE PREPARATION OF OPINIONS IN CASES ASSIGNED TO THE REVIEWING JUDGE. Opinions shall be reviewed and acted upon in the following order of priority:
 - a. Whole Court -- Distress.
 - b. Division -- Distress.
 - c. Whole Court -- Non-Distress.
 - d. Division -- Non-Distress.
 - e. Cases assigned to author judge -- Distress and non-Distress.
2. This is not a fixed rule but expresses guidelines which, when reasonably possible, will be followed.

XXVIII. SPACE ALLOCATIONS

Space allocated to each judge's office as of May 31, 1994, shall remain with that office. (See Appendix 6.) There shall be space succession and not succession of persons.

XXVII. ADMINISTRATIVE MINUTE BOOK

An Administrative Minute Book shall be kept and shall include court rules, the history and operations of the court such as comings and goings of employees, swearing-in, etc.

XXVI. COPIES

The clerk's office shall provide copies of opinions at a cost of \$1.00 per page with a minimum of \$5.00 per opinion. Copies of the record may be purchased from the clerk's office at \$1.00 per page. Copies of indexes are \$1.00 per page with a minimum cost of \$4.00.

Beginning January 1, 1996, opinions may be purchased electronically through the Reporter's office by subscription at a cost of \$1.00 per page. Opinions purchased through the Reporter's office at a cost of \$1.00 per page have no \$5.00 per opinion minimum.

(**Source:** Minutes, November 1995 Banc meeting).

XXV. POSTAGE METER AND TELEPHONE USE

The postage meter is not to be used for personal mail. No personal long distance telephone calls may be made.

XXIV. INCLEMENT WEATHER

- A. The court will be kept open to the extent possible.
- B. The office of the clerk/court administrator will be kept open to the extent possible.
- C. Each judge controls his/her own staff and the clerk/court administrator will decide if the clerk's office should remain open and whether an announcement should be made on the radio.
- D. It is within the discretion of each judge to decide if weather conditions warrant his/her employees absence without being charged leave.
- E. While recognizing the independence of the judicial branch of government, if the Governor announces that State offices will be closed because of inclement weather, the Court of Appeals will likewise close its offices.
- F. The Chief Judge, after consultation with the Clerk/Court Administrator, shall make the determination whether the Clerk's office and court shall close during inclement weather.
- G. Court closings or late openings shall be broadcast on WSB radio 750 AM and 98.5 FM and WFOX radio 97.1 FM.

XXIII. AUDITS

- A. The Department of Audits will provide each member of the court a copy of the court's annual audit.
- B. The fiscal officer will distribute a quarterly expense report to each judge individually and to the office of the clerk/court administrator.

5. DISCRETIONARY AND INTERLOCUTORY

No opinion to be written on discretionary and interlocutory if after reviewing the record, the appeal should not be affirmed by opinion.

After plenary consideration of this matter it is not found to satisfy the criteria for granting (interlocutory or discretionary) appeal and the application is therefore vacated.

6. RULE 36

Rule 36 is still alive and available. Cases may be affirmed without opinion if the evidence supports the judgment; no reversible error of law appears and the opinion would have no precedential value; or the judgment of the court below adequately explains the decision.

7. OPINIONS

All orders and opinions shall be published in the Georgia Appeals Reports, except as provided by Court Rule 34.

8. JUDGMENT LINES

Standard judgment lines should be used whenever possible. Examples of standard judgment lines and when they are used are found in Appendix 9.

XXII. OPINION CONTENT

A. JUVENILE AND TERMINATION OF PARENTAL RIGHTS CASES

Neither the names of the parents nor that of the child will be included in the opinion; however, the normal designations will be used in adoption cases.

B. RECOMMENDED ROUTINE OPINIONS

The use of these recommendations, which were adopted in principle, is left to the sole discretion of each judge.

1. MISDEMEANOR

This being a misdemeanor case and in the opinion of this court without precedential value and not involving unique facts, the same is affirmed under Rule 36 of this court.

2. FELONY

Felony cases which are appealed solely on the general grounds.

There being evidence sufficient to convince any rational trier of fact of the existence of the essential elements of the crime, the judgment is affirmed. Jackson v. Virginia, 443 U.S. 307, 310 (99 SC 2781, 61 LE2d 560) (1979); Baldwin v. State, 153 Ga. App. 35, 37 (264 SE2d 528).

3. CIVIL

Civil case with no precedential value or no unique factual situation.

4. EXCESSIVE VERDICT

Sole enumeration of error being the excessiveness of the verdict.

The verdict fully within the range of the evidence the judgment of the court below is affirmed. Crankshaw v. Stanley Homes, Inc., 131 Ga. App. 840, 843 (207 SE2d 241); Camp Construction Co. v. Stenbridge, 138 Ga. App. 555, 557 (226 SE2d 797).

XXI. CERTIFIED QUESTIONS

- A. All certified questions are to be circulated to the whole court for information only.
- B. Whenever a panel certifies a question, it should be circulated to the rest of the court as courtesy so the whole court knows the question is being considered by the Supreme Court.

XX. SUPERSEDEAS BOND

Whether the motion is denied in the trial court or initially made here, the Court of Appeals will order that the trial court require supersedeas bond in an amount and under conditions determined by the trial court after hearing. OCGA § 5-6-46. Jurisdiction of the appeal will not be affected. Unless accompanied by a supersedeas bond, all applications for stay are to be denied in civil cases, wherein application for certiorari to the Supreme Court of the United States has been made.

XIX. RECORD RETENTION SCHEDULE

Each Court of Appeals record is stored in Room 334, during the pendency of the case and, depending on space, for a period of one year after the remittitur is sent. Records of cases docketed through 1991 are stored at State Archives in boxes numbered for identification and prepared for transmittal to the Georgia State Archives and History Building for storage. If an archived record is requested, the Clerk/Court Administrator's office can advise requesting party of the box and location number and the party may go to the State Archives Building and request to see the record and copy any document. The record can be ordered by the Clerk/Court Administrator's office and will usually arrive the next business day after 2:00 p.m. The public should be encouraged to go to Archives to examine the records and delivery of Archive records should reserved for the court.

Since Archives has refused to accept the court's records since 1993, the court has adopted a record retention schedule which calls for the destruction of the record and transcript one year after the remittitur has gone out, if the party paying for the record does not request to receive the record and make arrangements to come to the court and pick up the record. The court will maintain for a period of years the briefs, enumeration of errors, motions, orders, and original opinion.

The court may utilize the Water Lab in the basement of the Health Building as offsite storage facility until such time as additional space may be obtained for record storage in the clerk's office or court. See Appendix 10 for Records Retention Schedule. (**Source:** Minutes, November 1995 Banc meeting).

XVIII. EN BANC MEETINGS

- A. The Court of Appeals will hold en banc meetings on the fourth Tuesday of every month except August and December, at 10:00 a.m. The Chief Judge may for good cause change the date of a particular meeting. The regular banc sessions shall be held notwithstanding that additional special en banc session may be set by the Chief Judge. No en banc meetings shall interfere with the setting of oral arguments.
- B. A quorum of six judges is necessary for the holding of banc. Subject to the rule requiring ten days' notice or the required consent of at least seven judges, an affirmative vote of six judges will always be necessary in passing or adopting any motion, resolution or official action of the court. (Source: September 1996 Banc meeting).
- C. Effective January 1, 1967, all motions or resolutions acted upon or other official actions taken in banc sessions shall be reduced to writing and entered upon the minutes, indicating thereupon how each judge voted. The vote of each judge shall be cast by him/her in person while attending the banc session and not otherwise. No judge shall be allowed to vote by proxy.
- D. The clerk/court administrator shall serve as the secretary of the court for the purpose of effectuating this rule.
- E. Once a motion, resolution or proposition is acted upon, no motion, resolution or other proposal calling for a change in the action taken shall be considered or acted upon unless ten days written notice of the proposed change shall have been given to each judge of the court, provided, however, this rule may be waived by the consent of eight of the judges. (Source: September 1996 Banc meeting).

XVII. CONFIDENTIALITY

- A. The work of each judge with his/her staff shall remain confidential with that staff unless expressly authorized by the judge and then may be shared only to the extent permitted.
- B. The work of the court, and its operations, shall be kept confidential except as agreed by the court and to the extent required by law. The Chief Judge, or his/her designee specified for the purpose, shall be the spokesperson for the court.

XVI. PURCHASING POLICY

- A. The Court of Appeals shall purchase such books, pamphlets, or other publications and such other supplies and services as the judges thereof may deem necessary. (**Source:** OCGA § 15-3-12).
See also: I, K. PURCHASING COMMITTEE.
- B. Georgia Legal History Foundation fees of \$30 per judge per year, and the American Bar Association and Judicial Administrative Division annual dues, shall be paid from court funds.
- C. Effective July 1, 1994, the Court will pay basic State Bar dues for staff attorneys.
- D. The court will send two staff attorneys per year to the annual CASA meeting and reimburse for expenses. The attending attorney's first year of ABA/CASA membership dues will be paid by the Court with the understanding that the staff attorney will be expected to maintain membership at personal expense thereafter. (**Source:** Vote of the Court by Memorandum, February 13, 1998).
- E. The annual National Association for Court Management regular membership dues for the clerk/court administrator shall be paid from court funds. (**Source:** Minutes, August 1995 Banc meeting).
- F. The annual dues for each judge for the Judicial Section of the Atlanta Bar Association shall be paid from court funds. (**Source:** Minutes, August 1995 Banc meeting).

- aa. After the time for the motion for reconsideration has expired in any case, or an order denying the motion has been entered, the opinion may not be recalled from the Reporter's office except to make editorial changes therein.

Z. WITHDRAWAL OF APPEAL

An order granting permission to withdraw an appeal will not be issued unless all motions are ruled on, are withdrawn or are moot.

6. "In the Court of Appeals of Georgia" will appear from the left margin rather than centered.
7. Opinions, orders and all other internally generated documents which become part of the record in a case shall be on letter size (8-1/2" x 11") paper. *(Effective: All cases docketed on or after September 15, 1991, all other pending cases, January 1, 1992).

Y. (a) WITHDRAWAL OF COUNSEL

The following order shall be entered in civil cases:

Court of Appeals

of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

Upon consideration of the motion of appellant/appellee's attorney to withdraw as counsel, the Court has no objection, subject to counsel's compliance with all applicable provisions of the Code of Professional Responsibility. The Court neither approves nor disapproves counsel's withdrawal as attorney for appellant/appellee, but the records of this Court will reflect such withdrawal and, until further notice, all notices will be sent directly to appellant/appellee.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

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

Clerk

3. If a Senior Judge is serving on the panel which is overruling a prior decision, and the Judge from whom the case was assigned to the Senior Judge is a Judge who sat on the panel of the case being overruled, then the case shall circulate to that Judge and the Judge junior most in time of service as a Judge of the Court of Appeals of Georgia on the panel next in succession to the panel overruling the prior decision, shall not participate in the decision, unless that Judge also sat on the panel of the case being overruled, in which case the junior most Judge on the Court, who is not on the panel overruling the prior case and who did not participate in the case being overruled, shall not participate in the decision.
4. In no event a case be voted upon by more than ten Judges of the Court.
5. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

X. REBRIEFING

When Rule 23 of the Rules of Court is not complied with, any member of the panel may initiate through the assigned judge a request for a corrected brief which shall comply with the Rule. If a Rule-complying brief is not submitted within the time granted, the case may be considered in default as to that party.

Y. FORMAT

1. Opinion shall be double-spaced when the opinion goes to the clerk's office for mailing out. (Effective: All cases docketed on or after September 15, 1991; all other pending cases, January 1, 1992.)
2. Margins shall be justified.
3. If a drafter uses "held," only the "H" will be capitalized.
4. "In the Court of Appeals of Georgia" shall not be centered or capitalized. The Judge's name and the case name shall be capitalized.
5. When opinions are released, they will not bear the judge's personal number or the words "affirmed or reversed" at the top of the first page, but the court's short number will appear. The judge's personal number and "affirmed or reversed" will appear only for circulating purposes.

S. VOTING ON OPINIONS

When a judge writes a concurrence or dissent or memo, he/she shall cross out all signatures above his/hers and recirculate. The author of the majority is responsible for recirculating with every new writing.

T. COURTESY COPY

When an opinion cites a case which emanates from a court other than the Court of Appeals of Georgia or the Supreme Court of Georgia, or is an unpublished opinion of one of those two courts, the citing Judge should attach a copy of it to the circulating case.

U. REVISED OPINION

When an opinion is revised after circulation, the revised opinion should be marked "Second Circulation" or "Revised" or whatever is appropriate, advising the reader that he/she may have seen the case before but not the changes made in the opinion. All revisions in the text should be separately marked to alert the reader to the specific nature of each and every revision.

V. DATING COMMUNICATIONS

Votes, memos, other writings involving cases should always be dated by the author of the communication. The court-provided memorandum forms (8-1/2" x 11" paper or 5-1/2" x 8-1/2" pads) should be used.

W. OVERRULING PRIOR CASES

1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a Judge who participated in that opinion is still on the Court, the overruling opinion should be circulated first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the Court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, the case shall be circulated, first to the overruling Judge's panel and then to all Judges on the Court.

2. If the appeal is from an order involving the custody of a child, a parent's visitation rights to a child, a child allegedly deprived, or parental rights, the decision in the case shall be expedited. (See OCGA § 19-9-64, part for Uniform Child Custody Jurisdiction Act, showing legislative desire to expedite resolution of such matters.) (Source: Minutes, April 1996 Banc meeting.)

Q. INTERLOCUTORY AND DISCRETIONARY CASES

1. If the application or response is not whitebacked, the clerk/court administrator will call the attorney (if the first offense) to advise that the clerk/court administrator, will put a cover on and advise the attorney that if it occurs again, a \$10 penalty will be assessed. The Chief Judge will ascertain to which account the assessment would be deposited.
2. If discretionary and interlocutory applications are received without the requisite stamp "filed orders", the Clerk's Office shall issue an order directing the applicant to submit a stamped "filed" copy of the order being appealed or the certificate of immediate review. Said order shall be delivered to the court physically within ten days of the date of the Court's order requiring the stamped filed copy to be filed.
3. Because of the short time the Court has to deal with applications, the certified mail rule will not be deemed sufficient filings for purposes for complying with the order to file a stamped filed copy of the order or certificate of immediate review.
(Source: Minutes - February, 1996 Banc Meeting)

R. CHANGE FROM SEVEN JUDGE OR WHOLE COURT TO PANEL CASE

1. If after a case becomes a seven-judge case or a whole court case, the original dissenter agrees with the panel, the case shall again become a panel case unless there is some other reason for it to remain seven-judge or whole court. If a dissenter withdraws his/her dissent, he/she must have the concurrence of any member outside of the panel who joined the dissent or who has separately dissented. (Source: September 1996 Banc meeting).
2. A vote of two to one is sufficient to impose a penalty on appeals deemed frivolous. A dissent shall not cause the issue of frivolous appeals to go whole court.

O. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court:

- a. Only the order of transfer shall be sent to the Supreme Court along with the case, unless the transferring judge desires the opinion to be published. The remittitur does not go out. The judge assigned to the case may also send up a copy of the file memorandum analyzing the reason for transfer.
- b. Each judge shall devise a system in his/her office to ferret out early those cases over which the Supreme Court, rather than this court, has jurisdiction, for prompt transfer. Transfers at the end of a term should be prevented.
- c. The central staff attorney shall draw the entire order on transfer.

2. From: The Supreme Court:

- a. The docketing date in this Court of a case transferred from the Supreme Court is the date on which the record is received in this Court.
- b. When no briefs have been filed and an appeal is transferred from the Supreme Court and docketed in this Court, the time for filing briefs runs from the date of docketing in this Court.
- c. If appellant's brief and enumeration of errors and appellee's brief have been filed in the Supreme Court, no additional briefing is required in this Court.
- d. However, the time for filing of the appellees' brief always runs from the date of filing of appellant's brief and enumeration of errors, whether the appellant's brief and enumeration of errors is filed in this Court or the Supreme Court.

P. EXTENDING TERM - EXPEDITING CASES

1. In the case of an emergency, based on the authority of Fuller v. State of Georgia, 232 Ga. 581 (1974), and Shore v. Shore, 253 Ga. 183 (1984), the court may render a judgment until the last day of the term if necessary, provided six judges concur. (**Source:** September 1996 Banc meeting).

M. PUBLICATION

1. In cases where no motion for reconsideration is made, the opinion of the court shall be disseminated for publication immediately after the expiration of 10 days from the date of the decision. In cases where motions for rehearing are made, the opinions are to be put out for publication immediately after the expiration of 10 days from the final disposition of the motion. In cases where notice of intention to apply for the writ of certiorari is given, in order to avoid delay in the printing of the court's opinions, the Reporter, acting in cooperation with the clerk/court administrator, shall use a photostatic copy or any other true and correct copy of the opinion, and have the opinions of the Court of Appeals published without waiting for the expiration of 30 days from the denial of the motion for reconsideration. It is the purpose of this resolution to expedite the publication of the opinions of the Court of Appeals, and the clerk/court administrator and the reporter, in order to carry out the intention of this resolution, may disregard the chronological date of the decisions of the court and in doing so may use their discretion to this end.
2. In the event of disagreement as to the application of Rule 34, the matter will be handled the same as a dissent.
3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.
4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

1. Judges shall draw their own orders except for routine orders. The clerk/court administrator, when obtaining orders or directions from a judge or judges, shall reduce the same to writing and shall obtain thereon the initials of the judge or judges who gave the order or direction. Such orders or directions shall be maintained in the file.
2. Orders shall be released whenever ready. See OCGA Section 15-4-2 (c). (**Source:** January 1994 Banc meeting).

K. MOTIONS FOR RECONSIDERATION

1. If the case returns, the assigned judge will review and initial it and circulate it to the judges who originally voted on it. When all reconsideration work has been done, the case shall then be taken back to the clerk/administrator's office to be disseminated.
2. If the motion for reconsideration is granted and if the judgment line changes, an order granting the motion for reconsideration shall go out and the new opinion shall go out.
3. The clerk/court administrator shall not refuse to accept tardy motions for reconsideration. Generally, untimely motions for reconsideration will be dismissed, however, the judge to whom the case is assigned may take into consideration the reasons for the untimeliness, such things as problems with mail delivery.
4. Second motions for reconsideration will be dismissed if they are not accompanied by a motion for permission to file second motion for reconsideration.
5. If there is a dissent on reconsideration, the case goes to a seven judge court, or, if the Court deems it appropriate, whole court. In addition to the "blue slip," the circulating judge should provide the usual place for judges to initial "concur" or "dissent." (Source: September 1996 Banc meeting).
6. When an opinion is changed by substitute pages or other revisions on rehearing or for other reasons, the office of the judge to whom the case is assigned is responsible for putting the revised opinion together and submitting it to the clerk/court administrator's office.

L. ASSIGNMENT OF CASES

1. Cases are assigned on a strict automatic rotation basis, except for companion cases and pre-assigned cases. There shall be two wheels for direct appeals: civil and criminal. There shall be two wheels for applications: interlocutory and discretionary. Each judge shall receive, as nearly as possible, an equal number of civil direct appeals and criminal direct appeals throughout the docket year. Except for the Chief Judge, who will not receive applications, each judge shall receive, as nearly as possible, an equal number of interlocutory and discretionary applications throughout the year. (Source: September 1996 Banc meeting).
2. Separate appeals by joint defendants shall be assigned to the same judge.

he/she has already voted, and then it must be marked "Whole Court" and circulated. The prevailing judge will put the case out, correcting the judgment line on the last page of the opinion to include those concurring and those dissenting.

2. If a judge writes a special concurrence, it is not necessary to circulate to the whole court unless it is otherwise a whole court case, but it is necessary that the opinion be shown to the assigned judge and the other judge on the division. Any time something new has been written, the case must be recirculated to all who have seen it before. Any memo or writing between judges shall be dated so as to show chronology, should circulate to author of the opinion first, and then recirculate.

J. DISSEMINATING CASES

1. After all the necessary judges have initialed the draft and it is returned to the assigned judge, the administrative assistant shall prepare the final opinion, photocopy eleven copies, put a brad in the original, staple remaining copies, complete the judgment line, and take the record with the original and nine copies to the clerk's office to be disseminated. If there are any dissents or special concurrences, they also must be collected and assembled behind the majority opinion before dissemination of the case. The judgment line must be changed to reflect any dissents or special concurrences. At the option of the judge-in-charge, photocopies shall be made by the clerk/court administrator's office.
2. Opinions shall be released in any case whenever ready and in conformity with OCGA Section 15-2-4 (c), but not before oral argument if requested or the last date upon which oral argument may be requested. (**Source:** January 1994 Banc meeting).
3. Examples of proposed, suggested and approved judgment lines are attached in Appendix 9 and should be used whenever possible to maintain uniformity.
4. In certain cases involving security risks, judgment lines may disseminate as "Division Per Curiam, All Judges Concur." (**Source:** Minutes, January 1996 Banc meeting).
5. If the original opinion is published and the Supreme Court reverses the opinion, the rewritten opinion shall be published. (**Source:** January 1996 Banc meeting).

3. The court shall publish a printed list of names and numbers of cases and the order in which they will be heard in court. In the event of attorney time conflicts in court settings, the court will do the best it can to conform to the policy set out in the state/federal court resolution and will try to work out the conflict with the other judge involved.

F. BENCH DOCKET

The clerk/court administrator shall maintain a list of cases which will be argued. The bench docket shall include the names of the attorneys and the identification of any pro se parties. The docket shall be maintained in the clerk's office and shall be brought into the courtroom during oral arguments.

G. DOCKETING SYSTEM

1. The clerk's office shall maintain a computerized docketing system which shall be approved by the court.
2. The system shall also be backed-up daily to a hard disc and weekly to a magnetic tape stored off site. The system shall also be backed up with a hard copy maintained in the clerk's office.
3. The court shall review the docketing system periodically, making changes where appropriate and after consultation with the court data processing personnel and the clerk/court administrator.
4. The clerk's office shall provide a view only terminal in the public area of the clerk's office for public access and viewing of the court's docket. (**Source:** Minutes, February 1996 Banc meeting).

H. COURT MINUTES & INDEX

The Minute Book of the court shall be kept in the office of the clerk/court administrator. The minutes shall be generated by the data processing personnel on an annual basis or more often if required by the court. (Everything that goes into the system, that is, the computerized docket, is printed out and maintained in a hard copy in the clerk's office.)

I. CIRCULATION OF CASES

1. Each case will go to the other two judges on the division for review and initials. If one writes a dissent, the case must be shown to the judge to whom the case is assigned, and shown again to the other judge if

XV. CASE MANAGEMENT

A. COURT RECORDS

Except for persons assigned as backup and for lunch period, or as specifically authorized by the clerk/court administrator, all other court personnel, clerk's office included, must check out records from records clerk or acting records clerk. None but judges and their specific designees shall be permitted to take case records out of the building. At the discretion of each judge, briefs and draft opinions may be taken out by judges or their staff attorneys.

B. DOCKETING SHEET

A sheet which is sent to the administrative assistant from the clerk's office as each case is docketed. Cases shall be docketed within 24 hours after presentation to clerk's office.

C. PANEL LIST

First list of monthly cases for the panel which comes from the clerk's office after the docket is closed for each month. (This is the spread sheet which goes to each judge's office from the clerk's office.)

D. MONTHLY CASE NUMBER SHEET

A list which a judge's administrative assistant makes up of the cases assigned to that judge as the summary sheets are received by his/her office from the clerk's office. It is completed when the docket closes for the month.

E. ORAL ARGUMENT - COURT CALENDAR

1. A timely request for oral argument shall be granted on the vote of one judge; such request shall be circulated to the panel only if the judge to whom the case is assigned votes to deny it. (**Source:** Minutes, June 1995 Banc meeting).
2. An out-of-time request for oral argument shall be granted or denied upon the vote of the judge to whom the case is assigned. An out-of-time request to argue shall not be circulated to the panel. (**Source:** Minutes, February 1996 Banc meeting).

XIV. INQUIRIES REGARDING CASES

- A. Any inquiry by phone or visit or letter from the media, a litigant, attorney, witness, or party to a case currently pending, or past or future, shall be referred to the clerk/court administrator of the court. This shall include but not be limited to inquiries regarding status of the case or to whom assigned.
- B. All communications with the clerk/court administrator's office with regard to the necessity of communicating with or giving directions to the lower court clerk's office must be made through the judge to whom the case has been assigned.

shares, one share for each judge. (**Source:** September 1996 Banc meeting).

For any amount more than \$500, a request shall be submitted to the Executive Council and the Executive Council may approve or disapprove such request.

- C. The fiscal officer shall carefully review all travel expense statements of judges and other court personnel to ascertain if such travel expense statements are in conformity with court travel policy and the state-wide travel regulations.

If the judge and the court fiscal officer cannot agree upon the interpretation of the court travel policy, then the matter shall be submitted to the Executive Council for final resolution.

XIII. TRAVEL POLICY

A. Judges will be reimbursed for travel expenses for court related travel in accordance with state-wide travel regulations, except as § 45-7-20 may otherwise control. The court recognizes there is a need for continuing judicial education and the court has a requirement that each judge of the court receive 12 hours of mandatory continuing judicial education each year. To that end, judges should actively participate as lecturers, writers, and students and contribute, wherever possible, to the improvements of the legal profession and the administration of justice through independent and bar related conferences and associations.

1. The court's travel budget shall be divided into 13 equal shares by the fiscal officer as soon as practicable after the beginning of the new fiscal year. The Chief Judge shall be entitled to two shares of the travel budget and each other judge shall be entitled to one share of the travel budget. Two shares of the travel budget shall be reserved for the general travel fund. (Source: September 1996 Banc meeting).
2. Each judge may use his/her share of the court's travel budget for court related travel in or out of the state.
3. Any judge who wishes to utilize travel funds in excess of his/her share must request additional monies from the general travel fund. Such request must be made to the Executive Council and the Executive Council may approve or disapprove such request.
4. Any travel funds not utilized by an individual judge shall lapse into the general travel fund. Any judge may direct all or part of his/her share of the travel funds to the general travel fund.

All employees and court personnel, other than judges, shall be subject to the state-wide travel regulations. Any approved travel for non-judicial personnel of the court shall be reimbursed out of the general travel fund.

B. Tuition and scholarship registration. The fiscal officer shall as soon as practicable after the beginning of the new fiscal year, divide the portion of the court's budget which is set aside for tuition and scholarships into ten equal

XII. MEDIA COVERAGE OF COURT PROCEEDINGS

- A. The clerk/court administrator shall serve as the public information officer for the Court and shall disseminate any news articles relating to the Court or press releases as deemed appropriate by the Court.
- B. News coverage in the courtroom via audio and visual recording and transmitting equipment shall be allowed in the courtroom pursuant to the Court's order of February 23, 1994 attached hereto as Appendix 5.
- C. If any judge or administrative assistant is contacted by any news media, that fact should be referred to the public information officer who shall contact the news media representative, ascertain what information is sought by the news media and communicate that fact to the individual judge, the court, or Chief Judge, where appropriate. After the individual judge, the court or Chief Judge of the court has made the decision regarding the course of action, the public information officer will then appropriately advise the news media.

**XI. PROTOCOL AT SWEARING-IN CEREMONIES AND
OTHER OCCASIONS SUCH AS RETIREMENT TRIBUTES,
MEMORIALS FOR DECEASED JUDGES, ETC.**

- A. The clerk/court administrator shall set up protocol on festive occasions, jointly with the Supreme Court, by way of a letter distributed throughout the state advising of proper protocol for introductions. The letter, prepared by the clerks of the two courts, shall be sent as invitations are received to particular functions such as bar admission ceremonies, state bar meetings, and other public affairs.
- B. A memorial shall be published in the court's reports for any judge who has served on the court, regardless of where the judge serves thereafter. However, there will not be a tribute, i.e., a live presentation in the courtroom.
- C. There shall be only one memorial tribute per issue of the Georgia Appeals Report.

X. POLICY MATTERS AFFECTING BOTH APPELLATE COURTS

A. COURT OF APPEALS

1. Prior to the introduction thereof, the Court of Appeals will notify the Supreme Court and discuss any legislation which the Court is considering introducing in the Georgia General Assembly.
2. Prior to making any adjustment in the salary for the following personnel on either the Supreme Court or the Court of Appeals, the two courts will confer and make a diligent effort to reach agreement which will satisfy the needs of both courts: attorneys, administrative assistants, Clerk, Deputy Clerk, Fiscal Officer, Computer Technician, and Reporter of Decisions. (Source: September 1996 Banc meeting).
3. Prior to making any change in the Rules of the Court of Appeals, the court will confer with the Supreme Court.

B. SUPREME COURT

1. When the Supreme Court grants an interlocutory or discretionary appeal, it will keep and decide the case. When certiorari is granted on an interlocutory or discretionary appeal which the Court of Appeals has denied, and when the Supreme Court then reverses the denial of the application, the Supreme Court will keep the case and decide it on its merits.
2. Prior to changing the terms of the Supreme Court, the Supreme Court will confer with the Court of Appeals.
3. Prior to making an adjustment in the wages for the staff attorneys or administrative assistants, the Supreme Court will confer with the Court of Appeals and a diligent effort to reach agreement will be made.
4. Prior to making any changes in the procedural rules of the Supreme Court, the Supreme Court will confer with the Court of Appeals.
5. In the event the Supreme Court proposes legislation which affects the operation of the Court of Appeals, it will discuss such legislation with the Court of Appeals prior to its introduction.

- e. If any floating administrative assistant is not assigned to a particular judge's office on any day, or finishes an assignment prior to the end of the day, the clerk/court administrator shall assign the floater in accordance with written requests received in the Clerk's office on that day. If any floating administrative assistant remains unassigned after all written requests have been filled, said administrative assistant shall be assigned by the clerk/court administrator to a task in the clerk's office. (**Source:** Minutes, May 1996 Banc meeting).

P. COURT FLOWER FUND.

The court shall create a flower fund to provide funds for an appropriate expression of sympathy, joy, congratulations or recognition of achievement on certain occasions involving court personnel. The fund shall be administered through the flower fund guidelines. These guidelines are set out in Appendix 10. (**Source:** June 1995 Banc minutes). (Guidelines amended **Source:** May 1996, Banc minutes).

on a permanent basis during the term of said judge's service as Chief Judge of this Court.

- b. On days when the Chief Judge does not utilize the services of the Floating Administrative Assistant assigned to his/her office, said Floating Administrative Assistant shall report to the Clerk for assignment in the floater pool or as otherwise directed by the Clerk.
- c. Should the Floating Administrative Assistant assigned to the Chief Judge complete all tasks and duties assigned by the Chief Judge to the Floating Administrative Assistant before the end of the day, then the Floating Administrative Assistant assigned to the Chief Judge shall report to the Clerk's Office for assignment by the Clerk.

(Source: September 1996 Banc meeting).

- 2. Floating Administrative Assistants shall be assigned to the individual offices on the following priority basis:
 - a. A judge's office that will be without an administrative assistant takes precedent over a judge's office who wants a floater to assist an administrative assistant.
 - b. If two or more judges' offices seek the assistance of a floater and each judge's office will be without that office's administrative assistant, then the office which requests first will have priority over those offices requesting later. Requests received concurrently will be assigned based on seniority.
 - c. If two or more judges' offices seek the assistance of a floater to assist the administrative assistant, then the office which requests first will have priority over those offices requesting later.
 - d. If a judge's office has an emergency situation which will require the use of the judge's administrative assistant as well as a floater, that judge may request of the judge who has requested a floater and who is without an administrative assistant that the judge release the floater to the judge whose administrative assistant is present but has a dire emergency. (Source: Minutes, March 1994 Banc meeting).

role; the court's chain of command; each person's area of responsibility; and the following:

1. Confidentiality.
2. Office hours.
3. Outside employment and activities, including political involvement.
4. Role of summer research associates.
5. Use of Lexis, Westlaw, Georgia Law on Disc, Shepard's, Shepard's on CD Rom, telephone, copy machine, postage machine, and court stationery.
6. Method for ordering supplies.
7. Handling of transcripts and briefs, e.g., no writing on briefs or transcripts.
8. Judge's preferences as to opinion drafting.
9. No smoking policy.
10. Health, Life Insurance and Retirement benefits.
11. Punctuality, sick leave, vacation, holidays, lunch breaks, absenteeism.
12. Parking arrangements.
13. Space allocation for staff attorneys.
14. Staff attorneys.
15. Continuing legal education.
16. Travel reimbursement.
17. Opinion drafting.
18. Proper attire.

N. COURT PARKING POLICY

Effective November 1, 1993, and henceforth, the parking spaces allocated to the Court of Appeals will be assigned in seniority order as they become available. If the most senior employee on the list already has a parking space in his/her own name, the Court of Appeals' space will go to the next person on the list. The list will be maintained in the Fiscal Office.

The above does not apply to spaces allocated for use by the judges. Ten spaces are set aside for the judges and will be assigned on a seniority basis.

O. FLOATING ADMINISTRATIVE ASSISTANTS

1. A Floating Administrative Assistant shall be assigned to the Office of the Chief Judge on the following basis:
 - a. The Chief Judge shall have a Floating Administrative Assistant assigned to his/her office

2. The court will no longer reimburse for transportation, travel, and/or subsistence for staff attorneys to attend the annual State Bar Convention, other than to pay for the cost of actual CLE attended. The court will allow court leave for attendance at CLE attended at the State Bar.
3. Staff Attorneys shall satisfy all CLE requirements incumbent upon members of the Bar to include alternative dispute resolution training. (Source: November 1996 Banc meeting).
4. These rules do not apply to judges.

K. MAIL CLERK/FILE CLERK

The mail clerk/file clerk will perform those duties assigned to the him/her by the clerk/court administrator of the Court of Appeals. The mail clerk/file clerk is not available to perform personal errands, and/or banking for any court personnel, including judges. Any court personnel desiring to use the mail clerk/file clerk for any duties or tasks not assigned to the mail clerk/file clerk shall clear such requests through the clerk/court administrator of the Court.

L. FLOATING STAFF ATTORNEYS/CENTRAL STAFF ATTORNEYS

1. Requests for leave shall be made in writing to the Judge in charge of the Floating Staff Attorneys/Central Staff Attorneys, which Judge shall keep the leave record and send it to the fiscal officer. The judge to whom the floating staff attorney is assigned shall determine the time of the daily arrival and departure.
2. The judge in charge of the Floating Staff Attorneys/Central Staff Attorneys shall schedule the assignments of the Floating Staff Attorneys to the judges' offices on this court.

M. NEW EMPLOYEE ORIENTATION GUIDELINE

The judge hiring the employee, the fiscal officer and/or the clerk/court administrator where appropriate, should direct new employees to the Internal Operations Manual and the Rules of the Court of Appeals for specifics about the court and the court's fiscal policies. Also, new employees should be oriented on the role of the judiciary; the important part each employee plays in fulfilling the court's public service

1. Documented Period:

Officially certified records kept on each individual employee reflecting the amounts of sick and annual leave accumulated and used.

2. Undocumented Period:

For periods of time where no officially certified leave records were kept on employees, the forfeited leave computation of 12.5 days/year is to be used when certifying to the Employees' Retirement System in accordance with Act 761 of the 1985 General Session of General Assembly. (See Appendix 3.)

Effective July 1, 1994, employees who are members of the Employees' Retirement System "New Plan" can also receive service credit for unused annual and sick leave. However, such benefits shall be subject to reduction or repeal by subsequent legislation and shall not be considered an element of any contract of employment.

H. NAME ON DOOR

Staff attorneys shall not have their names on the office doors.

I. OFFICE HOURS

1. Office hours for each judge's office shall be left to the discretion of each judge.
2. The clerk/court administrator's office will be open to the public from 8:30 a.m. to 4:30 p.m.

J. CLE AND COURT LEAVE

1. The court will pay tuition for CLE seminars approved prior to attendance on approval request form (Appendix 4). Court leave will be granted for CLE. This shall be limited to the minimum CLE hours required and shall be subject to the approval of the judge with respect to time required as per the approval request form. Reimbursement for parking will be approved but there shall be no reimbursement for travel or subsistence. Any amount of continuing legal education over 12 hours must be approved in advance by the Executive Council.

court or any of its offices marries a sitting judge, that employee shall, at the instance of marriage, be terminated as an employee of the Court of Appeals of Georgia.

F. FRINGE BENEFITS

1. Every employee and every judge is subject to the mandatory retirement and life insurance coverage offered by the Employees' Retirement System.
2. Health insurance is optional for each judge and employee.
3. Other benefits that are available to employees of the Court of Appeals include, but are not limited to:
 - a. Life insurance
 - b. Employee dependent life insurance
 - c. Accidental death and dismemberment insurance
 - d. Short term/long term disability insurance
 - e. Legal insurance
 - f. Dental insurance
 - g. Medical and child care spending accounts
 - h. Long term care
 - i. Deferred compensation
 - j. Credit union membership
 - k. Direct deposit

G. FORFEITED LEAVE POLICY

Annual and sick leave accumulations shall be determined in accordance with the rates of accumulation of leave specified by the Rules and Regulations of the State Personnel Board governing classified employees. (See Appendix 2.)

Terminated employees will be paid for up to a maximum of 45 days of unused annual leave.

Employees who are members of the Employees' Retirement System "Old Plan" may receive service credit for unused annual and sick leave to be used toward any available retirement benefits.

The period of time for which there are departmental records on the accumulation and use of annual and sick leave shall be known as the documented period, and the period of time for which there are no departmental records shall be known as the undocumented period.

history of the employee, a complete leave history of the employee and a fiscal note stating whether or not the Court has funds available for any salary increase and from which source or sources those funds are available.

- d. The judge in charge of the Clerk's Office shall indicate on the report whether that judge recommends or does not recommend the proposed salary adjustment.
- e. The Clerk/Court Administrator shall circulate a copy of the report and fiscal note along with the recommendation of the judge in charge of the Clerk's Office to all of the judges prior to the next scheduled Banc Meeting, at which time the Banc will take up the proposed salary adjustment.
(Source: November, 1996 Banc Meeting)

D. PRACTICE OF LAW

1. Staff attorneys and other personnel shall not engage in the practice of law as defined in OCGA § 15-19-50, whether for remuneration or not, except in the furtherance of the business of the court.
2. Staff attorneys and other personnel should regulate their extra judicial activities to minimize the risk of conflict with their judicial duties and they should not engage in any activities that would detract from the dignity of their office or the court.
3. Staff attorneys and other personnel should refrain from inappropriate political activity.

E. EMPLOYMENT APPROVAL

1. The employment of the clerk/court administrator, deputy administrator, deputy clerk, fiscal officer, floating staff attorneys, computer specialists, central staff attorneys, and floating administrative assistants shall be by the Court sitting en banc. A written application shall be made on a "personnel history form." Each judge is free to hire and fire his/her staff.
2. No person who is related by blood or marriage to a sitting judge on the Court of Appeals is eligible for employment or to continue in employment by the court or any of its offices. In the event an employee of the

If an employee suffers a lengthy sickness and uses all accumulated sick leave, it is up to the discretion of the judge whether additional days be charged against excess annual leave or the 21-day actual yearly vacation leave. Also in the judge's discretion is when the employee takes the 21 days. (See Appendix 2.)

4. All employees of the Court of Appeals of Georgia will be subject to the Family Medical Leave Act and shall have the benefits thereof.

C. SALARIES

1. As determined by the court and legislature. Categories by experience are generally in line with the State Merit System. "Experience" means years since admission to any Bar together with active practice of law and service as staff attorneys of this Court or the Supreme Court. (Source of this sentence: Order of 9/30/64, as stated in Minute Book 15, p. 294) One-half of the salaries of the Reporter, Assistant Reporter, Assistant to the Reporter, and Reporter's Clerk, all as set by the Supreme Court, shall be paid by the Court of Appeals.

The salaries of the staff attorneys and of the Deputy Clerk shall be the same as those respective positions in the Supreme Court insofar as possible. The salaries of Research Associates (summer interns) shall be set by the Court.

2. Employees are entitled to retain juror and witness fees earned by them and to take court leave for such service.
3. The following procedure shall be followed for any salary adjustment for Clerk's Office personnel and floating administrative assistants which is not a regular salary scale adjustment, a cost of living increase, merit increase or the like.
 - a. The Clerk/Court Administrator shall present the judge in charge of the Clerk's Office with a report stating the requested salary adjustment and the reasons therefore.
 - b. The report shall contain a work history and salary history of the employee while at the Court of Appeals.
 - c. The Fiscal Officer shall present the Judge in charge of the Clerk's Office with a complete fiscal

IX. PERSONNEL

A. EQUAL OPPORTUNITY

It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment to all employees and applicants for employment on a non-discriminatory basis. No person shall, on the basis of race, color, religion, national origin, age, sex, or mental or physical handicap be excluded from employment by, participation in, be deprived of, or be subject to discrimination. It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment, compensation, promotion, training, and other conditions of employment, on the basis of assessed qualifications, responsibility level and demonstrated performance.

B. ANNUAL AND SICK LEAVE POLICY AND RECORDS

1. All staff will keep a record of the exact dates of any leave taken, on a form provided by the fiscal officer and approved by the Chief Judge. The form shall include the type of leave, and shall be submitted to the fiscal officer at the end of each month, signed by the employee and the judge. The form shall constitute the official public records for retirement and other official purposes. Accrued annual leave is the difference between how much annual leave a person was entitled to earn (Reg. B. Par. B201 governs, based on years of service) and the amount of time actually taken (depending on the Judge's policy) since the date of employment. (See Appendix 2.)
2. Allowing compensatory time to staff attorneys shall be up to the discretion of each judge, but it shall add no monetary cost to the court.
3. Vacation time of employees is not to be used in excess of that earned during the current year (maximum of 21 working days, excluding weekends and holidays.) The period for computing vacation time runs from July 1 to June 30, beginning in 1986. Leave earned which is in excess of that allowed for actual vacation leave will carry over and accumulate up to a maximum of 45 days and be paid for when the employee leaves the court.

VIII. EQUIPMENT INVENTORY

- A. An inventory of the state-owned equipment and furnishings of each judge's office, which shall include the equipment and furnishings of the administrative assistant and the staff attorneys, wherever their offices are located, shall be kept by the fiscal officer, with a copy available to each judge upon request. The inventory shall be updated periodically, but at least annually as of June 30 of each year, and when the judge leaves office. The inventory shall contain state property inventory numbers which shall be cross-referenced to the judge's office.
- B. It is the general policy of this court that no inventory will be transferred between any offices in this court.
- C. Whenever any equipment inventory is transferred to a judge's office from any other office in this court, that transfer will be affected only upon approval of the court en banc, and upon the execution of the appropriate inventory transfer forms, and upon the delivery of such forms to the fiscal officer.
- D. This shall not apply to computers and other technical hardware which may, from time to time, be replaced or transferred by the court technical support services.

(See Appendix 1.)

VII. LIABILITY COVERAGE

A. BONDING OF COURT EMPLOYEES

All employees of the Court of Appeals are covered by a blanket faithful performance bond in the amount of \$100,000 and a blanket honesty bond in the amount of \$5,000,000 under Policy No. 1450 00 110723 Wausau Insurance Company and Westchester No. 626 011675 2, dated October 1, 1989 and in effect until 9/30/98.

The fiscal officer shall be bonded in the amount of \$100,000.

B. COMPREHENSIVE GENERAL LIABILITY COVERAGE

A single liability insurance policy shall provide coverage for each employee and each judge on the court. Certification of coverage shall be supplied to each judge annually, Policy No. CGL-401-14-96 providing \$1,000,000 per person and \$3,000,000 per occurrence coverage, policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

C. STATE TORT CLAIMS POLICY

There is a single liability insurance policy providing coverage under the State Tort Claims Policy No. TCP-401-14-96 providing \$1,000,000 per person coverage or \$3,000,000 aggregate per occurrence coverage policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

D. COPIES OF THE ABOVE POLICIES ARE AVAILABLE FOR INSPECTION IN THE FISCAL OFFICE.

In addition, the Department of Administrative Services has purchased a \$25,000,000 excess policy with Lexington Insurance Co., which provides liability coverage to State employees in conjunction with the State Employees Self-Insurance Liability Trust Fund. These employee coverages are designed to protect individual employees from suits brought against them in their individual capacities in actions brought pursuant to 42 U.S.C. § 1983, primarily in federal court.

VI. PROCEDURE FOR HANDLING SUPERSEDEAS BOND IN CRIMINAL CASES

- A. Where the defendant is in prison during appeal, that appeal should be expedited according to OCGA § 5-6-43 (c). It shall be the duty of the trial clerk and/or appellant to notify the court of incarceration of the appellant.
- B. Where the defendant files a notice of appeal on the issue of the denial of a supersedeas bond, the judge to whom the case is assigned has the option to require shorter time for briefing, expediting the transmission of the transcript or ruling *instanter*.
- C. There is no right to bail after conviction. OCGA § 5-6-45. However, the judge to whom the case is assigned may apply the standards in Birge v. State, 238 Ga. 88 and, if appropriate, remand the case to the trial court for the setting of an appropriate and reasonable bond. (**Source:** Beasley, Appellate Practice Lecture, April 1994).

**V. PROCEDURE FOR HANDLING APPLICATIONS
FOR INTERLOCUTORY APPEALS**

- A. Interlocutory applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the interlocutory application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the interlocutory application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may review a motion for reconsideration which is filed within ten days from the entry of the court order granting or denying the application for interlocutory appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, such as when an application is made and direct appeal is the proper procedure.
- E. Regarding the timeliness of the filing of an interlocutory appeal application, the filing date of the certificate controls.

IV. PROCEDURE FOR HANDLING APPLICATIONS FOR DISCRETIONARY APPEAL

- A. Discretionary applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the discretionary application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the discretionary application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may consider motions for reconsideration of applications for discretionary appeals that are filed within ten days from the entry of the court's order denying or granting the application for discretionary appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, such as when an application is made and direct appeal is the proper procedure.
- E. Appeals from cases involving petitions for adoption shall be in the direct appeal category, whether the adoption was granted or denied, and whether a termination of parental rights was involved or not.

III. JUDGES' RETIREMENT PRESENTATIONS

A. PRESENTATION

A plaque with the judge's name and appropriate inscription shall be presented by the Court.

B. COURT TRIBUTE

Court Tribute on the day of retirement.

C. PORTRAITS

1. Upon retirement from this Court, any judge who has served as Chief Judge of this Court shall have his/her portrait hung in the courtroom. The cost of the portrait shall be borne by the Court, but the judges are encouraged to seek private funding for the portrait.
2. The portrait shall remain in the courtroom until it is retired to the hall or appropriate State institution. At the time of the retirement of the portrait, if it has been purchased with private funds, it will be offered to the family. If the portrait has been purchased with State funds, it will be offered for purchase to the family at the cost of the portrait to the State. The Executive Council will determine the appropriate number of portraits for the courtroom, the byway and the hall way.
3. The portraits will be rotated around the courtroom in seniority from the left corner using only the side walls.

II. ADMINISTRATIVE ASSIGNMENTS

- A. All administrative duties of any judge in charge may be designated in whole or part to the clerk/court administrator, upon approval of the Chief Judge.
- B. All ad hoc assignments for the clerk/court administrator shall first be cleared through the Chief Judge.

4. Conferring with each presiding judge for policies peculiar to each panel with view of striving for uniformity.
5. Review similar rules and manuals of other courts, ABA, and other organizations for new ideas to improve the operation of this court.
6. The table of contents and each section or part prepared for inclusion in the Manual shall be circulated to the court and receive a majority vote before being placed in the Manual for observance by the court.

M. COURT PERSONNEL COMMITTEE

The Court Personnel Committee shall be responsible for hearing appeals from Clerk's Office personnel pursuant to disciplinary action taken against such personnel by the clerk/court administrator under the Clerk's Office Policies and Procedures Manual. (**Source:** Minutes, June 1995 Banc Meeting)

4. On purchases or any expenditure from court funds in excess of \$500, other than for travel and salaries, refers such request with recommendation to the Chief Judge for action by the Executive Council.
5. If disapproval is indicated by either the judge-in-charge or council, the requesting judge shall be given the opportunity to be heard before final action is taken.
6. Each purchase request shall be dated and shall contain the anticipated cost before submission to the fiscal officer and initialed by the fiscal officer as to availability of funds.
7. A sufficient quantity of items that are kept in stock such as yellow pads, pens, paper, etc., should be requisitioned by each judge on a monthly basis. All purchase orders or requisition forms for anything must be approved by the judge.
8. Responsible for preparation of draft and amendments on purchasing section in the Manual for Internal Operations.
9. In the event the judge-in-charge of the Purchasing Committee is absent, the purchase request shall be presented to the Chief Judge. If both are absent, the purchase request shall be presented to the judge next in line of succession for the Chief Judge.
10. The reporter will follow the court travel and purchase policies.

See also, XVI PURCHASING POLICY.

L. MANUAL FOR INTERNAL OPERATIONS

The clerk/court administrator shall be responsible for drafting and keeping current a loose leaf manual for internal operations, Court of Appeals of Georgia, by:

1. Reviewing all previous minutes of the court.
2. Reviewing any constitutional or statutory enactment that could be construed to pertain to the internal operation of the court.
3. Conferring with each judge on the court to ascertain and reduce to writing the oral policies and procedures now in existence.

- b. Work load in a 5-year increments.
 - c. Future space requirements.
 - d. Future judicial and support personnel.
 - e. Extensive renovation or replacement of furniture and equipment requiring special budgetary request.
2. Prepares cost estimate to effectuate plans the full court believes should be actively pursued.

J. RULES OF THE COURT

Judge in Charge: _____

1. Along with the clerk/court administrator, responsible for drafting new and revised rules of court.
 - a. The clerk/court administrator shall maintain a file of proposed rules to be considered at the next revision.
 - b. The clerk/court administrator shall review rules of other courts with view of improving our own.
2. Proposes any new or revised rule to Chief Judge and Executive Council that is of such urgent nature that cannot await next formal revision. If deemed meritorious, the Chief Judge will present it to the court en banc.

K. PURCHASING COMMITTEE

Judge in Charge: _____

1. Receives all purchase requests from the fiscal officer, to whom the requester shall submit them directly. All requests from a judge's office must be signed by the judge. The fiscal officer will check the request for completeness and otherwise.
2. Examines and determines need therefor and whether funds are budgeted or otherwise available.
3. On purchases up to \$500 approves or disapproves such request and returns to fiscal officer if approved and to requester if disapproved.

- d. Recommends personnel salary changes for Clerk's Office personnel. Whenever the Administrator/Clerk believes a salary adjustment is appropriate, the Administrator/Clerk will prepare a memorandum to the Judge in Charge of the Clerk's Office setting out the individual's work history and salary history with the Court. The memorandum will also state the salary adjustment and its basis and would include, from the Fiscal Officer, a work, salary and leave history and a fiscal note stating whether the raise was within budget and from what source the money would come. The Administrator/Clerk will circulate a copy of the memorandum to all Judges in the Administrator/Clerk's report prior to the Banc meeting. The Judge in Charge of the Clerk's Office will offer a recommendation to the Judges as to the approval or disapproval of such requested action.
 - e. Determines that all personnel are sufficiently trained to perform their assigned duties and that the clerk and deputy clerk are sufficiently knowledgeable with every operation of the office to the extent that they could perform such functions in the absence of an employee or in an emergency.
2. Insures office personnel adhere to all written rules, procedures, policies and laws, particularly the office policies of the clerk's office, Court of Appeals of Georgia (a copy of which is in the clerk's office and the fiscal officer's office and incorporated herein by reference.)
 3. Receives and acts on all complaints from judges, attorneys, or other persons having contact with the clerk's office.
 4. Assigns Floating Administrative Assistants in accordance with the floater assignment policy.
 5. Receives and acts on all requests for reservations for the conference room, courtroom and the banc room. (Source: Minutes, June 1995 Banc meeting)

I. PLANNING AND FACILITIES MANAGEMENT

The clerk/court administrator:

1. Projects and prepares plans for:
 - a. Renovation of existing space when needed.

G. EMERGENCY MOTIONS JUDGE

Judge in Charge: _____

1. The judge designated as the Emergency Motions Judge is authorized to handle on an ex parte and immediate manner those matters of urgency in which there is no pending case. Included in such category are:
 - a. Applications for stay.
 - b. Motions for extension of time that have become an emergency through no fault or neglect of the petitioner.
 - c. Other motions of a similar nature.
2. If doubt exists as to whether a particular motion should be handled routinely or specially, the clerk's office shall immediately cause the material to be hand carried to the Emergency Motions Judge for decision.
3. In his/her absence, the most senior judge present is authorized to act.

H. OFFICE OF THE CLERK/COURT ADMINISTRATOR

Judge in Charge: _____

1. The Judge in Charge of the Clerk's Office shall be the Judge next in line to be Chief Judge. (**Source:** November 1996 Banc meeting.) The clerk/court administrator of the Court of Appeals shall be responsible for the general oversight of operation of the clerk's office in consultation with the judge in charge to include:
 - a. Planning for layout, work flow, more efficient equipment, and future requirements projected for the court.
 - b. Determines appropriate number of persons needed for the most efficient and economical operation of the clerk's office.
 - c. Resolves matters of personnel discipline, termination of employment, and employment of replacement personnel. Proposed personnel actions pertaining to the clerk or deputy clerk shall be presented to the court en banc. No employee with 15 years' service, or more, shall be involuntarily separated without approval of the court.

E. HISTORICAL RECORDS

The clerk/court administrator:

1. Prepares and maintains records, pictures, news stories, and documents of a historical nature pertaining to the court.
2. Prepares and revises as necessary a brochure to include a narrative history, list of past judges, and pictures and biographies of judges presently on the court.
3. Searches for and obtains old group photographs of judges and places them in a room or area designated by the court en banc.
4. The clerk/court administrator shall be responsible for the preparation and drafting of amendments on sections pertaining to historical records in the Internal Operations Manual.

F. LEGISLATION

Judge in Charge: _____

1. Keeps current with and explains all bills in a timely fashion that should be brought to the attention of the full court.
2. Maintains a file on laws or code sections that are called to his/her attention as being in conflict by other members of the court, such as those which contain typographical errors, are incomprehensible, or otherwise in need of revision, as discovered in preparation of opinions, and prior to each session of the Legislature discusses with the full court those laws that should be brought to the attention of appropriate legislators.
3. The clerk/court administrator shall be responsible for drafting any amendments on this section pertaining to legislation for the Internal Operations Manual as well as being responsible for adopting a procedure to facilitate paragraph 2 above.

C. BUDGET COMMITTEE

The Chief Judge in consultation with the Fiscal Officer:

1. Prepares response to audit, if necessary, for consideration of the court and signature of the Chief Judge.
2. Conducts such internal or external audits as deemed necessary.
3. Periodically examines fiscal officer's journal, ledger, or similar records to see that postings are current; examines expenditures for supporting documents, and checks any fiscal record deemed necessary.
4. Makes all reports and recommendations directly to the full court.
5. The clerk/court administrator shall be responsible for preparation of drafting amendments on sections pertaining to the Budget Committee of the Internal Operations Manual.

D. EN BANC SECRETARY

1. The clerk/court administrator of the Court of Appeals shall serve as en banc secretary and shall be responsible for the preparation of minutes and the submission of the minutes to the Chief Judge who will preliminarily check the minutes for correctness and return them to the clerk/court administrator. Copies of the proposed minutes will then be sent to each judge prior to the next scheduled meeting.
2. The minutes will be presented to the next en banc and after approval shall be placed in the En Banc Minute Book.
3. The clerk/court administrator shall keep the Official Minute book, which shall consist of all past minutes which are still available from any judge and minutes of all meetings after they are approved at the following meeting. Minutes shall be summaries of discussions. (Source: Minutes of 1/24/94).

I. DUTIES

A. CHIEF JUDGE

1. The Chief Judge shall be chosen by the judges of the court for a term of two years; and thereafter, automatic rotation of the office of the Chief Judge among the members of the court shall be based on seniority of service on the Court of Appeals. If a vacancy occurs for any reason, a successor shall be chosen promptly and his/her term shall begin as of the date of such selection. In the event a judge leaves the court for any reason, his/her successor on the court shall not stand in his/her stead of priority in serving as Chief Judge, but the successor goes to the bottom of the list as junior judge. A judge on becoming eligible for selection as Chief Judge may waive all or any part of the term to which he/she is entitled.
2. If the Chief Judge is absent or otherwise unable to discharge his/her duties, the judge next in the line of succession for Chief Judge is authorized to perform any emergency or otherwise urgently required duty of the Chief Judge pending his/her return to duty.
3. The Chief Judge is responsible for the administration of the court and the dispatch of its business. The responsibilities include:
 - a. Insures that major policies and procedures for the operation of the court have been established by a majority vote of the judges thereof, and acts within the scope of such authority.
 - b. Presides at meetings of the Executive Council and when the court is en banc, and shall prepare and distribute a written agenda for the court the day prior to the meeting.
 - c. Supervises fiscal affairs, accounting, planning, preparation, and presentation of the budgets; and renders financial reports to the court and required agencies.

- d. Initiates policies concerning the court's internal operations and its position on external matters affecting the court.
- e. Appoints standing and special committees to aid in the administration of the court.
- f. Represents the court in its relations with the Supreme Court, other agencies of government, the bar, general public, news media, and ceremonial functions.
- g. Appoints Special Prosecutors in bar disciplinary matters.
- h. Supervises preparation of an annual statistical analysis report reflecting caseload of the court, and such other periodic reports deemed necessary by the court.
- i. Performs such other administrative duties as may be required and which are not otherwise provided for by law or rule.

B. EXECUTIVE COUNCIL

- 1. Shall be composed of the Chief Judge and the three Presiding Judges and shall act on all matters referred to the Chief Judge and Council as provided by committee assignments.
- 2. If not otherwise provided, shall determine which administrative matters should be presented to the full court.
- 3. Advise and counsel the Chief Judge on matters relating to the court.
- 4. If a tie vote occurs on a matter under consideration by the Chief Judge and Council, the matter shall be referred to the full court.
- 5. Purchases of \$500 or more shall be submitted to the Executive Council for consideration and approval.

C. BUDGET COMMITTEE

The Chief Judge in consultation with the Fiscal Officer:

1. Prepares response to audit, if necessary, for consideration of the court and signature of the Chief Judge.
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 - a. Renovation of existing space when needed.

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See also, XVI PURCHASING POLICY.

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Court Tribute on the day of retirement.

C. PORTRAITS

1. Upon retirement from this Court, any judge who has served as Chief Judge of this Court shall have his/her portrait hung in the courtroom. The cost of the portrait shall be borne by the Court, but the judges are encouraged to seek private funding for the portrait.
2. The portrait shall remain in the courtroom until it is retired to the hall or appropriate State institution. At the time of the retirement of the portrait, if it has been purchased with private funds, it will be offered to the family. If the portrait has been purchased with State funds, it will be offered for purchase to the family at the cost of the portrait to the State. The Executive Council will determine the appropriate number of portraits for the courtroom, the byway and the hall way.
3. The portraits will be rotated around the courtroom in seniority from the left corner using only the side walls.

**IV. PROCEDURE FOR HANDLING APPLICATIONS
FOR DISCRETIONARY APPEAL**

- A. Discretionary applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the discretionary application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the discretionary application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may consider motions for reconsideration of applications for discretionary appeals that are filed within ten days from the entry of the court's order denying or granting the application for discretionary appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, such as when an application is made and direct appeal is the proper procedure.
- E. Appeals from cases involving petitions for adoption shall be in the direct appeal category, whether the adoption was granted or denied, and whether a termination of parental rights was involved or not.

**V. PROCEDURE FOR HANDLING APPLICATION
FOR INTERLOCUTORY APPEALS**

- A. Interlocutory applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the interlocutory application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the interlocutory application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may review a motion for reconsideration which is filed within ten days from the entry of the court order granting or denying the application for interlocutory appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, such as when an application is made and direct appeal is the proper procedure.
- E. Regarding the timeliness of the filing of an interlocutory appeal application, the filing date of the certificate controls.

VI. PROCEDURE FOR HANDLING SUPERSEDEAS
BOND IN CRIMINAL CASES

- A. Where the defendant is in prison during appeal, that appeal should be expedited according to OCGA § 5-6-43 (c). It shall be the duty of the trial clerk and/or appellant to notify the court of incarceration of the appellant.
- B. Where the defendant files a notice of appeal on the issue of the denial of a supersedeas bond, the judge to whom the case is assigned has the option to require shorter time for briefing, expediting the transmission of the transcript or ruling instanter.
- C. There is no right to bail after conviction. OCGA § 5-6-45. However, the judge to whom the case is assigned may apply the standards in Birge v. State, 238 Ga. 88 and, if appropriate, remand the case to the trial court for the setting of an appropriate and reasonable bond. (Source: Beasley, Appellate Practice Lecture, April 1994).

VII. LIABILITY COVERAGE

A. BONDING OF COURT EMPLOYEES

All employees of the Court of Appeals are covered by a blanket faithful performance bond in the amount of \$100,000 and a blanket honesty bond in the amount of \$5,000,000 under Policy No. 1450 00 110723 Wausau Insurance Company and Westchester No. 626 011675 2, dated October 1, 1989 and in effect until 9/30/96.

The fiscal officer shall be bonded in the amount of \$100,000.

B. COMPREHENSIVE GENERAL LIABILITY COVERAGE

A single liability insurance policy shall provide coverage for each employee and each judge on the court. Certification of coverage shall be supplied to each judge annually, Policy No. CGL-401-14-96 providing \$1,000,000 per person and \$3,000,000 per occurrence coverage, policy dates July 1, 1995 through June 30, 1996.

C. STATE TORT CLAIMS POLICY

There is a single liability insurance policy providing coverage under the State Tort Claims Policy No. TCP-401-14-96 providing \$1,000,000 per person coverage or \$3,000,000 aggregate per occurrence coverage policy dates July 1, 1995 through June 30, 1996.

D. COPIES OF THE ABOVE POLICIES ARE AVAILABLE FOR INSPECTION IN THE FISCAL OFFICE.

In addition, the Department of Administrative Services has purchased a \$25,000,000 excess policy with Lexington Insurance Co., which provides liability coverage to State employees in conjunction with the State Employees Self-Insurance Liability Trust Fund. These employee coverages are designed to protect individual employees from suits brought against them in their individual capacities in actions brought pursuant to 42 U.S.C. § 1983, primarily in federal court.

VIII. EQUIPMENT INVENTORY.

- A. An inventory of the state-owned equipment and furnishings of each judge's office, which shall include the equipment and furnishings of the administrative assistant and the staff attorneys, wherever their offices are located, shall be kept by the fiscal officer, with a copy available to each judge upon request. The inventory shall be updated periodically, but at least annually as of June 30 of each year, and when the judge leaves office. The inventory shall contain state property inventory numbers which shall be cross-referenced to the judge's office.
- B. It is the general policy of this court that no inventory will be transferred between any offices in this court.
- C. Whenever any equipment inventory is transferred to a judge's office from any other office in this court, that transfer will be affected only upon approval of the court en banc, and upon the execution of the appropriate inventory transfer forms, and upon the delivery of such forms to the fiscal officer.
- D. This shall not apply to computers and other technical hardware which may, from time to time, be replaced or transferred by the court technical support services.

(See Appendix 1.)

IX. PERSONNEL

A. EQUAL OPPORTUNITY

It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment to all employees and applicants for employment on a non-discriminatory basis. No person shall, on the basis of race, color, religion, national origin, age, sex, or mental or physical handicap be excluded from employment by, participation in, be deprived of, or be subject to discrimination. It is the policy of the Court of Appeals of Georgia to provide equal opportunity for employment, compensation, promotion, training, and other conditions of employment, on the basis of assessed qualifications, responsibility level and demonstrated performance.

B. ANNUAL AND SICK LEAVE POLICY AND RECORDS.

1. All staff will keep a record of the exact dates of any leave taken, on a form provided by the fiscal officer and approved by the Chief Judge. The form shall include the type of leave, and shall be submitted to the fiscal officer at the end of each month, signed by the employee and the judge. The form shall constitute the official public records for retirement and other official purposes. Accrued annual leave is the difference between how much annual leave a person was entitled to earn (Reg. B. Par. B201 governs, based on years of service) and the amount of time actually taken (depending on the Judge's policy) since the date of employment. (See Appendix 2.)
2. Allowing compensatory time to staff attorneys shall be up to the discretion of each judge, but it shall add no monetary cost to the court.
3. Vacation time of employees is not to be used in excess of that earned during the current year (maximum of 21 working days, excluding weekends and holidays.) The period for computing vacation time runs from July 1 to June 30, beginning in 1986. Leave earned which is in excess of that allowed for actual vacation leave will carry over and accumulate up to a maximum of 45 days and be paid for when the employee leaves the court.

If an employee suffers a lengthy sickness and uses all accumulated sick leave, it is up to the discretion of the judge whether additional days be charged against excess annual leave or the 21-day actual yearly vacation leave. Also in the judge's discretion is when the employee takes the 21 days. (See Appendix 2.)

4. All employees of the Court of Appeals of Georgia will be subject to the Family Medical Leave Act and shall have the benefits thereof.

C. SALARIES

1. As determined by the court and legislature. Categories by experience are generally in line with the State Merit System. "Experience" means years since admission to any Bar together with active practice of law and service as staff attorneys of this Court or the Supreme Court. (Source of this sentence: Order of 9/30/64, as stated in Minute Book 15, p. 294) One-half of the salaries of the Reporter, Assistant Reporter, Assistant to the Reporter, and Reporter's Clerk, all as set by the Supreme Court, shall be paid by the Court of Appeals.

The salaries of the staff attorneys and of the Deputy Clerk shall be the same as those respective positions in the Supreme Court insofar as possible. The salaries of Research Associates (summer interns) shall be set by the Court.

2. Employees are entitled to retain juror and witness fees earned by them and to take court leave for such service.

D. PRACTICE OF LAW

1. Staff attorneys and other personnel shall not engage in the practice of law as defined in OCGA § 15-19-50, whether for remuneration or not, except in the furtherance of the business of the court.
2. Staff attorneys and other personnel should regulate their extra judicial activities to minimize the risk of conflict with their judicial duties and they should not engage in any activities that would detract from the dignity of their office or the court.
3. Staff attorneys and other personnel should refrain from inappropriate political activity.

E. EMPLOYMENT APPROVAL

1. The employment of the clerk/court administrator, deputy administrator, deputy clerk, fiscal officer, floating staff attorneys, computer specialists, central staff attorneys, and floating administrative assistants shall be by the Court sitting en banc. A written application shall be made on a "personnel history form." Each judge is free to hire and fire his/her staff.
2. No person who is related by blood or marriage to a sitting judge on the Court of Appeals is eligible for employment or to continue in employment by the court or any of its offices. In the event an employee of the court or any of its offices marries a sitting judge, that employee shall, at the instance of marriage, be terminated as an employee of the Court of Appeals of Georgia.

F. FRINGE BENEFITS

1. Every employee and every judge is subject to the mandatory retirement and life insurance coverage offered by the Employees' Retirement System.
2. Health insurance is optional for each judge and employee.
3. Other benefits that are available to employees of the Court of Appeals include, but are not limited to:
 - a. Life insurance
 - b. Employee dependent life insurance
 - c. Accidental death and dismemberment insurance
 - d. Short term/long term disability insurance
 - e. Legal insurance
 - f. Dental insurance
 - g. Medical and child care spending accounts
 - h. Long term care
 - i. Deferred compensation
 - j. Credit union membership
 - k. Direct deposit

G. FORFEITED LEAVE POLICY

Annual and sick leave accumulations shall be determined in accordance with the rates of accumulation of leave specified by the Rules and Regulations of the State Personnel Board governing classified employees. (See Appendix 2.)

Terminated employees will be paid for up to a maximum of 45 days of unused annual leave.

Employees who are members of the Employees' Retirement System "Old Plan" may receive service credit for unused annual and sick leave to be used toward any available retirement benefits.

The period of time for which there are departmental records on the accumulation and use of annual and sick leave shall be known as the documented period, and the period of time for which there are no departmental records shall be known as the undocumented period.

1. Documented Period:

Officially certified records kept on each individual employee reflecting the amounts of sick and annual leave accumulated and used.

2. Undocumented Period:

For periods of time where no officially certified leave records were kept on employees, the forfeited leave computation of 12.5 days/year is to be used when certifying to the Employees' Retirement System in accordance with Act 761 of the 1985 General Session of General Assembly. (See Appendix 3.)

Effective July 1, 1994, employees who are members of the Employees' Retirement System "New Plan" can also receive service credit for unused annual and sick leave. However, such benefits shall be subject to reduction or repeal by subsequent legislation and shall not be considered an element of any contract of employment.

H. NAME ON DOOR

Staff attorneys shall not have their names on the office doors.

I. OFFICE HOURS

1. Office hours for each judge's office shall be left to the discretion of each judge.
2. The clerk/court administrator's office will be open to the public from 8:30 a.m. to 4:30 p.m.

J. CLE AND COURT LEAVE

1. The court will pay tuition for CLE seminars approved prior to attendance on approval request form (Appendix 4). Court leave will be granted for CLE. This shall be limited to the minimum CLE hours required and shall be subject to the approval of the judge with respect to time required as per the approval request form. Reimbursement for parking will be approved but there shall be no reimbursement for travel or subsistence. Any amount of continuing legal education over 12 hours must be approved in advance by the Executive Council.
2. The court will no longer reimburse for transportation, travel, and/or subsistence for staff attorneys to attend the annual State Bar Convention, other than to pay for the cost of actual CLE attended. The court will allow court leave for attendance at CLE attended at the State Bar.
3. Staff Attorneys shall satisfy all CLE requirements incumbent upon members of the Bar to include alternative dispute resolution training. (Source: November 1996 Banc meeting).
4. These rules do not apply to judges.

K. MAIL CLERK/FILE CLERK

The mail clerk/file clerk will perform those duties assigned to the him/her by the clerk/court administrator of the Court of Appeals. The mail clerk/file clerk is not available to perform personal errands, and/or banking for any court personnel, including judges. Any court personnel desiring to use the mail clerk/file clerk for any duties or tasks not assigned to the mail clerk/file clerk shall clear such requests through the clerk/court administrator of the Court.

L. FLOATING STAFF ATTORNEYS/CENTRAL STAFF ATTORNEYS

1. Requests for leave shall be made in writing to the Judge in charge of the Floating Staff Attorneys/Central Staff Attorneys, which Judge shall keep the leave record and send it to the fiscal officer. The judge to whom the floating staff attorney is assigned shall determine the time of the daily arrival and departure.
2. The judge in charge of the Floating Staff Attorneys/Central Staff Attorneys shall schedule the

assignments of the Floating Staff Attorneys to the judges' offices on this court.

M. NEW EMPLOYEE ORIENTATION GUIDELINE

The judge hiring the employee, the fiscal officer and/or the clerk/court administrator where appropriate, should direct new employees to the Internal Operations Manual and the Rules of the Court of Appeals for specifics about the court and the court's fiscal policies. Also, new employees should be oriented on the role of the judiciary; the important part each employee plays in fulfilling the court's public service role; the court's chain of command; each person's area of responsibility; and the following:

1. Confidentiality.
2. Office hours.
3. Outside employment and activities, including political involvement.
4. Role of summer research associates.
5. Use of Lexis, Westlaw, Georgia Law on Disc, Shepard's, Shepard's on CD Rom, telephone, copy machine, postage machine, and court stationery.
6. Method for ordering supplies.
7. Handling of transcripts and briefs, e.g., no writing on briefs or transcripts.
8. Judge's preferences as to opinion drafting.
9. No smoking policy.
10. Health, Life Insurance and Retirement benefits.
11. Punctuality, sick leave, vacation, holidays, lunch breaks, absenteeism.
12. Parking arrangements.
13. Space allocation for staff attorneys.
14. Staff attorneys.
15. Continuing legal education.
16. Travel reimbursement.
17. Opinion drafting.
18. Proper attire.

N. COURT PARKING POLICY

Effective November 1, 1993, and henceforth, the parking spaces allocated to the Court of Appeals will be assigned in seniority order as they become available. If the most senior employee on the list already has a parking space in his/her own name, the Court of Appeals' space will go to the next person on the list. The list will be maintained in the Fiscal Office.

The above does not apply to spaces allocated for use by the judges. Ten spaces are set aside for the judges and will be assigned on a seniority basis.

O. FLOATING ADMINISTRATIVE ASSISTANTS.

1. A Floating Administrative Assistant shall be assigned to the Office of the Chief Judge on the following basis:
 - a. The Chief Judge shall have a Floating Administrative Assistant assigned to his/her office on a permanent basis during the term of said judge's service as Chief Judge of this Court.
 - b. On days when the Chief Judge does not utilize the services of the Floating Administrative Assistant assigned to his/her office, said Floating Administrative Assistant shall report to the Clerk for assignment in the floater pool or as otherwise directed by the Clerk.
 - c. Should the Floating Administrative Assistant assigned to the Chief Judge complete all tasks and duties assigned by the Chief Judge to the Floating Administrative Assistant before the end of the day, then the Floating Administrative Assistant assigned to the Chief Judge shall report to the Clerk's Office for assignment by the Clerk.

(Source: September 1996 Banc meeting).

2. Floating Administrative Assistants shall be assigned to the individual offices on the following priority basis:
 - a. A judge's office that will be without an administrative assistant takes precedent over a judge's office who wants a floater to assist an administrative assistant.
 - b. If two or more judges' offices seek the assistance of a floater and each judge's office will be without that office's administrative assistant, then the office which requests first will have priority over those offices requesting later. Requests received concurrently will be assigned based on seniority.
 - c. If two or more judges' offices seek the assistance of a floater to assist the administrative assistant, then the office which requests first

will have priority over those offices requesting later.

- d. If a judge's office has an emergency situation which will require the use of the judge's administrative assistant as well as a floater, that judge may request of the judge who has requested a floater and who is without an administrative assistant that the judge release the floater to the judge whose administrative assistant is present but has a dire emergency. (**Source:** Minutes, March 1994 Banc meeting).
- e. If any floating administrative assistant is not assigned to a particular judge's office on any day, or finishes an assignment prior to the end of the day, the clerk/court administrator shall assign the floater in accordance with written requests received in the Clerk's office on that day. If any floating administrative assistant remains unassigned after all written requests have been filled, said administrative assistant shall be assigned by the clerk/court administrator to a task in the clerk's office. (**Source:** Minutes, May 1996 Banc meeting).

P. COURT FLOWER FUND.

The court shall create a flower fund to provide funds for an appropriate expression of sympathy, joy, congratulations or recognition of achievement on certain occasions involving court personnel. The fund shall be administered through the flower fund guidelines. These guidelines are set out in Appendix 10. (**Source:** June 1995 Banc minutes). (Guidelines amended **Source:** May 1996, Banc minutes).

X. POLICY MATTERS AFFECTING BOTH APPELLATE COURTS

A. COURT OF APPEALS

1. Prior to the introduction thereof, the Court of Appeals will notify the Supreme Court and discuss any legislation which the Court is considering introducing in the Georgia General Assembly.
2. Prior to making any adjustment in the salary for the following personnel on either the Supreme Court or the Court of Appeals, the two courts will confer and make a diligent effort to reach agreement which will satisfy the needs of both courts: attorneys, administrative assistants, Clerk, Deputy Clerk, Fiscal Officer, Computer Technician, and Reporter of Decisions. (Source: September 1996 Banc meeting).
3. Prior to making any change in the Rules of the Court of Appeals, the court will confer with the Supreme Court.

B. SUPREME COURT

1. When the Supreme Court grants an interlocutory or discretionary appeal, it will keep and decide the case. When certiorari is granted on an interlocutory or discretionary appeal which the Court of Appeals has denied, and when the Supreme Court then reverses the denial of the application, the Supreme Court will keep the case and decide it on its merits.
2. Prior to changing the terms of the Supreme Court, the Supreme Court will confer with the Court of Appeals.
3. Prior to making an adjustment in the wages for the staff attorneys or administrative assistants, the Supreme Court will confer with the Court of Appeals and a diligent effort to reach agreement will be made.
4. Prior to making any changes in the procedural rules of the Supreme Court, the Supreme Court will confer with the Court of Appeals.
5. In the event the Supreme Court proposes legislation which affects the operation of the Court of Appeals, it will discuss such legislation with the Court of Appeals prior to its introduction.

**XI. PROTOCOL AT SWEARING-IN CEREMONIES AND
OTHER OCCASIONS SUCH AS RETIREMENT TRIBUTES,
MEMORIALS FOR DECEASED JUDGES, ETC.**

- A. The clerk/court administrator shall set up protocol on festive occasions, jointly with the Supreme Court, by way of a letter distributed throughout the state advising of proper protocol for introductions. The letter, prepared by the clerks of the two courts, shall be sent as invitations are received to particular functions such as bar admission ceremonies, state bar meetings, and other public affairs.
- B. A memorial shall be published in the court's reports for any judge who has served on the court, regardless of where the judge serves thereafter. However, there will not be a tribute, i.e., a live presentation in the courtroom.
- C. There shall be only one memorial tribute per issue of the Georgia Appeals Report.

XII. MEDIA COVERAGE OF COURT PROCEEDINGS

- A. The clerk/court administrator shall serve as the public information officer for the Court and shall disseminate any news articles relating to the Court or press releases as deemed appropriate by the Court.
- B. News coverage in the courtroom via audio and visual recording and transmitting equipment shall be allowed in the courtroom pursuant to the Court's order of February 23, 1994 attached hereto as Appendix 5.
- C. If any judge or administrative assistant is contacted by any news media, that fact should be referred to the public information officer who shall contact the news media representative, ascertain what information is sought by the news media and communicate that fact to the individual judge, the court, or Chief Judge, where appropriate. After the individual judge, the court or Chief Judge of the court has made the decision regarding the course of action, the public information officer will then appropriately advise the news media.

XIII. TRAVEL POLICY

A. Judges will be reimbursed for travel expenses for court related travel in accordance with state-wide travel regulations, except as § 45-7-20 may otherwise control. The court recognizes there is a need for continuing judicial education and the court has a requirement that each judge of the court receive 12 hours of mandatory continuing judicial education each year. To that end, judges should actively participate as lecturers, writers, and students and contribute, wherever possible, to the improvements of the legal profession and the administration of justice through independent and bar related conferences and associations.

1. The court's travel budget shall be divided into 13 equal shares by the fiscal officer as soon as practicable after the beginning of the new fiscal year. The Chief Judge shall be entitled to two shares of the travel budget and each other judge shall be entitled to one share of the travel budget. Two shares of the travel budget shall be reserved for the general travel fund. (Source: September 1996 Banc meeting).
2. Each judge may use his/her share of the court's travel budget for court related travel in or out of the state.
3. Any judge who wishes to utilize travel funds in excess of his/her share must request additional monies from the general travel fund. Such request must be made to the Executive Council and the Executive Council may approve or disapprove such request.
4. Any travel funds not utilized by an individual judge shall lapse into the general travel fund. Any judge may direct all or part of his/her share of the travel funds to the general travel fund.

All employees and court personnel, other than judges, shall be subject to the state-wide travel regulations. Any approved travel for non-judicial personnel of the court shall be reimbursed out of the general travel fund.

B. Tuition and scholarship registration. The fiscal officer shall as soon as practicable after the beginning of the new fiscal year, divide the portion of the court's budget which is set aside for tuition and scholarships into ten equal shares, one share for each judge. (Source: September 1996 Banc meeting).

For any amount more than \$500, a request shall be submitted to the Executive Council and the Executive Council may approve or disapprove such request.

- C. The fiscal officer shall carefully review all travel expense statements of judges and other court personnel to ascertain if such travel expense statements are in conformity with court travel policy and the state-wide travel regulations.

If the judge and the court fiscal officer cannot agree upon the interpretation of the court travel policy, then the matter shall be submitted to the Executive Council for final resolution.

XIV. INQUIRIES REGARDING CASES

- A. Any inquiry by phone or visit or letter from the media, a litigant, attorney, witness, or party to a case currently pending, or past or future, shall be referred to the clerk/court administrator of the court. This shall include but not be limited to inquiries regarding status of the case or to whom assigned.

- B. All communications with the clerk/court administrator's office with regard to the necessity of communicating with or giving directions to the lower court clerk's office must be made through the judge to whom the case has been assigned.

XV. CASE MANAGEMENT

A. COURT RECORDS

Except for persons assigned as backup and for lunch period, or as specifically authorized by the clerk/court administrator, all other court personnel, clerk's office included, must check out records from records clerk or acting records clerk. None but judges and their specific designees shall be permitted to take case records out of the building. At the discretion of each judge, briefs and draft opinions may be taken out by judges or their staff attorneys.

B. DOCKETING SHEET

A sheet which is sent to the administrative assistant from the clerk's office as each case is docketed. Cases shall be docketed within 24 hours after presentation to clerk's office.

C. PANEL LIST

First list of monthly cases for the panel which comes from the clerk's office after the docket is closed for each month. (This is the spread sheet which goes to each judge's office from the clerk's office.)

D. MONTHLY CASE NUMBER SHEET

A list which a judge's administrative assistant makes up of the cases assigned to that judge as the summary sheets are received by his/her office from the clerk's office. It is completed when the docket closes for the month.

E. ORAL ARGUMENT - COURT CALENDAR

1. A timely request for oral argument shall be granted on the vote of one judge; such request shall be circulated to the panel only if the judge to whom the case is assigned votes to deny it. (**Source:** Minutes, June 1995 Banc meeting).
2. An out-of-time request for oral argument shall be granted or denied upon the vote of the judge to whom the case is assigned. An out-of-time request to argue shall

not be circulated to the panel. (Source: Minutes, February 1996 Banc meeting).

3. The court shall publish a printed list of names and numbers of cases and the order in which they will be heard in court. In the event of attorney time conflicts in court settings, the court will do the best it can to conform to the policy set out in the state/federal court resolution and will try to work out the conflict with the other judge involved.

F. BENCH DOCKET

The clerk/court administrator shall maintain a list of cases which will be argued. The bench docket shall include the names of the attorneys and the identification of any pro se parties. The docket shall be maintained in the clerk's office and shall be brought into the courtroom during oral arguments.

G. DOCKETING SYSTEM

1. The clerk's office shall maintain a computerized docketing system which shall be approved by the court.
2. The system shall also be backed-up daily to a hard disc and weekly to a magnetic tape stored off site. The system shall also be backed up with a hard copy maintained in the clerk's office.
3. The court shall review the docketing system periodically, making changes where appropriate and after consultation with the court data processing personnel and the clerk/court administrator.
4. The clerk's office shall provide a view only terminal in the public area of the clerk's office for public access and viewing of the court's docket. (Source: Minutes, February 1996 Banc meeting).

H. COURT MINUTES & INDEX

The Minute Book of the court shall be kept in the office of the clerk/court administrator. The minutes shall be generated by the data processing personnel on an annual basis or more often if required by the court. (Everything that goes into the system, that is, the computerized docket, is printed out and maintained in a hard copy in the clerk's office.)

I. CIRCULATION OF CASES

1. Each case will go to the other two judges on the division for review and initials. If one writes a dissent, the case must be shown to the judge to whom the case is assigned, and shown again to the other judge if he/she has already voted, and then it must be marked "Whole Court" and circulated. The prevailing judge will put the case out, correcting the judgment line on the last page of the opinion to include those concurring and those dissenting.
2. If a judge writes a special concurrence, it is not necessary to circulate to the whole court unless it is otherwise a whole court case, but it is necessary that the opinion be shown to the assigned judge and the other judge on the division. Any time something new has been written, the case must be recirculated to all who have seen it before. Any memo or writing between judges shall be dated so as to show chronology, should circulate to author of the opinion first, and then recirculate.

J. DISSEMINATING CASES

1. After all the necessary judges have initialed the draft and it is returned to the assigned judge, the administrative assistant shall prepare the final opinion, photocopy eleven copies, put a brad in the original, staple remaining copies, complete the judgment line, and take the record with the original and nine copies to the clerk's office to be disseminated. If there are any dissents or special concurrences, they also must be collected and assembled behind the majority opinion before dissemination of the case. The judgment line must be changed to reflect any dissents or special concurrences. At the option of the judge-in-charge, photocopies shall be made by the clerk/court administrator's office.
2. Opinions shall be released in any case whenever ready and in conformity with OCGA Section 15-2-4 (c), but not before oral argument if requested or the last date upon which oral argument may be requested. (Source: January 1994 Banc meeting).
3. Examples of proposed, suggested and approved judgment lines are attached in Appendix 9 and should be used whenever possible to maintain uniformity.
4. In certain cases involving security risks, judgment lines may disseminate as "Division Per Curiam, All Judges Concur." (Source: Minutes, January 1996 Banc meeting).

5. If the original opinion is published and the Supreme Court reverses the opinion, the rewritten opinion shall be published. (**Source:** January 1996 Banc meeting).

K. MOTIONS FOR RECONSIDERATION

1. If the case returns, the assigned judge will review and initial it and circulate it to the judges who originally voted on it. When all reconsideration work has been done, the case shall then be taken back to the clerk/administrator's office to be disseminated.
2. If the motion for reconsideration is granted and if the judgment line changes, an order granting the motion for reconsideration shall go out and the new opinion shall go out.
3. The clerk/court administrator shall not refuse to accept tardy motions for reconsideration. Generally, untimely motions for reconsideration will be dismissed, however, the judge to whom the case is assigned may take into consideration the reasons for the untimeliness, such things as problems with mail delivery.
4. Second motions for reconsideration will be dismissed if they are not accompanied by a motion for permission to file second motion for reconsideration.
5. If there is a dissent on reconsideration, the case goes to a seven judge court, or, if the Court deems it appropriate, whole court. In addition to the "blue slip," the circulating judge should provide the usual place for judges to initial "concur" or "dissent." (**Source:** September 1996 Banc meeting).
6. When an opinion is changed by substitute pages or other revisions on rehearing or for other reasons, the office of the judge to whom the case is assigned is responsible for putting the revised opinion together and submitting it to the clerk/court administrator's office.

L. ASSIGNMENT OF CASES

1. Cases are assigned on a strict automatic rotation basis, except for companion cases and pre-assigned cases. There shall be two wheels for direct appeals: civil and criminal. There shall be two wheels for applications: interlocutory and discretionary. Each judge shall receive, as nearly as possible, an equal number of civil direct appeals and criminal direct appeals throughout the docket year. Except for the Chief Judge, who will not receive applications, each judge shall receive, as nearly as possible, an equal number of interlocutory and

discretionary applications throughout the year.
(Source: September 1996 Banc meeting).

2. Separate appeals by joint defendants shall be assigned to the same judge.

M. PUBLICATION

1. In cases where no motion for reconsideration is made, the opinion of the court shall be disseminated for publication immediately after the expiration of 10 days from the date of the decision. In cases where motions for rehearing are made, the opinions are to be put out for publication immediately after the expiration of 10 days from the final disposition of the motion. In cases where notice of intention to apply for the writ of certiorari is given, in order to avoid delay in the printing of the court's opinions, the Reporter, acting in cooperation with the clerk/court administrator, shall use a photostatic copy or any other true and correct copy of the opinion, and have the opinions of the Court of Appeals published without waiting for the expiration of 30 days from the denial of the motion for reconsideration. It is the purpose of this resolution to expedite the publication of the opinions of the Court of Appeals, and the clerk/court administrator and the reporter, in order to carry out the intention of this resolution, may disregard the chronological date of the decisions of the court and in doing so may use their discretion to this end.
2. In the event of disagreement as to the application of Rule 34, the matter will be handled the same as a dissent.
3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.
4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

1. Judges shall draw their own orders except for routine orders. The clerk/court administrator, when obtaining orders or directions from a judge or judges, shall reduce the same to writing and shall obtain thereon the initials of the judge or judges who gave the order or direction. Such orders or directions shall be maintained in the file.

2. Orders shall be released whenever ready. See OCGA Section 15-4-2 (c). (Source: January 1994 Banc meeting).

O. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court:

- a. Only the order of transfer shall be sent to the Supreme Court along with the case, unless the transferring judge desires the opinion to be published. The remittitur does not go out. The judge assigned to the case may also send up a copy of the file memorandum analyzing the reason for transfer.
- b. Each judge shall devise a system in his/her office to ferret out early those cases over which the Supreme Court, rather than this court, has jurisdiction, for prompt transfer. Transfers at the end of a term should be prevented.
- c. The central staff attorney shall draw the entire order on transfer.

2. From: The Supreme Court:

- a. The docketing date in this Court of a case transferred from the Supreme Court is the date on which the record is received in this Court.
- b. When no briefs have been filed and an appeal is transferred from the Supreme Court and docketed in this Court, the time for filing briefs runs from the date of docketing in this Court.
- c. If appellant's brief and enumeration of errors and appellee's brief have been filed in the Supreme Court, no additional briefing is required in this Court.
- d. However, the time for filing of the appellees' brief always runs from the date of filing of appellant's brief and enumeration of errors, whether the appellant's brief and enumeration of errors is filed in this Court or the Supreme Court.

P. EXTENDING TERM - EXPEDITING CASES

1. In the case of an emergency, based on the authority of Fuller v. State of Georgia, 232 Ga. 581 (1974), and Shore v. Shore, 253 Ga. 183 (1984), the court may render a judgment until the last day of the term if necessary,

provided six judges concur. (**Source:** September 1996 Banc meeting).

2. If the appeal is from an order involving the custody of a child, a parent's visitation rights to a child, a child allegedly deprived, or parental rights, the decision in the case shall be expedited. (See OCGA § 19-9-64, part for Uniform Child Custody Jurisdiction Act, showing legislative desire to expedite resolution of such matters.) (**Source:** Minutes, April 1996 Banc meeting.)

Q. INTERLOCUTORY AND DISCRETIONARY CASES

1. If the application or response is not whitebacked, the clerk/court administrator will call the attorney (if the first offense) to advise that the clerk/court administrator, will put a cover on and advise the attorney that if it occurs again, a \$10 penalty will be assessed. The Chief Judge will ascertain to which account the assessment would be deposited.
2. If discretionary and interlocutory applications are received without the requisite stamp "filed orders", the Clerk's Office shall issue an order directing the applicant to submit a stamped "filed" copy of the order being appealed or the certificate of immediate review. Said order shall be delivered to the court physically within ten days of the date of the Court's order requiring the stamped filed copy to be filed.
3. Because of the short time the Court has to deal with applications, the certified mail rule will not be deemed sufficient filings for purposes for complying with the order to file a stamped filed copy of the order or certificate of immediate review.
(**Source:** Minutes - February, 1996 Banc Meeting)

R. CHANGE FROM SEVEN JUDGE OR WHOLE COURT TO PANEL CASE

1. If after a case becomes a seven-judge case or a whole court case, the original dissenter agrees with the panel, the case shall again become a panel case unless there is some other reason for it to remain seven-judge or whole court. If a dissenter withdraws his/her dissent, he/she must have the concurrence of any member outside of the panel who joined the dissent or who has separately dissented. (**Source:** September 1996 Banc meeting).

2. A vote of two to one is sufficient to impose a penalty on appeals deemed frivolous. A dissent shall not cause the issue of frivolous appeals to go whole court.

S. VOTING ON OPINIONS

When a judge writes a concurrence or dissent or memo, he/she shall cross out all signatures above his/hers and recirculate. The author of the majority is responsible for recirculating with every new writing.

T. COURTESY COPY

When an opinion cites a case which emanates from a court other than the Court of Appeals of Georgia or the Supreme Court of Georgia, or is an unpublished opinion of one of those two courts, the citing Judge should attach a copy of it to the circulating case.

U. REVISED OPINION

When an opinion is revised after circulation, the revised opinion should be marked "Second Circulation" or "Revised" or whatever is appropriate, advising the reader that he/she may have seen the case before but not the changes made in the opinion.

V. DATING COMMUNICATIONS

Votes, memos, other writings involving cases should always be dated by the author of the communication. The court-provided memorandum forms (8-1/2" x 11" paper or 5-1/2" x 8-1/2" pads) should be used.

W. OVERRULING PRIOR CASES

1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a judge who participated in that opinion is still on the court, the overruling opinion should be circulated to him/her first, even before it goes to the overruling author's panel members. first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, then

the case shall be circulated, first to the overruling Judge's panel and then to all Judges on the Court.

(Source: November 1996 Banc meeting).

3. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

X. REBRIEFING

When Rule 23 of the Rules of Court is not complied with, any member of the panel may initiate through the assigned judge a request for a corrected brief which shall comply with the Rule. If a Rule-complying brief is not submitted within the time granted, the case may be considered in default as to that party.

Y. FORMAT

1. Opinion shall be double-spaced when the opinion goes to the clerk's office for mailing out. (Effective: All cases docketed on or after September 15, 1991; all other pending cases, January 1, 1992.)
2. Margins shall be justified.
3. If a drafter uses "held," only the "H" will be capitalized.
4. "In the Court of Appeals of Georgia" shall not be centered or capitalized. The Judge's name and the case name shall be capitalized.
5. When opinions are released, they will not bear the judge's personal number or the words "affirmed or reversed" at the top of the first page, but the court's short number will appear. The judge's personal number and "affirmed or reversed" will appear only for circulating purposes.
6. "In the Court of Appeals of Georgia" will appear from the left margin rather than centered.
7. Opinions, orders and all other internally generated documents which become part of the record in a case shall be on letter size (8-1/2" x 11") paper. *(Effective: All cases docketed on or after September 15, 1991, all other pending cases, January 1, 1992).

Y. (a) WITHDRAWAL OF COUNSEL

The following order shall be entered in civil cases:

Court of Appeals

of the State of Georgia

ATLANTA,

The Honorable Court of Appeals met pursuant to adjournment.

The following order was passed:

Upon consideration of the motion of appellant/appellee's attorney to withdraw as counsel, the Court has no objection, subject to counsel's compliance with all applicable provisions of the Code of Professional Responsibility. The Court neither approves nor disapproves counsel's withdrawal as attorney for appellant/appellee, but the records of this Court will reflect such withdrawal and, until further notice, all notices will be sent directly to appellant/appellee.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

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

Clerk

Z. WITHDRAWAL OF APPEAL

An order granting permission to withdraw an appeal will not be issued unless all motions are ruled on, are withdrawn or are moot.

XVI. PURCHASING POLICY

- A. The Court of Appeals shall purchase such books, pamphlets, or other publications and such other supplies and services as the judges thereof may deem necessary. (**Source:** OCGA § 15-3-12).
See also: I, K. PURCHASING COMMITTEE.
- B. Georgia Legal History Foundation fees of \$30 per judge per year, and the American Bar Association and Judicial Administrative Division annual dues, shall be paid from court funds.
- C. Effective July 1, 1994, the Court will pay basic State Bar dues for staff attorneys.
- D. The court will send one staff attorney per year to the annual CASA meeting and reimburse for expenses. The attending attorney's first year of ABA/CASA membership dues will be paid by the court with the understanding that the staff attorney will be expected to maintain membership at personal expense thereafter. (**Source:** Minutes, April 1995 Banc meeting).
- E. The annual National Association for Court Management regular membership dues for the clerk/court administrator shall be paid from court funds. (**Source:** Minutes, August 1995 Banc meeting).
- F. The annual dues for each judge for the Judicial Section of the Atlanta Bar Association shall be paid from court funds. (**Source:** Minutes, August 1995 Banc meeting).

XVII. CONFIDENTIALITY

- A. The work of each judge with his/her staff shall remain confidential with that staff unless expressly authorized by the judge and then may be shared only to the extent permitted.
- B. The work of the court, and its operations, shall be kept confidential except as agreed by the court and to the extent required by law. The Chief Judge, or his/her designee specified for the purpose, shall be the spokesperson for the court.

XVIII. EN BANC MEETINGS

- A. The Court of Appeals will hold en banc meetings on the fourth Tuesday of every month except August and December, at 10:00 a.m. The Chief Judge may for good cause change the date of a particular meeting. The regular banc sessions shall be held notwithstanding that additional special en banc session may be set by the Chief Judge. No en banc meetings shall interfere with the setting of oral arguments.
- B. A quorum of six judges is necessary for the holding of banc. Subject to the rule requiring ten days' notice or the required consent of at least seven judges, an affirmative vote of six judges will always be necessary in passing or adopting any motion, resolution or official action of the court. (Source: September 1996 Banc meeting).
- C. Effective January 1, 1967, all motions or resolutions acted upon or other official actions taken in banc sessions shall be reduced to writing and entered upon the minutes, indicating thereupon how each judge voted. The vote of each judge shall be cast by him/her in person while attending the banc session and not otherwise. No judge shall be allowed to vote by proxy.
- D. The clerk/court administrator shall serve as the secretary of the court for the purpose of effectuating this rule.
- E. Once a motion, resolution or proposition is acted upon, no motion, resolution or other proposal calling for a change in the action taken shall be considered or acted upon unless ten days written notice of the proposed change shall have been given to each judge of the court, provided, however, this rule may be waived by the consent of eight of the judges. (Source: September 1996 Banc meeting).

XIX. RECORD RETENTION SCHEDULE

Each Court of Appeals record is stored in Room 334, during the pendency of the case and, depending on space, for a period of one year after the remittitur is sent. Records of cases docketed through 1991 are stored at State Archives in boxes numbered for identification and prepared for transmittal to the Georgia State Archives and History Building for storage. If an archived record is requested, the Clerk/Court Administrator's office can advise requesting party of the box and location number and the party may go to the State Archives Building and request to see the record and copy any document. The record can be ordered by the Clerk/Court Administrator's office and will usually arrive the next business day after 2:00 p.m. The public should be encouraged to go to Archives to examine the records and delivery of Archive records should reserved for the court.

Since Archives has refused to accept the court's records since 1993, the court has adopted a record retention schedule which calls for the destruction of the record and transcript one year after the remittitur has gone out, if the party paying for the record does not request to receive the record and make arrangements to come to the court and pick up the record. The court will maintain for a period of years the briefs, enumeration of errors, motions, orders, and original opinion.

The court may utilize the Water Lab in the basement of the Health Building as offsite storage facility until such time as additional space may be obtained for record storage in the Clerk's office or court. See Appendix 10 for Records Retention Schedule. (Source: Minutes, November 1995 Banc meeting).

XX. SUPERSEDEAS BOND

Whether the motion is denied in the trial court or initially made here, the Court of Appeals will order that the trial court require supersedeas bond in an amount and under conditions determined by the trial court after hearing. OCGA § 5-6-46. Jurisdiction of the appeal will not be affected. Unless accompanied by a supersedeas bond, all applications for stay are to be denied in civil cases, wherein application for certiorari to the Supreme Court of the United States has been made.

XXI. CERTIFIED QUESTIONS

- A. All certified questions are to be circulated to the whole court for information only.
- B. Whenever a panel certifies a question, it should be circulated to the rest of the court as courtesy so the whole court knows the question is being considered by the Supreme Court.

XXII. OPINION CONTENT

A. JUVENILE AND TERMINATION OF PARENTAL RIGHTS CASES

Neither the names of the parents nor that of the child will be included in the opinion; however, the normal designations will be used in adoption cases.

B. RECOMMENDED ROUTINE OPINIONS

The use of these recommendations, which were adopted in principle, is left to the sole discretion of each judge.

1. MISDEMEANOR

This being a misdemeanor case and in the opinion of this court without precedential value and not involving unique facts, the same is affirmed under Rule 36 of this court.

2. FELONY

Felony cases which are appealed solely on the general grounds.

There being evidence sufficient to convince any rational trier of fact of the existence of the essential elements of the crime, the judgment is affirmed. Jackson v. Virginia, 443 U.S. 307, 310 (99 SC 2781, 61 LE2d 560) (1979); Baldwin v. State, 153 Ga. App. 35, 37 (264 SE2d 528).

3. CIVIL

Civil case with no precedential value or no unique factual situation.

4. EXCESSIVE VERDICT

Sole enumeration of error being the excessiveness of the verdict.

The verdict fully within the range of the evidence the judgment of the court below is affirmed. Crankshaw v. Stanley Homes, Inc., 131 Ga. App. 840, 843 (207 SE2d 241); Camp Construction Co. v. Stenbridge, 138 Ga. App. 555, 557 (226 SE2d 797).

5. DISCRETIONARY AND INTERLOCUTORY

No opinion to be written on discretionary and interlocutory if after reviewing the record, the appeal should not be affirmed by opinion.

After plenary consideration of this matter it is not found to satisfy the criteria for granting (interlocutory or discretionary) appeal and the application is therefore vacated.

6. RULE 36

Rule 36 is still alive and available. Cases may be affirmed without opinion if the evidence supports the judgment; no reversible error of law appears and the opinion would have no precedential value; or the judgment of the court below adequately explains the decision.

7. OPINIONS

All orders and opinions shall be published in the Georgia Appeals Reports, except as provided by Court Rule 34.

8. JUDGMENT LINES

Standard judgment lines should be used whenever possible. Examples of standard judgment lines and when they are used are found in Appendix 9.

XXIII. AUDITS

- A. The Department of Audits will provide each member of the court a copy of the court's annual audit.
- B. The fiscal officer will distribute a quarterly expense report to each judge individually and to the office of the clerk/court administrator.

XXIV. INCLEMENT WEATHER

- A. The court will be kept open to the extent possible.
- B. The office of the clerk/court administrator will be kept open to the extent possible.
- C. Each judge controls his/her own staff and the clerk/court administrator will decide if the clerk's office should remain open and whether an announcement should be made on the radio.
- D. It is within the discretion of each judge to decide if weather conditions warrant his/her employees absence without being charged leave.
- E. While recognizing the independence of the judicial branch of government, if the Governor announces that State offices will be closed because of inclement weather, the Court of Appeals will likewise close its offices.
- F. The Chief Judge, after consultation with the Clerk/Court Administrator, shall make the determination whether the Clerk's office and court shall close during inclement weather.
- G. Court closings or late openings shall be broadcast on WSB radio 750 AM and 98.5 FM and WFOX radio 97.1 FM.

XXV. POSTAGE METER AND TELEPHONE USE

The postage meter is not to be used for personal mail. No personal long distance telephone calls may be made.

XXVI. COPIES

The clerk's office shall provide copies of opinions at a cost of \$1.00 per page with a minimum of \$5.00 per opinion. Copies of the record may be purchased from the clerk's office at \$1.00 per page. Copies of indexes are \$1.00 per page with a minimum cost of \$4.00.

Beginning January 1, 1996, opinions may be purchased electronically through the Reporter's office by subscription at a cost of \$1.00 per page. Opinions purchased through the Reporter's office at a cost of \$1.00 per page have no \$5.00 per opinion minimum.

(Source: Minutes, November 1995 Banc meeting).

XXVII. ADMINISTRATIVE MINUTE BOOK

An Administrative Minute Book shall be kept and shall include court rules, the history and operations of the court such as comings and goings of employees, swearing-in, etc.

XXVIII. SPACE ALLOCATIONS

Space allocated to each judge's office as of May 31, 1994, shall remain with that office. (See Appendix 6.) There shall be space succession and not succession of persons.

XXIX. PROCESSING OF OPINIONS

1. It is the duty of every judge to give his/her prompt attention to an opinion prepared by an associate. This duty results not only from common judicial courtesy but from the necessity of processing cases with reasonable diligence in view of the workload of the court. THE REVIEW OF OPINIONS PREPARED BY OTHER JUDGES SHALL HAVE FIRST PRIORITY OVER THE PREPARATION OF OPINIONS IN CASES ASSIGNED TO THE REVIEWING JUDGE. Opinions shall be reviewed and acted upon in the following order of priority:
 - a. Whole Court -- Distress.
 - b. Division -- Distress.
 - c. Whole Court -- Non-Distress.
 - d. Division -- Non-Distress.
 - e. Cases assigned to author judge -- Distress and non-Distress.
2. This is not a fixed rule but expresses guidelines which, when reasonably possible, will be followed.

XXX. MANDATORY CONTINUING JUDICIAL EDUCATION

A. Minimum:

1. Each judge of the Court of Appeals of Georgia shall complete a minimum of twelve (12) hours of actual instruction in an approved continuing judicial or legal education activity during each year beginning January 1, 1986. If a judge completes more than twelve hours in a year, the excess credit may be carried forward and applied to the educational requirement for the succeeding two year period.
2. Each judge shall complete a minimum of two (2) hours of continuing judicial legal education activity during each year beginning January 1, 1986, in the area of legal or judicial ethics. These hours are to be included in, but not in addition to, the twelve hour requirement. If a member completes more than two hours in ethics during a year, the excess ethics credit may be carried forward to a maximum of four (4) hours and applied to the ethics requirements for two succeeding years.
3. The Court of Appeals may exempt a judge from the continuing judicial education requirements but not from the reporting requirements of this rule for a period of not more than one year upon a finding by the court of special circumstances unique to that member constituting undue hardship.

B. Reporting

1. On or before January 31 of each year commencing in 1987, each judge shall make and file with the clerk/court administrator of the Court of Appeals evidence of compliance with the requirements of the program for mandatory continuing judicial education. If available, there shall be attached to such report a certification from the sponsor of the programs in which the reporting judge participated stating the fact of the participation.
2. Each judge shall keep his/her certificates of attendance, or file them with the clerk/court administrator along with the certificate of compliance herewith. Questions as to full or partial credit, or whether the course qualifies for credit, shall be left with each judge.

C. Creditable Activities:

Continuing education programs for which a judge may receive qualifying credit shall include:

1. Programs of the Appellate Judges Conference sponsored by the American Bar Association;
2. Programs sponsored by the Institute of Continuing Judicial Education of Georgia;
3. Programs of continuing legal education accredited by the Commission of Continuing Lawyer Competency of the State Bar of Georgia, including all programs of the Institute of Continuing Legal Education;
4. Programs sponsored by any law school accredited by the American Bar Association;
5. Such other programs of continuing judicial or legal education as may be approved by the Court of Appeals of Georgia.

D. Credit for Teaching:

For teaching in a program qualifying under Section (C) above, a judge shall be given three hours credit for each hour of instructional responsibility when no handout paper is required but preparation is necessary and is conducted, and six hours for each hour of instructional responsibility when a handout paper is required and prepared. When the same lecture or instructional activity is repeated in a single fiscal year, additional credit shall be given equivalent to the actual time spent in delivering that presentation.

E. Noncompliance:

1. In the event a judge shall fail to comply with the requirements of the rules for Mandatory Continuing Judicial Education at the end of an applicable period, such judge may submit to the Court of Appeals a specific plan for making up the deficiency of necessary hours within sixty (60) days after the last day for the reporting of activities for the preceding year.
2. In the event such plan is not submitted, or in the event a plan is submitted but not complied with during the sixty (60) day period, the Court of Appeals shall administer a reprimand to the noncomplying judge and the fact of such reprimand may be noted and published in the Court of Appeals Reports.

XXXI. CONTEMPT PROCEDURES

A. INITIATION OF PROCEEDINGS

1. If any division member believes that the conduct of an attorney may be contemptuous, that judge shall prepare a show cause order specifying the conduct at issue and the rules, statutes, or other standards claimed to have been violated.
2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and final vote with names shall be shown but no written dissent shall be published.

B. SERVICE

The show cause order shall be served by certified mail, return receipt requested.

C. CONTEMNOR'S RESPONSE

The order shall give the option to the contemnor to respond at an oral hearing or by the filing of a sworn affidavit. The date of said hearing or date for filing said affidavit shall be set by the presiding judge of the division from which the order issues.

D. HEARING

If a sworn affidavit is not filed by the date specified, the clerk/court administrator shall assume a hearing is chosen and shall make arrangements for a court reporter to record the proceedings. It shall be the court's option to cast the costs of takedown and transcription upon the contemnor.

E. FILING

Filing for purposes of this rule shall mean received in the clerk/court administrator's office of this Court, and the contemnor shall be so informed.

F. DECISION

1. Following the hearing or receipt of the affidavit, the initiating judge shall prepare a written order, including findings of fact and conclusions of law based upon the record before the Court. The beyond reasonable doubt standard shall be applied if the order imposes punitive measures.

2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and the final vote with names shall be shown but not written dissent shall be published.
3. No motion for reconsideration shall be allowed.

G. PUNISHMENT

The court may impose punitive and/or remedial measures in consequence of a finding of contempt. Punitive measures may include a fine of up to \$1000; a public reprimand, to be included in the official reporter; a private reprimand, issued in order form to the contemnor; temporary or permanent suspension from the bar of this court. Remedial measures may include suspension from the bar of this court until any order of this court is obeyed.

H. NOTICE TO STATE BAR

In any case in which an order finding contempt is entered, the clerk/court administrator of this court shall forward the record of such proceeding to the Disciplinary Board of the State Bar of Georgia.

I. FRIVOLOUS APPEAL

1. Whenever the court enters an order finding any party or attorney in contempt, and assessing a fine for contempt or whenever the court awards damages for a frivolous appeal or any other monetary sanctions, the court shall issue a separate order, separate and apart from the opinion, specifically stating what monetary damages are assessed against which attorney or which party and to whom the monetary damages should be paid.
2. Any such orders on contempt, frivolous appeals or monetary sanctions shall be flagged and copies of such orders shall be sent to the clerk/court administrator, and the clerk/court administrator shall follow-up on the matter and ascertain that the court's orders are being followed.

XXXII. PROTOCOL ON DISQUALIFICATION AND RECUSAL OF JUDGES

A. DISQUALIFICATIONS.

Whenever a case is assigned to a judge to author or to vote on and that judge is disqualified, that judge shall notify the Clerk's Office by memorandum that that judge is disqualified and that the case is to be transferred to another judge.

1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel one, and so forth.
3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.
5. If the judge who is disqualified is the Chief Judge, then the case shall be assigned to the judge on the division for whom the Chief Judge is sitting.
6. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
7. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel number; notify all judges' offices involved in the transfer by memorandum; change the judge and color code on the record; and deliver the record, transcript,

exhibits, motions, briefs etc. to the newly assigned judge.

8. If, the case to be reassigned is a previous year's case, and the year's docket has closed, there will be no out-of-term assignment back to even the wheel. If the case to be reassigned is in the current docket year, the Court's docketing system will automatically even out the case assignments.
9. If upon reassignment to the next judge on the panel or the corresponding judge on the next panel, that next judge is also disqualified, then the assignment will be to the judge on the third panel in the corresponding slot. Should that judge also be disqualified, the Clerk shall comprise a panel of judges to hear the case. The next case docketed on the wheel will be assigned by the computer to the disqualified judge in order to keep the wheel in balance and assign cases equally, unless the previous year's docket has closed, and in such case there will be no out-of-term assignment back to even the wheel.

(Source: Minutes, November 1995 Banc meeting).

B. RECUSALS

When a motion to recuse a judge from a particular case is filed, the following protocol shall be used.

1. Whenever a judge is presented with a motion to recuse or disqualify, accompanied by an affidavit, the judge shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming the facts in the affidavit are true, whether recusal is warranted.
2. If it is found that the motion is timely, the affidavit sufficient and the recusal would be authorized if some or all of the facts set forth in the affidavit are true, the judge shall report that fact to the Chief Judge, who shall assign another judge to pass on the motion to recuse.
3. If the assigned judge finds that sufficient facts are presented which would authorize the recusal of the judge from the case, the assigned judge shall so notify, by memorandum, the Chief Judge and the judge against whom the motion was filed.
4. In the event of recusal, the Chief Judge shall notify the Clerk's Office and the protocol on disqualification of judges and shall assign another judge to the matter.
5. If the assigned judge finds there are insufficient facts before the court to authorize a recusal of the judge

against whom the motion is filed, that fact shall be made known to the Chief Judge by memorandum with a copy to the judge against whom the motion to recuse was filed.

6. Whether the judge against whom the motion was filed is recused or is not recused, an order shall issue from the Clerk's Office granting or denying the motion to recuse, as appropriate.
7. If the Chief Judge is the judge against whom the motion to recuse is filed, then the judge next in line for Chief Judge shall make the assignment.



Court of Appeals

Memorandum

To: Presiding Judge Gary B. Andrews
From: William L. ~~Martin, III~~ *W.L. Martin*
Subject: IOM Update
Date: June 10, 1999

According to Chief Judge Johnson's Committee Appointments, you are the judge-in-charge of the manual for Internal Operations. Please review these changes, suggestions and comments for updating the IOM relative to the new judges coming onto the Court.

I would appreciate hearing your comments before formalizing these for distribution to the entire Court.

/ld

Attachments

cc: Chief Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn,
Judge-in-Charge of the Clerk's Office

bcc: Kaye Carter

Committee Appointment for the Court of Appeals January 1999

Executive Council:

Chief Judge Edward H. Johnson
Presiding Judge William LeRoy McMurray, Jr.
Presiding Judge Marion T. Pope, Jr.
~~Presiding Judge Dorothy Toth Beasley~~
Presiding Judge Gary B. Andrews
Presiding Judge G. Alan Blackburn

COMMENT: Presiding Judge Beasley has been removed from the Executive Council and the two new presiding judges have been added.

Successor Judge:

Judge G. Alan Blackburn

Budget and Audit:

Presiding Judge William LeRoy McMurray, Jr.

Court Automation:

Judge Frank M. Eldridge

Emergency Motions:

Function rotates monthly in seniority order

Chief Justice's Commission on Professionalism:

Judge G. Alan Blackburn

Legal History:

Judge J.D. Smith

Georgia Legal History Foundation:

Presiding Judge Marion T. Pope, Jr.

Legislation:

Presiding Judge Marion T. Pope, Jr., Chairman
Chief Judge Edward H. Johnson
Judge John H. Ruffin, Jr.

Manual for Internal Operations:

Judge Gary B. Andrews

Office of the Clerk/Court Administrator:

Judge G. Alan Blackburn

Committee Appointment for the Court of Appeals
January 1999 (Continued)

Planning and Facilities Management:

Chief Judge Edward H. Johnson
Presiding Judge Marion T. Pope, Jr.

Purchasing:

Judge John H. Ruffin, Jr.

Rules:

Judge Frank M. Eldridge, Chairman
Presiding Judge William LeRoy McMurray, Jr.
Presiding Judge Dorothy Toth Beasley

COMMENT: Presiding Judge Beasley was deleted because of her resignation effective April 1, 1999.

MCLE Credit Committee:

Judge Anne Elizabeth Barnes

Court Personnel Committee:

Judge G. Alan Blackburn, Chairman
Judge John H. Ruffin, Jr.
Judge Anne Elizabeth Barnes

Parliamentarian:

Judge Anne Elizabeth Barnes

Court Futures Committee:

Chief Judge Edward H. Johnson, Chairman
Judge J.D. Smith
Judge Frank M. Eldridge

Central Staff and Floating Staff Attorney:

Judge J.D. Smith

Institute of Continuing Judicial Education, Board of Trustees

(One year term commencing July 1, 1999)
Chief Judge Edward H. Johnson*

*Judge John H. Ruffin, Jr., the current Board member from this Court, (whose term expires June 30, 1999) shall remain a Trustee in the past chairman's slot, which gives this Court two members of the Board for the first time.

- f. Represents the court in its relations with the Supreme Court, other agencies of government, the bar, general public, news media, and ceremonial functions.
- g. Appoints Special Prosecutors in bar disciplinary matters.
- h. Supervises preparation of an annual statistical analysis report reflecting caseload of the court, and such other periodic reports deemed necessary by the court.
- i. Performs such other administrative duties as may be required and which are not otherwise provided for by law or rule.

B. EXECUTIVE COUNCIL

- 1. Shall be composed of the Chief Judge and the ~~three~~ four Presiding Judges and shall act on all matters referred to the Chief Judge and Council as provided by committee assignments.

COMMENT: To reflect the increase in size of the Executive Council due to the addition of a presiding judge to the Court.

- 2. If not otherwise provided, shall determine which administrative matters should be presented to the full court.
- 3. Advise and counsel the Chief Judge on matters relating to the court.
- 4. If a tie vote occurs on a matter under consideration by the Chief Judge and Council, the matter shall be referred to the full court.
- 5. Purchases of \$500 or more shall be submitted to the Executive Council for consideration and approval.

IV. PROCEDURE FOR HANDLING APPLICATIONS FOR DISCRETIONARY APPEAL

- A. Discretionary applications shall be granted on the vote of one judge; such applications will be circulated only if the judge to whom the application is assigned votes to deny it.
- B. If the judge who votes to grant the discretionary application is not the judge to whom the case was assigned, the case will be reassigned to the judge voting to grant the discretionary application and the clerk's office will effect a transfer of cases to equalize the caseload among the judges.
- C. The division may consider motions for reconsideration of applications for discretionary appeals that are filed within ten days from the entry of the court's order denying or granting the application for discretionary appeal.
- D. The application shall be dismissed rather than denied when the court lacks jurisdiction, ~~such as when an application is made and direct appeal is the proper procedure.~~

COMMENT: With the addition of Subsection (j) to OCGA §5-6-35, an application filed when there was a right of direct appeal is now granted (by law).

- E. Appeals from cases involving petitions for adoption shall be in the direct appeal category, whether the adoption was granted or denied, and whether a termination of parental rights was involved or not.

VII. LIABILITY COVERAGE

A. BONDING OF COURT EMPLOYEES

All employees of the Court of Appeals are covered by a blanket faithful performance bond in the amount of \$100,000 and a blanket honesty bond in the amount of \$5,000,000 under Policy No. 1450 00 110723 Wausau Insurance Company and Westchester No. 626 011675 2, dated October 1, 1989 and in effect until 9/30/98.

The fiscal officer shall be bonded in the amount of \$100,000.

B. COMPREHENSIVE GENERAL LIABILITY COVERAGE

A single liability insurance policy shall provide coverage for each employee and each judge on the court. Certification of coverage shall be supplied to each judge annually, Policy No. CGL-401-14-96 providing \$1,000,000 per person and \$3,000,000 per occurrence coverage, policy dates ~~July 1, 1997 through June 30, 1998.~~ July 1, 1999 through June 30, 2000. (Source: December 1997 Banc Meeting.)

COMMENT: To update the dates of the Comprehensive General Liability Coverage.

C. STATE TORT CLAIMS POLICY

There is a single liability insurance policy providing coverage under the State Tort Claims Policy No. TCP-401-14-96 providing \$1,000,000 per person coverage or \$3,000,000 aggregate per occurrence coverage policy dates July 1, 1997 through June 30, 1998. (Source: December 1997 Banc Meeting.)

D. COPIES OF THE ABOVE POLICIES ARE AVAILABLE FOR INSPECTION IN THE FISCAL OFFICE.

In addition, the Department of Administrative Services has purchased a \$25,000,000 excess policy with Lexington Insurance Co., which provides liability coverage to State employees in conjunction with the State Employees Self-Insurance Liability Trust Fund. These employee coverages are designed to protect individual employees from suits brought against them in their individual capacities in actions brought pursuant to 42 U.S.C. § 1983, primarily in federal court.

history of the employee, a complete leave history of the employee and a fiscal note stating whether or not the Court has funds available for any salary increase and from which source or sources those funds are available.

- d. The judge in charge of the Clerk's Office shall indicate on the report whether that judge recommends or does not recommend the proposed salary adjustment.
- e. The Clerk/Court Administrator shall circulate a copy of the report and fiscal note along with the recommendation of the judge in charge of the Clerk's Office to all of the judges prior to the next scheduled Banc Meeting, at which time the Banc will take up the proposed salary adjustment.
(Source: November, 1996 Banc Meeting)

D. PRACTICE OF LAW

1. Staff attorneys and other personnel shall not engage in the practice of law as defined in OCGA § 15-19-50, whether for remuneration or not, except in the furtherance of the business of the court.
2. Staff attorneys and other personnel should regulate their extra judicial activities to minimize the risk of conflict with their judicial duties and they should not engage in any activities that would detract from the dignity of their office or the court.
3. Staff attorneys and other personnel should refrain from inappropriate political activity.

E. EMPLOYMENT APPROVAL

1. The employment of the clerk/court administrator, deputy administrator, deputy clerk, fiscal officer, floating staff attorneys, computer specialists, central staff attorneys, and floating administrative assistants shall be by the Court sitting en banc. A written application shall be made on a "personnel history form." Each judge is free to hire and fire his/her staff.
2. No person who is related by blood or marriage to a sitting judge on the Court of Appeals is eligible for employment or to continue in employment by the court or any of its offices. In the event an employee of the court or any of its offices marries a sitting judge,

- e. If any floating administrative assistant is not assigned to a particular judge's office on any day, ~~or finishes an assignment prior to the end of the day,~~ the clerk/court administrator shall assign the floater in accordance with written requests received in the Clerk's office on that day. If any floating administrative assistant remains unassigned after all written requests have been filled, said administrative assistant shall be assigned by the clerk/court administrator to a task in the clerk's office. (Source: Minutes, May 1996 Banc meeting).

COMMENT: The language which states that the floating administrative assistant shall report to the clerk/court administrator after the floating administrative assistant finishes an assignment for a judge is being deleted because in actual practice a floating administrative assistant assigned to a judge's office does not report back to the clerk's office but works the hours permitted by the judge to whom the floating administrative assistant is assigned. This is to make the policy coincide with the actual practice.

P. COURT FLOWER FUND.

The court shall create a flower fund to provide funds for an appropriate expression of sympathy, joy, congratulations or recognition of achievement on certain occasions involving court personnel. The fund shall be administered through the flower fund guidelines. These guidelines are set out in Appendix 10. (Source: June 1995 Banc minutes). (Guidelines amended Source: May 1996, Banc minutes).

X. POLICY MATTERS AFFECTING BOTH APPELLATE COURTS

A. COURT OF APPEALS

1. Prior to the introduction thereof, the Court of Appeals will notify the Supreme Court and discuss any legislation which the Court is considering introducing in the Georgia General Assembly.
2. Prior to making any adjustment in the salary for the following personnel on either the Supreme Court or the Court of Appeals, the two courts will confer and make a diligent effort to reach agreement which will satisfy the needs of both courts: attorneys, administrative assistants, Clerk, Deputy Clerk, Fiscal Officer, Computer Technician, and Reporter of Decisions. (**Source:** September 1996 Banc meeting).
3. Prior to making any change in the Rules of the Court of Appeals, the court will confer with the Supreme Court.

COMMENT: This language has not been deleted but do we really do this, and do we want to continue to do this? There was probably some discussion between the Courts regarding legislation, and maybe salary adjustments, but I do not believe there is communication regarding rule changes.

B. SUPREME COURT

COMMENT: Again, I am not sure the Supreme Court actually follows the policies set out in Section B. And if so, does our General Operations Manual really need to state what the Supreme Court does and does not do?

1. When the Supreme Court grants an interlocutory or discretionary appeal, it will keep and decide the case. When certiorari is granted on an interlocutory or discretionary appeal which the Court of Appeals has denied, and when the Supreme Court then reverses the denial of the application, the Supreme Court will keep the case and decide it on its merits.
2. Prior to changing the terms of the Supreme Court, the Supreme Court will confer with the Court of Appeals.

XIII. TRAVEL POLICY

A. Judges will be reimbursed for travel expenses for court related travel in accordance with state-wide travel regulations, except as § 45-7-20 may otherwise control. The court recognizes there is a need for continuing judicial education and the court has a requirement that each judge of the court receive 12 hours of mandatory continuing judicial education each year. To that end, judges should actively participate as lecturers, writers, and students and contribute, wherever possible, to the improvements of the legal profession and the administration of justice through independent and bar related conferences and associations.

1. The court's travel budget shall be divided into ~~13~~ 15 equal shares by the fiscal officer as soon as practicable after the beginning of the new fiscal year. The Chief Judge shall be entitled to two shares of the travel budget and each other judge shall be entitled to one share of the travel budget. Two shares of the travel budget shall be reserved for the general travel fund. (Source: September 1996 Banc meeting).
2. Each judge may use his/her share of the court's travel budget for court related travel in or out of the state.
3. Any judge who wishes to utilize travel funds in excess of his/her share must request additional monies from the general travel fund. Such request must be made to the Executive Council and the Executive Council may approve or disapprove such request.
4. Any travel funds not utilized by an individual judge shall lapse into the general travel fund. Any judge may direct all or part of his/her share of the travel funds to the general travel fund.

All employees and court personnel, other than judges, shall be subject to the state-wide travel regulations. Any approved travel for non-judicial personnel of the court shall be reimbursed out of the general travel fund.

B. Tuition and scholarship registration. The fiscal officer shall as soon as practicable after the beginning of the new fiscal year, divide the portion of the court's budget which is set aside for tuition and scholarships into ~~ten~~ twelve equal shares, one share for each judge. (Source: September 1996 Banc meeting).

COMMENT: To reflect a 12 judge Court.

E. ORAL ARGUMENT - COURT CALENDAR

1. A timely request for oral argument shall be granted on the vote of one judge; such request shall be circulated to the panel only if the judge to whom the case is assigned votes to deny it. (**Source:** Minutes, June 1995 Banc meeting).
2. An out-of-time request for oral argument shall be granted or denied upon the vote of the judge to whom the case is assigned. An out-of-time request to argue shall not be circulated to the panel. (**Source:** Minutes, February 1996 Banc meeting).
- ~~3. The court shall publish a printed list of names and numbers of cases and the order in which they will be heard in court. In the event of attorney time conflicts in court settings, the court will do the best it can to conform to the policy set out in the state/federal court resolution and will try to work out the conflict with the other judge involved.~~
3. The court shall publish a calendar of the cases set for oral argument to be mailed to the attorneys and/or pro se parties 14 days before oral argument. The court shall also publish a bench docket containing the case numbers, attorneys, the lower court judge and lower court county.

COMMENT: The clerk's office publishes a calendar, and a bench docket, but does not publish a list of the cases in the order of which they will be called. We do not know the order until the attorneys check in because of the five, ten and fifteen minute arguments.

F. BENCH DOCKET

The clerk/court administrator shall maintain a list of cases which will be argued. The bench docket shall include the names of the attorneys and the identification of any pro se parties. The docket shall be maintained in the clerk's office and shall be brought into the courtroom during oral arguments.

G. DOCKETING SYSTEM

1. The clerk's office shall maintain a computerized docketing system which shall be approved by the court.
2. The system shall also be backed-up daily to a hard disc and weekly to a magnetic tape stored off site. The system shall also be backed up with a hard copy maintained in the clerk's office.

3. The court shall review the docketing system periodically, making changes where appropriate and after consultation with the court data processing personnel and the clerk/court administrator.
4. The clerk's office shall provide a view only terminal in the public area of the clerk's office for public access and viewing of the court's docket. (Source: Minutes, February 1996 Banc meeting).

H. COURT MINUTES & INDEX

The Minute Book of the court shall be kept in the office of the clerk/court administrator. The minutes shall be generated by the data processing personnel on an annual basis or more often if required by the court. (Everything that goes into the system, that is, the computerized docket, is printed out and maintained in a hard copy in the clerk's office.)

I. CIRCULATION OF CASES

1. Each case will go to the other two judges on the division for review and initials. If one writes a dissent, the case must be shown to the judge to whom the case is assigned, and shown again to the other judge if he/she has already voted, and then it must be marked "Whole Court" and circulated. The prevailing judge will ~~put the case out,~~ disseminate, correcting the judgment line on the last page of the opinion to include those concurring and those dissenting.

COMMENT: Disseminate sounds better than put the case out and it is consistent with the other language in the IOM.

2. If a judge writes a special concurrence, it is not necessary to circulate to the whole court unless it is otherwise a whole court case, but it is necessary that the opinion be shown to the assigned judge and the other judge on the division. Any time something new has been written, the case must be recirculated to all who have seen it before. Any memo or writing between judges shall be dated so as to show chronology, should circulate to author of the opinion first, and then recirculate.

J. DISSEMINATING CASES

1. After all the necessary judges have initialed the draft and it is returned to the assigned judge, the administrative assistant shall prepare the final opinion, photocopy eleven copies, put a brad in the original, staple remaining copies, complete the judgment

line, and take the record with the original and nine copies to the clerk's office to be disseminated. If there are any dissents or special concurrences, they also must be collected and assembled behind the majority opinion before dissemination of the case. The judgment line must be changed to reflect any dissents or special concurrences. At the option of the judge-in-charge, photocopies shall be made by the clerk/court administrator's office.

2. Opinions shall be released in any case whenever ready and in conformity with OCGA Section 15-2-4 (c), but not before oral argument if requested or the last date upon which oral argument may be requested. (**Source:** January 1994 Banc meeting).
3. Examples of proposed, suggested and approved judgment lines are attached in Appendix 9 and should be used whenever possible to maintain uniformity.
4. In certain cases involving security risks, judgment lines may disseminate as "Division Per Curiam, All Judges Concur." (**Source:** Minutes, January 1996 Banc meeting).
5. If the original opinion is published and the Supreme Court reverses the opinion, the rewritten opinion shall be published. (**Source:** January 1996 Banc meeting).

K. MOTIONS FOR RECONSIDERATION

1. If the case returns, the assigned judge will review and initial it and circulate it to the judges who originally voted on it. When all reconsideration work has been done, the case shall then be taken back to the clerk/administrator's office to be disseminated.
2. If the motion for reconsideration is granted and if the judgment ~~line changes~~, an order granting the motion for reconsideration shall go out and the new opinion shall go out.

COMMENT: A new opinion only goes out if the judgment changes, not the judgment line. For instance, a change in the judgment line from JO to CONCUR will not cause a new opinion to go out, the Court will not vacate but will only substitute.

3. The clerk/court administrator shall not refuse to accept tardy motions for reconsideration. Generally, untimely motions for reconsideration will be dismissed, however, the judge to whom the case is assigned may take into consideration the reasons for the untimeliness, such things as problems with mail delivery.

4. Whenever there is a disagreement on the Division on a motion for reconsideration as to whether the motion for reconsideration should be denied or dismissed, a majority of the Division will control and the motion for reconsideration will not circulate to seven judges, unless the judgment line will change. (Source: November 19, 1998, Banc action by memo).

COMMENT: A new opinion only goes out if the judgment changes, not the judgment line. For instance, a change in the judgment line from JO to CONCUR will not cause a new opinion to go out, the Court will not vacate but will only substitute.

5. Second motions for reconsideration will be dismissed if they are not accompanied by a motion for permission to file second motion for reconsideration.
6. If there is a dissent on reconsideration, the case goes to a seven judge court, or, if the Court deems it appropriate, whole court. In addition to the "blue slip," the circulating judge should provide the usual place for judges to initial "concur" or "dissent." (Source: September 1996 Banc meeting).
7. When an opinion is changed by substitute pages or other revisions on rehearing reconsideration or for other reasons, the office of the judge to whom the case is assigned is responsible for putting the revised opinion together and submitting it to the clerk/court administrator's office.

COMMENT: We no longer refer to motions for rehearing, but reconsideration.

8. After the time for the motion for reconsideration has expired in any case, or an order denying the motion has been entered, the opinion may not be recalled from the Reporter's Office except to make editorial changes therein.

COMMENT: This portion of the IOM has been moved from Y.aa. This information more logically should be in this paragraph rather than paragraph Y.

L. ASSIGNMENT OF CASES

1. Cases are assigned on a strict automatic rotation basis, except for companion cases and pre-assigned cases. There shall be two wheels for direct appeals: civil and criminal. There shall be two wheels for applications: interlocutory and discretionary. Each judge shall receive, as nearly as possible, an equal number of civil

direct appeals and criminal direct appeals throughout the docket year. ~~Except for the chief judge, who will not receive applications,~~ Each judge shall receive, as nearly as possible, an equal number of interlocutory and discretionary applications throughout the year.

COMMENT: Beginning with Chief Judge Johnson's term as chief judge, the chief judge receives an equal amount of applications. This will also be true with the addition of two new judges.

2. Separate appeals by joint defendants shall be assigned to the same judge.
3. When a companion case or a cross appeal is docketed subsequent to the main case, the companion or cross appeal shall be assigned to the judge who was assigned the main case, so long as the main case is still pending in the Court. This is true if a subsequent application comes in or should a direct appeal come in subsequent to a pending application.

If the companion case or cross appeal is docketed subsequent to the assignment of the main case, and the subsequent case is assigned by the wheel to another judge because of clerical error in the clerk's office, or because the attorneys failed to use the appropriate lower court case number, then the case will be reassigned to the judge who was assigned the main case, when the docketing error is discovered, so long as the main case is still pending in this Court. (Source: February 26, 1999, Banc action by memo).

M. PUBLICATION

1. In cases where no motion for reconsideration is made, the opinion of the court shall be disseminated for publication immediately after the expiration of 10 days from the date of the decision. In cases where motions for rehearing reconsideration are made, the opinions are to be put out for publication immediately after the expiration of 10 days from the final disposition of the motion. In cases where notice of intention to apply for the writ of certiorari is given, in order to avoid delay in the printing of the court's opinions, the Reporter, acting in cooperation with the clerk/court administrator, shall use a photostatic copy or any other true and correct copy of the opinion, and have the opinions of the Court of Appeals published without waiting for the expiration of 30 days from the denial of the motion for reconsideration. It is the purpose of this resolution to expedite the publication of the opinions of the Court of Appeals, and the clerk/court administrator and the reporter, in order to carry out the intention of this resolution, may disregard the

chronological date of the decisions of the court and in doing so may use their discretion to this end.

COMMENT: We use the term reconsideration and not rehearing. We do not ordinarily put on the white backs for attorneys nor have we ever assessed a \$10.00 penalty.

2. In the event of disagreement as to the application of Rule 34, the matter will be handled the same as a dissent.
3. The full text of opinions may be published by a commercial publishing house before reconsideration, so long as publication includes notice that the opinion is subject to reconsideration and so long as changes on reconsideration are also published promptly.
4. Criteria for Publication. The court's policy on publication is set out in Appendix 7.

N. ORDERS

1. Judges shall draw their own orders except for routine orders. The clerk/court administrator, when obtaining orders or directions from a judge or judges, shall reduce the same to writing and shall obtain thereon the initials of the judge or judges who gave the order or direction. Such orders or directions shall be maintained in the file.
2. Orders shall be released whenever ready. See OCGA Section 15-2-4 (c). (Source: January 1994 Banc meeting).

O. TRANSFERS TO AND FROM THE SUPREME COURT

1. To: Supreme Court:
 - a. Only the order of transfer shall be sent to the Supreme Court along with the case, unless the transferring judge desires the opinion to be published. The remittitur does not go out. The judge assigned to the case may also send up a copy of the file memorandum analyzing the reason for transfer.
 - b. Each judge shall devise a system in his/her office to ferret out early those cases over which the Supreme Court, rather than this court, has jurisdiction, for prompt transfer. Transfers at the end of a term should be prevented.
 - c. The central staff attorney shall draw the entire order on transfer.

2. From: The Supreme Court:
 - a. The docketing date in this Court of a case transferred from the Supreme Court is the date on which the record is received in this Court.
 - b. When no briefs have been filed and an appeal is transferred from the Supreme Court and docketed in this Court, the time for filing briefs runs from the date of docketing in this Court.
 - c. If appellant's brief and enumeration of errors and appellee's brief have been filed in the Supreme Court, no additional briefing is required in this Court.
 - d. However, the time for filing of the appellees' brief always runs from the date of filing of appellant's brief and enumeration of errors, whether the appellant's brief and enumeration of errors is filed in this Court or the Supreme Court.

P. EXTENDING TERM - EXPEDITING CASES

1. In the case of an emergency, based on the authority of Fuller v. State of Georgia, 232 Ga. 581 (1974), and Shore v. Shore, 253 Ga. 183 (1984), the court may render a judgment until the last day of the term if necessary, provided six judges concur. (Source: September 1996 Banc meeting).
2. If the appeal is from an order involving the custody of a child, a parent's visitation rights to a child, a child allegedly deprived, or parental rights, the decision in the case shall be expedited. (See OCGA § 19-9-64, part for Uniform Child Custody Jurisdiction Act, showing legislative desire to expedite resolution of such matters.) (Source: Minutes, April 1996 Banc meeting.)

Q. INTERLOCUTORY AND DISCRETIONARY CASES APPLICATIONS

1. If the application or response is not whitebacked, the clerk/court administrator or applications clerk will call the attorney ~~(if the first offense)~~ to advise that ~~the clerk/court administrator, will put a cover on and advise the attorney that if it occurs again, a \$10 penalty will be assessed. and advise of the requirements of an application.~~ The Chief Judge will ascertain to which account the assessment would be deposited.

COMMENT: We do not put on the whitebacks for the attorneys, nor do we or have we ever assessed a \$10.00 penalty. It

would cost more to process the penalty than it would be worth.

2. If discretionary and interlocutory applications are received without the requisite stamp "filed orders", the Clerk's Office shall issue an order directing the applicant to submit a stamped "filed" copy of the order being appealed or the certificate of immediate review. Said The stamped file order shall be delivered to the court physically within ten days of the date of the Court's order requiring the stamped filed copy to be filed.

COMMENT: Said order was confusing as to whether it was the clerk's order or the stamped file copy.

3. Because of the short time the Court has to deal with applications, the certified mail rule will not be deemed sufficient filings for purposes for complying with the order to file a stamped filed copy of the order or certificate of immediate review.
(Source: Minutes - February, 1996 Banc Meeting)

R. CHANGE FROM SEVEN JUDGE OR WHOLE COURT TO PANEL CASE

1. If after a case becomes a seven-judge case or a whole court case, the original dissenter agrees with the panel, the case shall again become a panel case unless there is some other reason for it to remain seven-judge or whole court. If a dissenter withdraws his/her dissent, he/she must have the concurrence of any member outside of the panel who joined the dissent or who has separately dissented. (Source: September 1996 Banc meeting).
2. A vote of two to one is sufficient to impose a penalty on appeals deemed frivolous. A dissent shall not cause the issue of frivolous appeals to go whole court.

S. VOTING ON OPINIONS

When a judge writes a concurrence or dissent or memo, he/she shall cross out all signatures above his/hers and recirculate. The author of the majority is responsible for recirculating with every new writing.

T. COURTESY COPY

When an opinion cites a case which emanates from a court other than the Court of Appeals of Georgia or the Supreme Court of Georgia, or is an unpublished opinion of one of those two courts, the citing Judge should attach a copy of it to the circulating case.

COMMENT: We are adding the "shall" comment to correct typo errors and to change the number of judges on the Court from ten to twelve.

5. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."

X. REBRIEFING

When Rule 23 of the Rules of Court is not complied with, any member of the panel may initiate through the assigned judge a request for a corrected brief which shall comply with the Rule. If a Rule-complying brief is not submitted within the time granted, the case may be considered in default as to that party.

COMMENT: What does the phrase "the case may be considered in default" mean? The Court's remedy is to dismiss the appellant's appeal if the brief is not timely filed or to hold the appellee in contempt or not to consider the appellee's brief.

Y. FORMAT

1. Opinion shall be double-spaced when the opinion goes to the clerk's office for mailing out. (Effective: All cases docketed on or after September 15, 1991; all other pending cases, January 1, 1992.)
2. Margins shall be justified.
3. If a drafter uses "held," only the "H" will be capitalized.
4. "In the Court of Appeals of Georgia" shall not be centered or capitalized. The Judge's name and the case name shall be capitalized.
5. When opinions are released, they will not bear the judge's personal number or the words "affirmed or reversed" at the top of the first page, but the court's short number will appear. The judge's personal number and "affirmed or reversed" will appear only for circulating purposes.
6. "In the Court of Appeals of Georgia" will appear from the left margin rather than centered.
7. Opinions, orders and all other internally generated documents which become part of the record in a case shall be on letter size (8-1/2" x 11") paper.

*(Effective: All cases docketed on or after September 15, 1991, all other pending cases, January 1, 1992).

Y.(a) WITHDRAWAL OF COUNSEL

The following order shall be entered in civil cases:

COMMENT: Do we use this order?

Court of Appeals
of the State of Georgia

ATLANTA,

The Court of Appeals hereby passes the following order:

Upon consideration of the motion of appellant/appellee's attorney to withdraw as counsel, the Court has no objection, subject to counsel's compliance with all applicable provisions of the Code of Professional Responsibility. The Court neither approves nor disapproves counsel's withdrawal as attorney for appellant/appellee, but the records of this Court will reflect such withdrawal and, until further notice, all notices will be sent directly to appellant/appellee.

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta

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

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

Clerk

~~aa. After the time for the motion for
reconsideration has expired in any case, or
an order denying the motion has been entered,
the opinion may not be recalled from the
Reporter's office except to make editorial
changes therein.~~

COMMENT: Move to K(8).

Z. WITHDRAWAL OF APPEAL

An order granting permission to withdraw an appeal will not be issued unless all motions are ruled on, are withdrawn or are moot.

XVIII. EN BANC MEETINGS

- A. The Court of Appeals will hold en banc meetings on the fourth Tuesday of every month except August and December, at 10:00 a.m. The Chief Judge may for good cause change the date of a particular meeting. The regular banc sessions shall be held notwithstanding that additional special en banc session may be set by the Chief Judge. No en banc meetings shall interfere with the setting of oral arguments.

COMMENT: Do we need to change the date of the Banc Meetings from the fourth to the third Tuesday or should it read "as called by the chief judge"?

- B. A quorum of ~~six~~ seven judges is necessary for the holding of banc. Subject to the rule requiring ten days' notice or the required consent of at least ~~seven~~ nine judges, an affirmative vote of ~~six~~ seven judges will always be necessary in passing or adopting any motion, resolution or official action of the court. (Source: September 1996 Banc meeting).

COMMENT: To have an equivalent number of judges for a twelve judge court as we had for a ten judge court.

- C. Effective January 1, 1967, all motions or resolutions acted upon or other official actions taken in banc sessions shall be reduced to writing and entered upon the minutes, indicating thereupon how each judge voted. The vote of each judge shall be cast by him/her in person while attending the banc session and not otherwise. No judge shall be allowed to vote by proxy.
- D. The clerk/court administrator shall serve as the secretary of the court for the purpose of effectuating this rule.
- E. Once a motion, resolution or proposition is acted upon, no motion, resolution or other proposal calling for a change in the action taken shall be considered or acted upon unless ten days written notice of the proposed change shall have been given to each judge of the court, provided, however, this rule may be waived by the consent of ~~eight~~ ten of the judges. (Source: September 1996 Banc meeting).

COMMENT: To have an equivalent number of judges for a twelve judge court as we had for a ten judge court.

5. DISCRETIONARY AND INTERLOCUTORY

No opinion to be written on discretionary and interlocutory if after reviewing the record, the appeal should not be affirmed by opinion.

After plenary consideration of this matter it is not found to satisfy the criteria for granting (interlocutory or discretionary) appeal and the application is therefore vacated.

6. RULE 36

Rule 36 is still alive and available. Cases may be affirmed without opinion if the evidence supports the judgment; no reversible error of law appears and the opinion would have no precedential value; or the judgment of the court below adequately explains the decision.

7. OPINIONS

~~All orders and o~~pinions shall be published in the Georgia Appeals Reports, except as provided by Court Rule 34.

COMMENT: We do not publish orders, generally.

8. JUDGMENT LINES

Standard judgment lines should be used whenever possible. Examples of standard judgment lines and when they are used are found in Appendix 9.

XXIII. AUDITS

COMMENT: Does the Department of Audits provide each member of the Court with a copy of the Court's annual audit? Does the fiscal officer distribute a quarterly expense report to each judge individually and the office of the clerk/court administrator or to just the chief judge?

- A. The Department of Audits will provide each member of the court a copy of the court's annual audit.
- B. The fiscal officer will distribute a quarterly expense report to each judge individually and to the office of the clerk/court administrator.

XXIV. INCLEMENT WEATHER

- A. The court will be kept open to the extent possible.
- B. The office of the clerk/court administrator will be kept open to the extent possible.
- C. Each judge controls his/her own staff and the clerk/court administrator will decide if the clerk's office should remain open and whether an announcement should be made on the radio.
- D. It is within the discretion of each judge to decide if weather conditions warrant his/her employees absence without being charged leave.
- E. While recognizing the independence of the judicial branch of government, if the Governor announces that State offices will be closed because of inclement weather, the Court of Appeals will likewise close its offices.
- F. The Chief Judge, after consultation with the Clerk/Court Administrator, shall make the determination whether the Clerk's office and court shall close during inclement weather.
- G. Court closings or late openings shall be broadcast on WSB radio 750 AM, and 98.5 FM, and WFOX radio 97.1 FM, 105.7 FM, WGST 640 AM and 101.5 FM.

COMMENT: To update the list of radio stations we use for weather alerts. We need to reconcile C. and F. as to the clerk/court administrator making the call on whether the clerk's office should remain open or the chief judge making that call. In the past, it has been the call of the chief judge.

XXVI. COPIES

A. The clerk's office shall provide copies of opinions at a cost of \$1.00 per page with a minimum of \$5.00 per opinion. Copies of the record may be purchased from the clerk's office at \$1.00 per page. Copies of indexes are ~~\$1.00 per page with a minimum cost of \$4.00.~~

COMMENT: Indices cost \$4.00 whether one page or ten pages. There is not a per page cost with indices.

B. Beginning January 1, 1996, opinions may be purchased electronically through the Reporter's office by subscription at a cost of \$1.00 per page. Opinions purchased through the Reporter's office at a cost of \$1.00 per page have no \$5.00 per opinion minimum.

(Source: Minutes, November 1995 Banc meeting).

C. The Fulton County Daily Report may have an open account for briefs and other Court documents billed at \$1.00 per page.

COMMENT: As per decision of the chief judge in March 1999.

XXVIII. SPACE ALLOCATIONS

COMMENT: Do we need to review Appendix 6 relative to twelve judges?

Space allocated to each judge's office as of May 31, 1994, shall remain with that office. (See Appendix 6.) There shall be space succession and not succession of persons.

2. The proposed order shall be circulated within the division and a unanimous vote shall be final. If not unanimous, the order shall be circulated to the whole court for further consideration and the final vote with names shall be shown but not written dissent shall be published.

COMMENT: Typographical error in the fifth line.

3. No motion for reconsideration shall be allowed.

G. PUNISHMENT

The court may impose punitive and/or remedial measures in consequence of a finding of contempt. Punitive measures may include a fine of up to \$1000; a public reprimand, to be included in the official reporter; a private reprimand, issued in order form to the contemnor; temporary or permanent suspension from the bar of this court. Remedial measures may include suspension from the bar of this court until any order of this court is obeyed.

H. NOTICE TO STATE BAR

In any case in which an order finding contempt is entered, the clerk/court administrator of this court shall forward the record of such proceeding to the Disciplinary Board of the State Bar of Georgia.

I. FRIVOLOUS APPEAL

1. Whenever the court enters an order finding any party or attorney in contempt, and assessing a fine for contempt or whenever the court awards damages for a frivolous appeal or any other monetary sanctions, the court shall issue a separate order, separate and apart from the opinion, specifically stating what monetary damages are assessed against which attorney or which party and to whom the monetary damages should be paid.
2. Any such orders on contempt, frivolous appeals or monetary sanctions shall be flagged and copies of such orders shall be sent to the clerk/court administrator, and the clerk/court administrator shall follow-up on the matter and ascertain that the court's orders are being followed.

XXXII. PROTOCOL ON DISQUALIFICATION AND RECUSAL OF JUDGES

A. DISQUALIFICATIONS

Whenever a case is assigned to a judge to author or to vote on and that judge is disqualified, that judge shall notify the Clerk's Office by memorandum that that judge is disqualified and that the case is to be transferred to another judge.

1. If the case to be transferred is set for oral argument or the case has previously been orally argued, the case will be assigned to the next judge on the transferring judge's panel. The judges on each panel shall be numbered one, two and three by the Clerk's Office. If judge one is disqualified, then the case goes to judge two, judge two to judge three and judge three to judge one.
2. After the case has been assigned to the next judge on the panel, the Clerk's Office will assign another judge to that panel from the next panel to sit in on that case for voting purposes. Each judge on each panel will be assigned to the next panel in the same judge order. Judge one on panel one will be assigned to fill in for judge one on panel two; judge one on panel two will be assigned to fill in for judge one on panel three. Judge one on panel three will be assigned to fill in for judge one on panel ~~one~~ four, and so forth.

COMMENT: To provide for the fourth panel.

3. If the case in which a judge is disqualified has not been orally argued or has not been set for oral argument, then the case shall be assigned off-panel. The case shall be assigned to the judge in the same position on the next panel.
4. If a judge is sitting on a panel, but is not assigned to the case, and that judge is disqualified, then the corresponding judge on the next panel will be assigned to that panel for purposes of voting on the opinion.
5. If the judge who is disqualified is the Chief Judge, then the case shall be assigned to the judge on the division for whom the Chief Judge is sitting.
6. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Administrative Assistant to the Clerk or the Docket Clerk for reassignment.
7. If the case is to be reassigned, the Clerk shall reassign the case, according to the judge position and panel

GUIDELINES

FLOWER FUND

COURT OF APPEALS OF GEORGIA

I. PURPOSE

The Court of Appeals of Georgia shall create a flower fund to provide funds for an appropriate expression of sympathy, joy, congratulations or recognition of achievement on certain occasions involving Court personnel.

II. CREATION

1. The Administrator/Clerk shall invoice and collect from each Judge on the Court a minimum contribution of \$50 per each year to establish a non-interest bearing checking account to effect the purposes of the flower fund.

COMMENT: The Administrator/Clerk, on consultation with the Chief Judge, invoices an amount of less than \$50 but an amount sufficient to maintain the flower fund. The amount varies from year to year.

2. The Court may assess such other contributions to the fund, by majority vote, as the Court may deem appropriate. In no event shall the annual contribution in any one calendar year exceed \$150 per Judges.

3. Whenever the balance of the flower fund shall exceed \$500, the minimum yearly contribution shall be stayed until such time as the balance falls below \$500.

III. APPLICATION

1. The flower fund shall be used to provide flowers, or an appropriate expression of sympathy, joy congratulations or recognition of achievement to Court personnel as follows:

- a. To any Judge's family in the event of the death of the Judges, the Judge's spouse, the Judge's child, the Judge's mother or father, or the Judge's mother-in-law or father-in-law.
- b. To any Judge, Judge's spouse or Judge's child living in the Judge's home, who is hospitalized for a period of more than 24 hours.
- c. To any Court personnel, other than a Judge, upon the death of such Court personnel, the death of such Court personnel's spouse, or the death of such Court personnel's child living in the home of such Court personnel.

- d. To any Court personnel, other than a Judge, who is hospitalized for a period of more than 48 hours.
- e. To any Judge who marries.
- f. To the family of any former Judge of this Court who dies or to any former Judge if such Judge's spouse predeceases the Judge.

2. The Court may, by a vote of at least ~~five~~ seven Judges, provide for such other expressions of sympathy, joy, congratulations or recognition of achievement, as the Court may deem appropriate.

COMMENT: An appropriate number with a twelve judge Court.

IV. ADMINISTRATION

1. The Administrator/Clerk shall be responsible for administrating the flower fund to include:

- a. Invoicing all Judges for the minimum annual contribution by April 30 of each year and insuring collection by June 1 of each year.
- b. Invoicing all Judges for all special contributions and insuring collection of any special contribution within 30 days of such invoicing.
- c. Balancing the flower fund account and reporting to the Banc when there has been any activity in the flower fund account, and in the event of no activity in the flower fund account, reporting to the Banc at least annually, beginning with the January 1996 Banc Meeting.
- d. Sending an appropriate expression from the Court on appropriate occasions pursuant to these guidelines.
- e. Doing such other things as may be reasonably required to effect the purposes of the flower fund.

2. The Administrator/Clerk and the ~~Deputy Administrator~~ Protocol Officer shall be signatories on the flower fund checking account.

3. In the absence of the Administrator/Clerk or at the direction of the Administrator/Clerk, the ~~Deputy Administrator~~ Protocol Officer shall be responsible for administrating the flower fund.

COMMENT: Dianne Joy is the other signature on the account.

V. COST OF EXPRESSION - NUMBER OF EXPRESSIONS

1. The amount of funds expended on any one flower fund donation or expression shall not exceed \$75.

2. The Administrator/Clerk shall send, when appropriate under the guidelines, a gift, expression or donation, the cost of which shall be determined by the local economy where the flowers are purchased or the expression or donation is made.

3. Any gift, donation or expression made by the Court shall reflect taste and thoughtfulness, and shall not be so penurious as to embarrass the Court, but shall not exceed the \$75 limit.

4. Any gift, donation or expression sent in excess of \$75 shall be authorized by a vote of ~~five~~ seven Judges on the Court.

COMMENT: The appropriate number for a twelve judge Court.

5. No Judge on the Court, or other Court personnel, shall receive more than one expression per calendar year for hospitalization. (For example, flowers shall be sent to a Judge's spouse only once during the calendar year; flowers may be sent to each Judge's child during the year, but only one express per child per year.)

6. Only one recognition of achievement per Court personnel may be sent per year.

VI. UNEXPENDED FLOWER FUNDS

1. The Court may, at any time, by majority vote, dissolve or discontinue the flower fund.

2. Upon such dissolution, the Administrator/Clerk or Deputy Administrator shall distribute the funds remaining in the flower fund to the Judges on the Court proportionately, based upon their contributions of unexpended funds remaining in the flower fund.

VII. AMENDMENT TO GUIDELINES

1. These guidelines shall be placed in the Court's Internal Operations Manual as an appendix to that manual so that all Judges will have convenient access to these guidelines.

2. These guidelines may be amended at any time by majority vote of the Judges on this Court.