

POWER POINT
PRESENTATION FOR
GAINESVILLE ORAL ARGUMENT

In 1906 the voters of the state of Georgia approved the Constitutional Amendment creating the Court of Appeals of Georgia, one of the earliest intermediate appellate courts in the country. (Photo of Capitol or Atlanta circa 1906 or 1907). The court began as a three judge court and convened originally at the State Capitol on January 2, 1907. Because of the tremendous caseload, in 1916 the General Assembly passed legislation adding three judges to the court bringing the total to six. The court remained a six judge court until 1960 when the number of judges was increased to seven, and the following year, increased to nine.

Again, because of the continuously increasing caseload, which is generally considered to be the highest caseload of any appellate court in the country in number of cases per judge, in 1996 the General Assembly added a tenth judge. Finally, in 1999, the legislature added two more judges, bringing the total number of judges on the Court of Appeals today, to twelve.

The Court sits in four divisions of three judges each. The Court consists of a chief judge and four presiding judges named by the chief judge and seven associate judges. The chief judge also names the judges to the panels and rotates the membership of the panels annually. This avoids stereotyping of both judges and opinions, helps diffuse judicial power and permits each judge the privilege and opportunity of serving with all.

Most of the work of the court is done by three judge panels, or divisions, with approximately 96% of the court's orders and opinions being the unanimous decision of a division. By statute, OCGA §15-3-1(c)(1), if there is a dissent on a division, the case is considered by the three judges of that division, the three judges of the next division in succession and a seventh judge. It is then decided by a majority vote of those seven judges.

OCGA §15-3-1(c)(2) provides the method by which a case can be considered by all twelve judges on the Court. Specifically, if the majority of the original three-judge panel or the seven-judge panel wants the case to be considered by all twelve judges, that may be requested and if seven judges vote for all judges to consider the case, all judges will pass on the case. Additionally, whenever the Court of Appeals overrules a prior opinion of the Court of Appeals of Georgia, such a case will circulate to all twelve judges.

The Court of Appeals of Georgia is located in the Judicial Building at 40 Mitchell Street, Atlanta, Georgia. This location has been the seat of the Court since 1956 when construction of the Judicial Building was completed. Prior to that time, the Supreme Court and Court of Appeals shared a Courtroom in the State Capitol, Room 341, the room that is now the Appropriations Hearing Room. (Photo of the Capitol and photo of the House Appropriations Hearing Room).

Generally, the Court of Appeals hears oral argument 4 to 6 times a month in the Court of Appeals Courtroom located in Room 617 of the Judicial Building. (Photograph of the Court). However, on occasion, when invited, the Court of Appeals will conduct oral arguments in various locations in the state, as we are doing here in Gainesville today.

The Court of Appeals of Georgia is a court of review and exercises appellate jurisdiction in all appeals in which jurisdiction is not specifically reserved to the Supreme Court or conferred on other courts by law. The decisions of the Court of Appeals, insofar as they do not conflict with those of the Supreme Court, are binding on all courts, except the Supreme Court, as precedence. The decisions of the Court of Appeals may be reviewed by the Supreme Court on petition, but that review is discretionary with the Supreme Court and, in fact, the vast majority of the decisions of the Court of Appeals of Georgia are final.

Under the State Constitution the Georgia Supreme Court has appellate jurisdiction over treaties, constitutional questions and election cases.

The Supreme Court's general appellate jurisdiction, which may be modified by the legislature, is:

1. Cases involving title to land
2. All equity cases
3. All cases involving wills
4. All habeas corpus cases
5. All cases involving extraordinary remedies
6. All divorce and alimony
7. All cases certified by the Court of Appeals
8. All cases in which the sentence of death was imposed or could be imposed.

Appeals from all other types of cases come to the Court of Appeals of Georgia. These other appeals make up approximately 80 to 85 percent of all cases appealed from the trial courts.

The appellate courts of Georgia sit as courts of review, to review alleged errors of the trial courts. Appellate courts are bound by the record in the trial court, that is, all pleadings filed with the trial court, orders of the trial court and a transcript of the proceedings, if any. Appellate courts are not permitted to receive the testimony of witnesses or consider evidence which was not a part of the record in the trial court, nor do they have juries to sit and hear the cases.

Appellate courts can only review alleged errors of the trial court and consider objections or legal issues which have been preserved by a proper objection in the trial court and enumerated as error in briefs filed in the appellate courts. Appellate courts review the record on appeal to ascertain if the trial court has committed a reversible or harmful error. That is, an error which had it not occurred, would likely result in a different outcome, verdict or judgment at trial.

The caseload of the Court of Appeals of Georgia shows it is one of the busiest appellate courts, if not the busiest, in the country. Here is a chart listing the number of filings and filings per judge in the Court of Appeals for the past ten years. Please note that the National Standards for Appellate Court

Judges, as set by the American Bar Association and the National Center for State Courts, range from 100 to 125 appellate court cases per judge per year. Even with a Court consisting of twelve judges, the workload for the Court of Appeals of Georgia is still more than 2 and one half times the national standards.

The work product of the Court of Appeals consists of the written opinions which the court issues, most of which are published in the *Georgia Appeals Reports*. This constitutes a body of case law which trial judges rely on as precedent in deciding other cases and which attorneys rely on as guidance in the practice of law. Such opinions and rulings are binding on the trial courts in all future similar cases. As a testament to the exemplary work done by the **trial** court judges of this state, approximately 85 to 88 percent of all appeals are affirmed, or upheld, by the Court of Appeals.

Coupled with this extremely heavy caseload is the fact that Georgia is the only state in the nation which has a constitutional requirement that its appellate courts dispose of every case at the term for which it is entered on the court's docket for hearing or the next term. (Power Point for the Constitutional Provision, Article VI, Sec. IX, Para. II). OCGA §15-2-4 sets three terms per year for the appellate courts, a January Term, an April Term and a September Term. Three terms per year coupled with the constitutional requirement that the courts dispose of every case within two terms simply means that the Georgia Court of Appeals has no backlog of undecided cases. It also means that every one connected with the court must be aware of the constitutional deadline for disposition of cases, and that everyone must do everything necessary to make sure that all cases are decided timely in compliance with the constitutional mandate.

In the 94 years the court has existed, it has never failed to meet that constitutional two term deadline in deciding tens of thousands of cases which have come before the court.

The motto of the Court of Appeals of Georgia is "Upon the integrity, wisdom and independence of the judiciary depend the sacred rights of free men and women". That motto provides a solid foundation upon which the court operates and carries out its constitutional and legal duties.

How does the busiest appellate court in the country operate? As I said earlier, the court consists of twelve judges sitting in panels or divisions of three judges each. (Power Point photo of the Whole Court). Additionally, each judge has three staff attorneys, experienced lawyers who assist the judges with the research on appeals and the preparation of opinions.

In addition to the judges' staff attorneys, the Court has a Central Staff of attorneys who screen cases for jurisdiction and review interlocutory and discretionary applications making recommendations to the court as to the grant or denial of such applications. (Power Point photos of different areas of the court). Each judge's office has an administrative assistant, a skilled and experienced legal secretary, who is responsible for circulating the opinions among a three, seven or twelve judge panel and for putting opinions in final form for distribution to parties, attorneys, trial courts and the public at large. The administrative assistant also organizes the internal processes in a particular judge's office for the timely and appropriate disposition of that judge's caseload.

Additionally, the Court has three floating administrative assistants. These skilled legal secretaries fill in when a judge's administrative assistant is absent and assist in the clerk's office, the clerk/court administrator, chief judge and other judges when unusually heavy workloads and/or time constraints require additional assistance.

The clerk's office consists of nine people, the clerk, his administrative assistant, the deputy clerk, a docketing clerk, calendar clerk, applications clerk, remittiturs clerk, intake clerk and a mail clerk. The clerk's office is responsible for receiving the records and applications, properly docketing them and making sure that all records and all pleadings filed with the individual appeals are circulated to the proper judge's offices and that the orders of the court and the opinions of the court are issued timely to the lawyers and parties involved in the respective cases.

The court also has a technical services division consisting of four highly trained and skilled personnel schooled in the latest electronic computerized applications. The court has been computerized since 1989, and without the assistance and ongoing efforts of the technical services staff, the Court of

Appeals would not be able to meet its constitutional obligation of disposing of every case within two terms, or at least it could not meet that obligation without a significant increase in personnel.

Last, but not least, the Court has a fiscal office which is responsible for all of the court's purchasing, payroll, budget and fiscal operations with its 90 plus employees.

I should add that the combined budgets of the entire judiciary of the State of Georgia totals less than eight tenths of one percent of the entire state budget. The budget of the Court of Appeals is less than one tenth of one percent of the entire state budget.

If you would like to know more about the history of the Court of Appeals, you may pick up a copy of the Court History which I have brought for you today. Additionally, you can go to the Court's web site at: www.appeals.courts.state.ga.us and click on any of the several hyperlinks. If you have questions about the operations of the Court of Appeals feel free to call me, see me after oral arguments today or click on to the hyperlink "Ask the Clerk".

Today you will be hearing oral arguments before the Fourth Division of the Court. The Presiding Judge of the Fourth Division is Presiding Judge J.D. Smith, formerly chief judge of the Northeastern Judicial Circuit in Hall and Dawson Counties. Presiding Judge Smith was appointed to the Court in 1993. On the Division with Presiding Judge Smith are Judge Anne Elizabeth Barnes of Atlanta who was elected to the Court of Appeals in 1998 and assumed office on January 1, 1999 and Judge Herbert E. Phipps of Albany who was appointed to the Court in July of 1999. Today you will be hearing arguments in two civil cases and one criminal case.

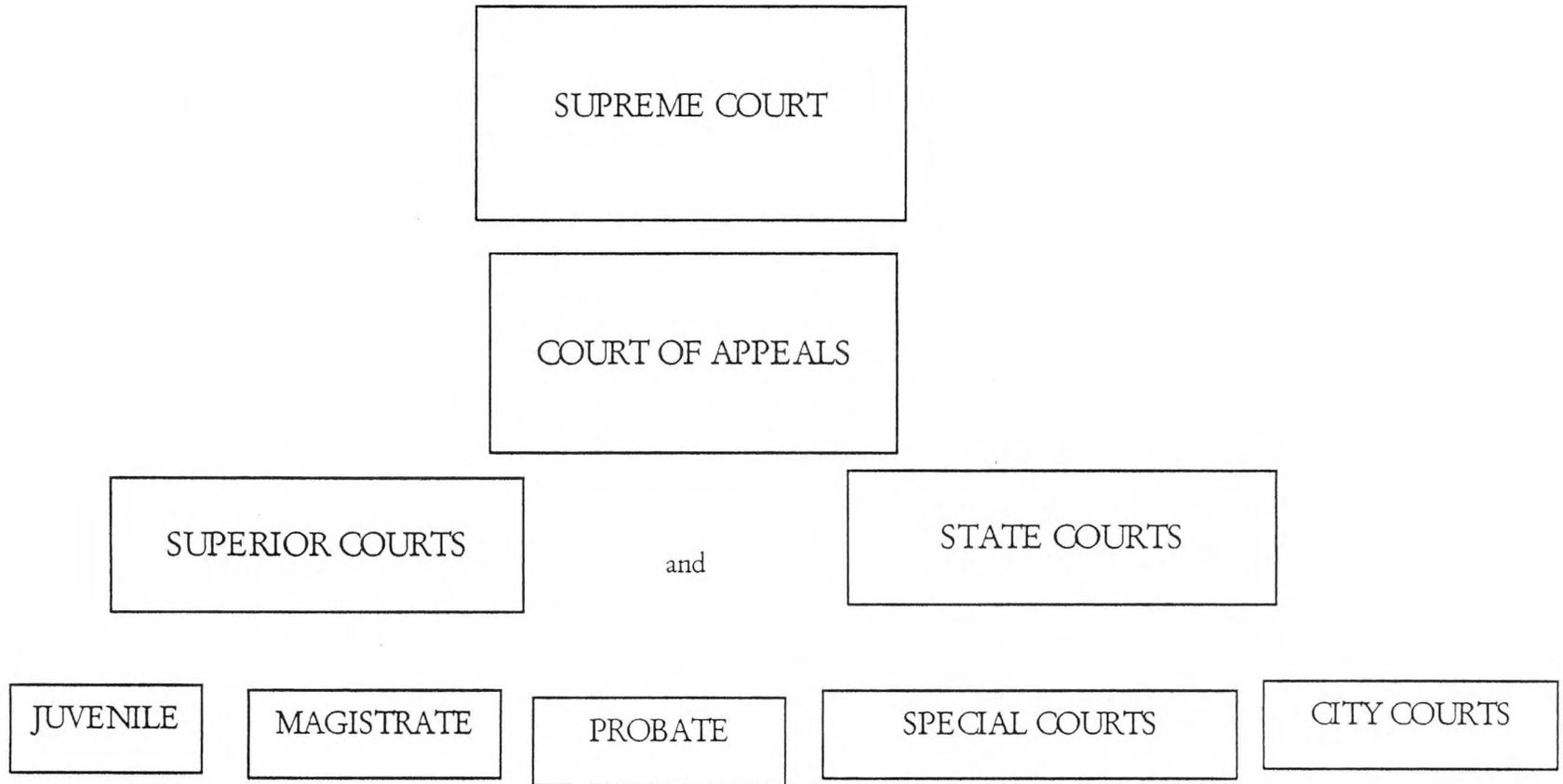
Thank you again for the opportunity to be with you today and thank you to the lawyers who agreed to come to Gainesville for these oral arguments. I hope you find the oral arguments presented to be informative, educational and entertaining.

COURT OF APPEALS
FILINGS

1991 - 2000

	Number of Filings	Number of Judges	Filings Per Judge
1991	3,142	9	349
1992	3,408	9	378
1993	3,536	9	393
1994	3,911	9	435
1995	3,632	9	404
1996	3,450	9	383
1997	3,513	10	351
1998	3,365	10	337
1999	3,359	10	336
2000	3,394	12	283

GEORGIA COURT STRUCTURE



GEORGIA COURT STRUCTURE, 1998

