

COURT OF APPEALS OF GEORGIA

ADMINISTRATIVE BANC MEETING

Tuesday, April 22, 2008

10:30 a.m.

Court Banc Room • 47 Trinity Avenue, S.W. • Suite 501
Atlanta, Georgia 30334

A G E N D A

- | | | |
|-------|--|---------------------------------------|
| I. | Call Meeting to Order | Chief Judge Barnes |
| II. | Ascertainment of Quorum | Chief Judge Barnes |
| III. | Approval of February, 2008 Banc Meeting Minutes | Chief Judge Barnes |
| IV. | Recognition of Judge John H. Ruffin, Jr. as
Presiding Judge of the First Division | Chief Judge Barnes |
| V. | Budget Report | Chief Judge Barnes |
| VI. | Additional Travel Funds | Chief Judge Barnes |
| VII. | Technical Services Report | Judge Phipps
Mr. Bill Martin |
| VIII. | Court Planning Session | Chief Judge Barnes
Mr. Bill Martin |
| IX. | Central Staff Procedures | Judge Phipps |
| X. | Central Staff Memo | Chief Judge Barnes |
| XI. | Report on Judge Mikell | Chief Judge Barnes |
| XII. | Policy Considerations for New Docket | Chief Judge Barnes
Mr. Bill Martin |
| XIII. | Recusal Policy Change | Mr. Bill Martin |
| XIV. | Old Business | |
| XV. | New Business | |
| XVI. | Announcements | |
| XVII. | Adjournment | |

Banc Agenda

Budget Report

- Outcome of 08 Supplemental
- FY2009
- New Positions not funded
- E-Filing Funds
- Steps for Staff Attorneys

E-Filing Status

Upcoming Court Planning Session

- Schedule, Check in is at 4 p.m.
- Hand out directions
- Projector needs
- Agenda

Recycling Records

- Should a shredder be purchased
- New contractor
- Money leftover from IT Budget

Portrait Committee (Ruffin, Chair)

- Policy should be put together
- Gold lettering on bench
- Reframe and date photographs

Gifts Committee (Ruffin, Chair)

- Policy

Cases involving same Issue

- Should there be a Rule created to notify Court

Court Security

- Write up procedures
- Meet with Sergeant Tisdale

Bud Tirey

- Should the Court continue to use Bud's services
- Should one of the IT guys be trained in programming

The use of "Whole Court"

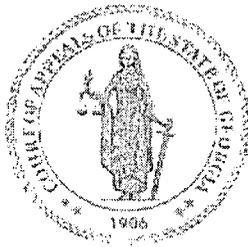
- 15-1-3 defines Whole Court as being all 12.

Panel Change

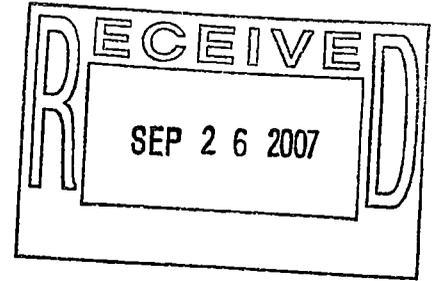
- Ruffin is now Presiding

Wish List

- End of the year purchases



Court of Appeals
Memorandum



To: Chief Judge Barnes
From: *William*
William L. Martin, III
Subject: September Administrative Banc Meeting Minutes
Date: September 25, 2007

Attached please find the Banc meeting minutes for the September Banc meeting. Please review these and make whatever changes you deem appropriate.

If the minutes are acceptable as presented, please initial same and return them to me and I shall distribute them to the other Judges.

Thank you.

looks good
ARB

attachment

/lo

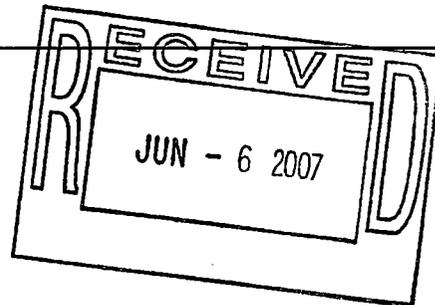
SEP 3 9 50A



Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes
From: *WLM*
William L. Martin, III
Subject: May Administrative Banc Meeting Minutes
Date: June 5, 2007



Enclosed please find the revised Minutes that I have changed pursuant to your instructions.

I have included the old Minutes so you can see the correction.

If these meet with your approval, please initial same and return them to me and I shall distribute them to the judges.

Thank you.

/ld

Enclosures

*Looks good!
Thanks
AKW*

AKS

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, May 22, 2007 10:30 a.m.

The May Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, S.W., Atlanta, Georgia at 10:30 a.m. on Tuesday, May 22, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. William L. Martin, III, Clerk/Court Administrator

I. CALL TO ORDER:

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. APPROVAL OF APRIL 2007 MINUTES:

Chief Judge Barnes called for approval of the April 2007 Banc Meeting Minutes. Presiding Judge Johnson made a motion to approve the Minutes as presented, which motion was seconded by Judge Phipps. The motion carried unanimously and the Minutes were approved.

III. BUDGET REPORT:

Chief Judge Barnes called upon Jan Kelley, Fiscal Officer, for a budget report. Ms. Kelley presented the status of the 2007 fiscal budget which ends on June 30. There was a general discussion regarding the budget. Ms. Kelley stated the Court had sufficient funds to finish our the 2007 budget year and to pay the interns through June 30.

Ms. Kelley presented in her budget materials some proposed expenditures for the available funds in the 2007 budget which were made possible by cost cutting measures and utilizing some of Technical Services' budget. Judge Phipps stated he felt the Court should purchase the batteries necessary to backup the Court's computerized docketing system. After a general discussion of the matter, Presiding Judge Andrews made a motion that the Court spend any funds remaining in the budget on, in order of priority, so long as funds are available: (1) needed equipment for Technical Services (batteries for the backup system); (2) \$15,000 budgeted for window treatments for the three judges' suites on the third floor; (3) reimbursement of travel funds for judges that exceeded their travel pursuant to the Court's policy set out in the IOM and (4) membership in the council of Chief Judges of the State's Courts of Appeal. The motion was seconded by Judge Mikell and passed with all the judges voting in favor.

Ms. Kelley presented the budget for Fiscal Year 2008 and suggested some strategies regarding the operation of Court depending upon the various levels of funding through the supplemental budget process. There was a general discussion about the budgetary shortfall and the impact it would have on the Court and how best for the Court to deal with that impact. Ms. Kelley said there were no funds for interns beginning in Fiscal Year 2008 (July 1, 2008). Presiding Judge Blackburn asked if a judge could use his/her travel funds to pay interns and Ms. Kelley responded in the affirmative.

Chief Judge Barnes asked if there were any other specific questions of Ms. Kelley about the budget. There being none, Chief Judge Barnes excused Ms. Kelley from the Banc Meeting at 11:15 a.m.

There was further discussion on the budget as how best for the Court to deal with the Legislature. There were discussions as to whether the Court should carry on its business as usual and deal with any shortfall at the end of the Fiscal Year if that comes about, or if the Court should try to reduce its expenditures during the year. There was a concern that if the Court continues to cutback in its operational budget the Legislature would continue to cut that budget.

Presiding Judge Blackburn said it may be a better approach to have the chief judge's service run on the fiscal year rather than the calendar year. Also, he suggested the chief judge's term should coincide with the chief justice's term. He felt this would give the chief judge a better understanding of the budget and the budget process. Judge Ruffin concurred in this view.

Judge Ruffin made a motion to have a Budget Committee as a standing committee of the Court with the judge next in line to be chief judge as a member of that committee. Presiding Judge Johnson seconded the motion and the motion passed with all judges voting in favor except Presiding Judge Blackburn who abstained. Chief Judge Barnes then appointed a Budget Committee to consist of: Judge Mikell as Chair; Presiding Judge Blackburn, Presiding Judge Smith; Judge Miller as judge next in line to be Chief, and Judge Bernes.

Thereafter, the Court decided it would take no vote on the 2008 Budget and the plans of operation at this time, but the Court would study the materials available and other budget information and readdress the issue at a subsequent Banc Meeting.

IV. POLICIES ON DISQUALIFICATIONS/RECUSALS:

Chief Judge Barnes called upon Presiding Judge Johnson to address the issue of Policies on Disqualifications and Recusals. Presiding Judge Johnson said the issue of recusals has been a topic of discussion for the past two years or so. Presiding Judge Johnson stated he had circulated to all of the members of the Banc a memorandum from Judge Phipps and him setting out the current protocol used for assigning a case when a judge has recused and the proposed protocol to make the workload of persons receiving assigned cases more equitable.

After a brief discussion, Judge Bernes made a motion to adopt the protocol as set out in the memorandum of Presiding Judge Johnson and Judge Phipps (a copy of which is attached). The motion was seconded by Judge Mikell. After a brief discussion the Chair called the question and the motion passed unanimously.

Presiding Judge Johnson said there is a second issue dealing with the development of the guidelines to use as a reference in dealing with disqualifications/recusals. Chief Judge Barnes appointed a committee consisting of: Presiding Judge Johnson, Presiding Judge Blackburn, Judge Ruffin and Judge Phipps to develop a protocol to serve as guidelines to help judges deal with the issues of recusal and disqualification.

V. NEW BUSINESS:

No new business was brought before the Banc.

VI. **ADJOURNMENT:**

Judge Ellington made a motion to adjourn, which was seconded by Judge Miller, and passed unanimously. Chief Judge Barnes adjourned the meeting at 11:45 a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

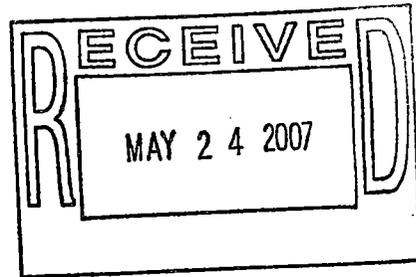
Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.



Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes
From: *William L. Martin, III*
Subject: May Administrative Banc Meeting Minutes
Date: May 24, 2007



Enclosed please find the Minutes for Tuesday's Banc Meeting. Please review the Minutes and make whatever corrections you deem appropriate.

Thank you.

/ld

Enclosure

bill

Please review the attached Revised Committee list per Chief Judge Barnes.

Please note that the only change I made to the minutes was adding Judge Blackburn's name to

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WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.



COPY

Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes

From: 
William L. Martin, III

Subject: May Administrative Banc Meeting Minutes

Date: May 24, 2007

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Thank you.

/ld

Enclosure

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, May 22, 2007 10:30 a.m.

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Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
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Judge Herbert E. Phipps
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Judge A. Harris Adams
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Guests:

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Mr. William L. Martin, III, Clerk/Court Administrator

I. CALL TO ORDER:

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

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After a brief discussion, Judge Bernes made a motion to adopt the protocol as set out in the memorandum of Presiding Judge Johnson and Judge Phipps (a copy of which is attached). The motion was seconded by Judge Mikell. After a brief discussion the Chair called the question and the motion passed unanimously.

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V. NEW BUSINESS:

No new business was brought before the Banc.

VI. ADJOURNMENT:

Judge Ellington made a motion to adjourn, which was seconded by Judge Miller, and passed unanimously. Chief Judge Barnes adjourned the meeting at 11:45 a.m.

Respectfully submitted,


WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.



Court of Appeals

Memorandum

To: All Judges

From: Presiding Judge Johnson  and Judge Phipps 

Subject: Recusals

Date: May 16, 2007

Dear Colleagues:

At our request, Chief Judge Barnes has placed the subject of recusals on the agenda for the May 22, 2007 banc meeting. There are two separate issues we wish to discuss. The first issue is to decide how the court should proceed when there has been a recusal. The second issue is the advisability of preparing general guidelines for judges to assist in making the difficult and personal decision of whether he or she should recuse in a given case. These two issues are distinct, though related. We believe the court can take action upon the first issue immediately. As to the second, more general issue, it is likely to require more long-term consideration.

1. Protocol for assigning a case when the assigned judge has recused.

Currently: When the judge assigned to write an opinion recuses in the case, the case

is automatically reassigned on a pre-set rotation basis to the next judge on the panel, who then must write the opinion. Using the Second Division as an example, if Judge Johnson recuses on one of his assigned cases this year, it goes to Judge Phipps automatically. If Judge Phipps recuses, the case goes to Judge Mikell, and if Judge Mikell recuses, the case goes to Judge Johnson. When this transfer occurs, the docket is set up to make a reciprocal transfer of a future case from the judge who received the case to the recusing judge, but only if the docketing year is still open. If the docketing year is closed, there is no reciprocal transfer.

We believe the current procedure is bad for several reasons: First, if the case transferred is a current term case, it increases the workload of the receiving judge immediately, while delaying the relief for that judge to a future term. And, if the docketing year is closed, there is no relief for the receiving judge. Second, because it provides for an automatic transfer to a particular judge, the burden of writing cases following a recusal is not equally shared by all the judges on the court. If you happen to be on a panel with a judge who, for whatever reason, recuses more frequently than the average, the current system is unduly burdensome for you. Third, because each of us knows to whom any case will be transferred should we find it necessary to recuse, that fact may play, either unconsciously or consciously, or give the appearance of playing, into our decision whether to recuse in the first place. Of course, this should never be a factor in a judge's decision to recuse.

To address these problems, we propose two things: First, that upon recusal, the

receiving judge be determined by random selection. This helps equalize the burden among all judges while also making the selection of the receiving judge blind to the recusing judge. Second, that upon transferring the case to the randomly chosen receiving judge, that judge be allowed to choose a case from his or her pending cases and make an immediate reciprocal transfer to the recusing judge. This takes care of the problem of increasing a judge's workload without immediate relief.

2. Crafting guidelines to assist judges in making appropriate decisions as to recusal.

As we said earlier, this is a completely separate, bigger and more complicated issue as to which immediate action is neither possible or desirable. The decision as to whether it is appropriate for us to recuse in a particular case is very personal, and in many situations both difficult and complicated. No matter how well thought out and drafted guidelines are, inevitably there will be situations faced by individual judges where such guidelines will be of little, if any, help. Several judges have indicated to us that this effort is desirable and should be attempted notwithstanding its complexity. Therefore, we propose that the Chief judge appoint a committee to study this issue and attempt to draft general guidelines. We further propose that in carrying out this effort, the committee members be required to seek and consider input from every judge on the court, in addition to any information the committee may gather elsewhere. We further propose that the committee be required to

complete its work by the end of this calendar year.

We would sincerely appreciate your thoughtful consideration of these issues before the banc meeting and be prepared to vote on these proposals.

COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING

Tuesday, February 20, 2007
10:30 a.m.

Court Banc Room • 501 Trinity Avenue

- ✓ I. Call Meeting to Order *CG announced*
Supreme Ct - GAO, motion 111 - Chief Judge Barnes
- II. Approval of November 2006 Minutes Chief Judge Barnes
- III. Old Business
- A. Fiscal Office Report Jan Kelley
1. FY2007 Supplemental Budget ✓ Judge Mikell and Jan Kelley
2. FY2008 Budget ✓ Judge Mikell and Jan Kelley
3. Judges' Elevator ✓ Jan Kelley
- B. Technical Services Update ✓ John Ruggeri
1. E-filing Update ✓
- C. Central Staff Attorneys Update Judge Mikell
1. New Hire - *Dianna Sikes - Com voted by memo -*
2. Katherine Durant
- IV. New Business
- A. Legislation *\$1,69,500 CS*
- House Bill*
1. House Bill 119 - Judicial Pay Raise Bill Martin
2. House Bill 120 - Travel Reimbursement for Judges Bill Martin
3. House Bill 309 - Retirement for Judges at Age 60/10 Years Service Bill Martin
4. Senate Bill 112 - Retirement for Judges at Age 60/12 Years Service or Age 65/10 Years Service Bill Martin
5. House Bill 369 - Direct Appeal of Domestic Relation Cases Bill Martin
- ✓ B. Exception Report Bill Martin
- ✓ C. Central Staff - Jurisdictional Reviews Judge Mikell
- D. Other - *Rain Flower Fund Acct.*
- V. Adjournment



Court of Appeals

Memorandum

To: Chief Judge John H. Ruffin, Jr.
From: *William L. Martin, III*
Subject: November Banc Meeting Minutes
Date: December 6, 2006

William L. Martin, III
12/06/06

Attached please find a draft of the Banc Meeting Minutes. I would appreciate your reviewing them and making any corrections you deem appropriate. Also, if the Minutes are acceptable as presented, please initial same and return them to me and I shall distribute them to the judges.

Thank you.

/ld

Attachments

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, November 28, 2006

The November Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, November 28, 2006. Those present were:

Chief Judge John H. Ruffin, Jr.
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge Anne Elizabeth Barnes
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell, Jr.
Judge A. Harris Adams (part of the meeting)
Judge Debra Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. John Ruggeri, Technical Services Director (part of the meeting)

I. CALL TO ORDER:

Chief Judge Ruffin called the meeting to order at 10:30 a.m.

II. ASCERTAINMENT OF QUORUM:

Mr. Martin announced a quorum was present.

III. ADOPTION OF AGENDA:

Judge Mikell made a motion to approve the Agenda which motion was seconded by Judge Adams and the motion passed unanimously.

IV. **APPROVAL OF MINUTES:**

Presiding Judge Blackburn made a motion to approve the Minutes of the June and September Administrative Banc Meetings. The motion was seconded by Presiding Judge Johnson and passed unanimously.

V. **CHIEF JUDGE'S BIENNIAL REPORT, 2005-2006:**

Chief Judge Ruffin handed out to the judges his Biennial Report outlining the activities, accomplishments and items to be completed during his tenure as chief judge. After the report had been read by the judges, Judge Mikell made a motion to accept the report and to thank Chief Judge Ruffin for his service and for what he has done for the Court during his tenure as Chief Judge. Presiding Judge Smith seconded the motion and it passed unanimously.

VI. **OLD BUSINESS:**

A. ***Budget Matters***

Judge Mikell reported he, Jan Kelley and Bill Martin had met with Representative Mack Crawford, Chair of the House Appropriations Subcommittee on the Judiciary at Chairman Crawford's office on Thursday, November 16. Judge Mikell said they were well received and he felt confident in having the support of the House in the Court's initiative in hiring another Floating Administrative Assistant and another Floating Staff Attorney. Judge Mikell also said Chairman Crawford would support a four percent raise for the judges and the Court employees, however, Chairman Crawford stated the Senate may not be so inclined.

Judge Mikell said the Chairman Crawford was concerned about security for the Court of Appeals and was willing to try to get additional funding for security if it were needed.

Ms. Kelley stated the Senate wants to provide only a three percent COLA but Chairman Crawford is going to try to initiate a \$5,000.00 raise for the appellate judges. This would be in the 2008 budget and in addition any COLA the judges might receive. Judge Mikell clarified that currently the appropriation bill calls for a 2.89 percent COLA for the judges and a 4 percent COLA for the Court's employees.

B. ***Status of Renovations***

Ms. Kelley reported the renovations for the third floor of the Judicial Building are on schedule to have the judges' offices complete by the end of December. She cautioned that construction delays are always possible but right now the builders are making good progress and are on schedule.

C. *Employee Raises*

Chief Judge Ruffin stated Bob McAteer and Brett Muller of the IT staff had each received \$5,000.00 raises effective November 15.

The Court then discussed the adoption of the salary scale for Administrative Assistants which the Supreme Court had adopted. This scale provides for a lower entry but does provide an additional step at the end of the scale. After a thorough discussion of the issue, Judge Mikell made a motion to adopt the salary scale that the Supreme Court has in place for its administrative assistants. The motion was seconded by Judge Barnes. All judges voted in favor of the motion except Presiding Judge Andrews and Judge Ellington who voted against the motion.

Thereafter, Presiding Judge Smith made a motion to reconsider the vote which was seconded by Judge Barnes. Presiding Judge Andrews said he felt the administrative assistant salaries were totally out of proportion with what staff attorneys earn *vis a vis* their relative skills and duties. Presiding Judge Blackburn stated the administrative assistants did not get a raise the last time staff attorneys received a raise. Judge Mikell said we should raise our employees whenever we can since raises are not that frequent. Presiding Judge Smith said the Court of Appeals is only doing what the Supreme Court has done. Presiding Judge Johnson said it would make our pay scales for staff attorneys and administrative assistants the same as pay scales for those positions on the Supreme Court.

After further discussion, Judge Mikell made a motion to adopt the pay scale which the Supreme Court has adopted for administrative assistants. The motion was seconded by Judge Barnes. All judges voted in favor of the motion except for Presiding Judge Andrews and Judge Ellington, who voted against the measure.

Ms. Kelley then asked for Court action to approve the implementation of the four percent COLA for Court employees as of January 1, 2007 which was part of a budget approved earlier by the Court. Presiding Judge Andrews suggested it may be more appropriate to factor the COLA so staff attorneys may receive more than administrative assistants and other Court employees. There was a thorough discussion of this issue, after which time Presiding Judge Andrews made a motion to give the staff attorneys more than administrative assistants and other Court employees, as may be appropriate within the pool of money for the four percent raise. The motion was seconded by Judge Adams. The motion failed with Presiding Judge Andrews, Judge Ellington, Judge Adams and Judge Bernes voting in favor and Chief Judge Ruffin, Presiding Judge Johnson, Presiding Judge Blackburn, Presiding Judge Smith, Judge Barnes, Judge Miller, Judge Phipps and Judge Mikell voting against the measure.

Ms. Kelley and Mr. Ruggeri left the room. Chief Judge Ruffin stated Ms. Kelley was asking the Court to raise her salary equal to Mr. Ruggeri's salary. After a brief discussion, Judge Miller made a motion to raise Ms. Kelley's salary to that of Mr. Ruggeri's (\$101,176.80).

The motion was seconded by Judge Barnes and passed unanimously. The Court instructed Mr. Martin to inform Ms. Kelley that the raise was to begin immediately.

D. E-Filing Report

Chief Judge Ruffin called upon Mr. Martin for a report concerning the problems of e-filing documents and records from Fulton County. Mr. Martin stated there had been a meeting with Court of Appeals' staff attorneys, the clerk's office staff and IT personnel, Supreme Court staff and representatives on Fulton Superior and State Court, Lexis Nexis and Judge Henry Newkirk concerning the problems the appellate courts were having with e-filed records. Specifically, the Court of Appeals received a record in which the copy of the Notice of Appeal stated service had been perfected by e-filing and the trial judge's signature on the order being appealed did not appear. Mr. Martin reported the meeting produced solutions to both of those problems which were outlined in a draft letter Mr. Martin had included in the judges' Banc materials, which letter was to be sent to Fulton County.

E. Employee Advertising Criteria

Chief Judge Ruffin called upon Judge Barnes for a report on the employee advertising criteria. Judge Barnes stated the Court had placed an advertisement in the Fulton County Daily Report to advertise for a Central Staff Attorney, but that was quite costly. She said she could advertise in the AJC on-line for only \$369.00. She reported the distribution could be through the Bar Association's on-line sources, the Fulton County Daily Report, but she recommended the on-line version of the AJC. The recommendation was to make such postings of a job for all Court positions. There were no questions about Judge Barnes' report and Chief Judge Ruffin thanked her for her excellent report. Judge Adams left the meeting at 11:15.

VII. NEW BUSINESS:

A. Mass Appellate Admissions

Presiding Judge Smith said he felt a better approach to the Mass Swearing-In was to have the Chief Justice of the Supreme Court and Chief Judge of the Court of Appeals represent the Courts with notice to the Younger Lawyers Section of the Bar and the attendees that the chiefs were representing both Courts. He felt this was preferable to having only four judges of the Court of Appeals show up when six Supreme Court Justices show up. Chief Judge Ruffin said he thought it was important for all of the judges to show up for this service, particularly since it only occurred twice a year.

Judge Barnes suggested rather than the chief judge attend, judges designated by the chief judge to represent the Court could be present; those would be the judges who were planning to attend, anyway. Presiding Judge Johnson said the Federal district courts designate only a single

judge to attend. After further discussion, Presiding Judge Smith made a motion that only the chief judge and chief justice attend the Mass Swearing-In which motion was seconded by Presiding Judge Johnson. Presiding Judge Andrews, Presiding Judge Johnson, Presiding Judge Smith, Judge Ellington and Judge Phipps voted in favor the motion. Chief Judge Ruffin, Presiding Judge Blackburn, Judge Barnes, Judge Miller and Judge Bernes voted against the motion. Judge Mikell abstained. Therefore the motion did not pass, the vote being five for and five against. Chief Judge Ruffin said this would be a matter to be decided by the next chief judge.

B. Election of New Chief Judge

Presiding Judge Andrews made a motion that Judge Barnes be elected as Chief Judge for a two-year term beginning January 1, 2007 and ending December 31, 2008. Judge Miller seconded the motion and it passed unanimously.

C. Other New Business

Judge Mikell said there would be two vacancies in Central Staff. Julianne Whisnant was leaving to go to work in Presiding Judge Smith's office. Chuck Williams will be retiring January 31, 2007. Acknowledging the sagacity of advertising for positions, Judge Mikell asked the Court to approve the hiring of Sara O'Dea for the Floating Central Staff position. Ms O'Dea was formerly a staff attorney for Chief Judge Ruffin. Judge Mikell said the hiring of Ms. O'Dea was necessary to facilitate the scheduling of Central Staff attorneys among the judges' offices for next year. Chief Judge Ruffin gave Ms. O'Dea his highest recommendation. After a brief discussion, Judge Mikell made a motion the Court hire Ms. O'Dea as a Floating Central Staff attorney. The motion was seconded by Presiding Judge Johnson and passed unanimously.

Presiding Judge Johnson stated IT has problems with certain service calls. Chief Judge Ruffin said that issue would be addressed to the parties that need to know by IT.

Mr. Martin reported there is interest in the Legislature this year in early retirement legislation for the appellate court judges. Chief Judge Ruffin stated there would be a report from Central Staff regarding their telecommuting. Chief Judge Ruffin also reported Justice Served will be meeting on December 4th at 10:00 a.m. in the Conference Room and he hoped the judges could stop by at least for some of that meeting.

Chief Judge Ruffin reminded the judges the Court's Holiday Party is December 7th and the Judicial Luncheon with the State Bar is December 14th.

Presiding Judge Blackburn thanked Chief Judge Ruffin for all he did in the Centennial celebration and dinner at the Aquarium. Chief Judge Ruffin in turn thanked Holly Sparrow and Bill Martin for their efforts in that endeavor.

VIII **ADJOURNMENT:**

There being no further business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2006.



Court of Appeals

Memorandum

To: Chief Judge John H. Ruffin, Jr.
From: 
William L. Martin, III
Subject: November Banc Meeting Minutes
Date: December 6, 2006

Attached please find a draft of the Banc Meeting Minutes. I would appreciate your reviewing them and making any corrections you deem appropriate. Also, if the Minutes are acceptable as presented, please initial same and return them to me and I shall distribute them to the judges.

Thank you.

/ld

Attachments

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, November 28, 2006

The November Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, November 28, 2006. Those present were:

Chief Judge John H. Ruffin, Jr.
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge Anne Elizabeth Barnes
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell, Jr.
Judge A. Harris Adams (part of the meeting)
Judge Debra Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. John Ruggeri, Technical Services Director (part of the meeting)

I. **CALL TO ORDER:**

Chief Judge Ruffin called the meeting to order at 10:30 a.m.

II. **ASCERTAINMENT OF QUORUM:**

Mr. Martin announced a quorum was present.

III. **ADOPTION OF AGENDA:**

Judge Mikell made a motion to approve the Agenda which motion was seconded by Judge Adams and the motion passed unanimously.

IV. **APPROVAL OF MINUTES:**

Presiding Judge Blackburn made a motion to approve the Minutes of the June and September Administrative Banc Meetings. The motion was seconded by Presiding Judge Johnson and passed unanimously.

V. **CHIEF JUDGE'S BIENNIAL REPORT, 2005-2006:**

Chief Judge Ruffin handed out to the judges his Biennial Report outlining the activities, accomplishments and items to be completed during his tenure as chief judge. After the report had been read by the judges, Judge Mikell made a motion to accept the report and to thank Chief Judge Ruffin for his service and for what he has done for the Court during his tenure as Chief Judge. Presiding Judge Smith seconded the motion and it passed unanimously.

VI. **OLD BUSINESS:**

A. ***Budget Matters***

Judge Mikell reported he, Jan Kelley and Bill Martin had met with Representative Mack Crawford, Chair of the House Appropriations Subcommittee on the Judiciary at Chairman Crawford's office on Thursday, November 16. Judge Mikell said they were well received and he felt confident in having the support of the House in the Court's initiative in hiring another Floating Administrative Assistant and another Floating Staff Attorney. Judge Mikell also said Chairman Crawford would support a four percent raise for the judges and the Court employees, however, Chairman Crawford stated the Senate may not be so inclined.

Judge Mikell said the Chairman Crawford was concerned about security for the Court of Appeals and was willing to try to get additional funding for security if it were needed.

Ms. Kelley stated the Senate wants to provide only a three percent COLA but Chairman Crawford is going to try to initiate a \$5,000.00 raise for the appellate judges. This would be in the 2008 budget and in addition any COLA the judges might receive. Judge Mikell clarified that currently the appropriation bill calls for a 2.89 percent COLA for the judges and a 4 percent COLA for the Court's employees.

B. ***Status of Renovations***

Ms. Kelley reported the renovations for the third floor of the Judicial Building are on schedule to have the judges' offices complete by the end of December. She cautioned that construction delays are always possible but right now the builders are making good progress and are on schedule.

C. *Employee Raises*

Chief Judge Ruffin stated Bob McAteer and Brett Muller of the IT staff had each received \$5,000.00 raises effective November 15.

The Court then discussed the adoption of the salary scale for Administrative Assistants which the Supreme Court had adopted. This scale provides for a lower entry but does provide an additional step at the end of the scale. After a thorough discussion of the issue, Judge Mikell made a motion to adopt the salary scale that the Supreme Court has in place for its administrative assistants. The motion was seconded by Judge Barnes. All judges voted in favor of the motion except Presiding Judge Andrews and Judge Ellington who voted against the motion.

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Ms. Kelley and Mr. Ruggeri left the room. Chief Judge Ruffin stated Ms. Kelley was asking the Court to raise her salary equal to Mr. Ruggeri's salary. After a brief discussion, Judge Miller made a motion to raise Ms. Kelley's salary to that of Mr. Ruggeri's (\$101,176.80).

The motion was seconded by Judge Bernes and passed unanimously. The Court instructed Mr. Martin to inform Ms. Kelley that the raise was to begin immediately.

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VII. NEW BUSINESS:

A. Mass Appellate Admissions

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judge to attend. After further discussion, Presiding Judge Smith made a motion that only the chief judge and chief justice attend the Mass Swearing-In which motion was seconded by Presiding Judge Johnson. Presiding Judge Andrews, Presiding Judge Johnson, Presiding Judge Smith, Judge Ellington and Judge Phipps voted in favor the motion. Chief Judge Ruffin, Presiding Judge Blackburn, Judge Barnes, Judge Miller and Judge Bernes voted against the motion. Judge Mikell abstained. Therefore the motion did not pass, the vote being five for and five against. Chief Judge Ruffin said this would be a matter to be decided by the next chief judge.

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Presiding Judge Johnson stated IT has problems with certain service calls. Chief Judge Ruffin said that issue would be addressed to the parties that need to know by IT.

Mr. Martin reported there is interest in the Legislature this year in early retirement legislation for the appellate court judges. Chief Judge Ruffin stated there would be a report from Central Staff regarding their telecommuting. Chief Judge Ruffin also reported Justice Served will be meeting on December 4th at 10:00 a.m. in the Conference Room and he hoped the judges could stop by at least for some of that meeting.

Chief Judge Ruffin reminded the judges the Court's Holiday Party is December 7th and the Judicial Luncheon with the State Bar is December 14th.

Presiding Judge Blackburn thanked Chief Judge Ruffin for all he did in the Centennial celebration and dinner at the Aquarium. Chief Judge Ruffin in turn thanked Holly Sparrow and Bill Martin for their efforts in that endeavor.

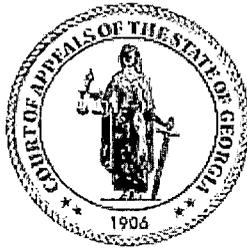
VIII ADJOURNMENT:

There being no further business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2006.



Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes

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

Subject: February Banc Meeting Minutes

Date: February 27, 2007

Attached please find the Minutes for the February Banc Meeting. I would appreciate your reviewing them.

Please make whatever changes you deem appropriate. If the Minutes are correct as presented, please initial same and return them to me so I can disseminate them to the judges.

If you have any questions, please give me a call.

Thank you.

/ld

Attachments

*They look fine to me -
I have initialed the
1st pg - the
last pg?*

AKS

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, February 20, 2007 10:30 a.m.

The February Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, February 20, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Absent:

Presiding Judge G. Alan Blackburn

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. John Ruggeri, Technical Services Director (part of the meeting)

I. CALL TO ORDER:

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. APPROVAL OF NOVEMBER 2006 MINUTES:

Chief Judge Barnes called for approval of the November 2006 Minutes. Presiding Judge Johnson made a motion to approve the Minutes which was seconded by Judge Adams. The Minutes were approved unanimously.

III. OLD BUSINESS:

A. **Fiscal Office Report**

1. *FY2007 Supplemental Budget*

Chief Judge Barnes called upon Judge Mikell and Jan Kelley, Fiscal Officer, for a report on the FY2007 Supplemental Budget and the FY2008 Budget. Judge Mikell stated the supplemental budget needed more money to offset the four percent cost of living allowance the Court had given to its employees and the increase in health care costs. He said the House and Senate had concerns that the Judicial Branch had collaborated to agree on a four percent cost of living rather than a three percent recommended by the Senate, notwithstanding the bill passed authorizing a four percent COLA. Judge Mikell told both the House and Senate the four percent was the action of the Court of Appeals en Banc and was not taken in conjunction with any other agency.

2. *FY2008 Budget*

Judge Mikell said the Court was asking for an additional administrative assistant and an additional staff attorney in the 2008 Budget. Ms. Kelley said she received notice there was going to be an increase in health insurance which would necessitate an additional \$450,000 increase in the Court of Appeals' budget. Judge Mikell suggested if any judge had a friend or an ally in the Senate, that judge may wish to contact the Senator on behalf of the Court and its budget.

3. *Judges' Elevator*

Jan Kelley reported the Georgia Building Authority (GBA) was aware that two judges had recently been trapped in the judges' elevator. GBA is taking steps to address that situation. GBA has contacted Otis Elevator Company which has the contract to service elevators and Otis is getting a newer version of the software which controls the elevator. It is hoped that this will correct the problems with the elevator.

Chief Judge Barnes stated she wanted to get the address of Otis Elevator so that Otis could be notified by the Court, in writing, as to the problems and deficiencies with the elevator so as to put Otis on notice for any injury or harm to any person using the elevator.

B. **Technical Services Update**

Chief Judge Barnes called upon John Ruggeri, Head of Technical Services, for his report. Mr. Ruggeri stated the concern the Court had about a case has been dropped from the Court's docket had been rectified. Mr. Ruggeri said there were several checks and balances in the

system which did in fact bring the error to the Court's attention. The problem was corrected within a day. Mr. Ruggeri said, however, the system is being adjusted so no case could be deleted from the docket system in the future.

1. *E-Filing Update*

Mr. Ruggeri stated the Court is continuing to advance with its e-filing project. Chief Judge Barnes thanked Mr. Ruggeri and Ms. Kelley for their reports; they then left the Banc Meeting.

C. Central Staff Attorneys Update

1. *New Hire*

Judge Mikell reported Ms. Diana Suber was hired as the new Central Staff attorney to fill the position vacated when Chuck Williams retired. Judge Mikell stated the judges had voted via memorandum for this personnel action. Judge Mikell reported Ms Suber is a member of the Atlanta Personnel Board and stated it is possible the Court may get an appeal from the Atlanta Personnel Board and Ms. Suber had offered to resign that position if the Court felt it were a conflict. Thereafter, there was a general discussion regarding the matter. Judge Bernes said she had an employee in a similar situation and that employee had resigned. Presiding Judge Smith stated it was not so much this individual but the Court may be setting a precedent which might cause a problem in the future. Judge Ruffin said he agreed entirely with Presiding Judge Smith.

Judge Phipps stated his concerns as well and Judge Mikell said he would communicate to Ms. Suber she should resign the position with the Atlanta Personnel Board.

2. *Katherine Durant*

Judge Mikell reported Katherine Durant was home from the hospital. He stated she had an operation to remove a benign tumor on her lung and was expected to be out for approximately three weeks.

Judge Phipps asked if the new staff attorney would be telecommuting. Judge Mikell stated that once she had demonstrated a thorough knowledge of her job she would be given the same opportunity to telecommunicate as the other staff attorneys. There was a short discussion about telecommuting. Judge Mikell said any judge on this Court could reach any Central Staff attorney who was telecommuting by telephone. If that staff attorney did not return the judge's call within ten minutes, to please advise Judge Mikell of that fact. Judge Mikell said all the staff attorneys know that as a condition of telecommuting they must be able to respond to any telephone inquiries and if they are not able to do that he could suspend or terminate their right to telecommute or the Court could terminate employment.

Judge Ruffin stated he had asked for a report from Chuck Williams about telecommuting but had never received it.

IV. New Business:

A. Legislation

1. *House Bill 119 - Judicial Pay Raise*

Chief Judge Barnes called upon Mr. Martin for a report on pending legislation. Mr. Martin said House Bill 119, a Judicial Pay Raise, had passed the House as a committee substitute authorizing a pay raise to \$169,500 for Court of Appeals Judges and \$170,500 for Supreme Court Justices.

2. *House Bill 120 - Travel Reimbursement for Judges*

Mr. Martin also reported that House Bill 120, a Travel Reimbursement for Judges also passed the House. This would reimburse judges who live more than 50 miles from the Court one round trip per week, much like the Legislators now receive.

3. *House Bill 309 - Retirement for Judges at Age 60/10 Years Service*

Mr. Martin stated House Bill 309, a retirement for appellate court judges at age 60 with ten years service had been introduced by Representative Barry Fleming.

4. *Senate Bill 112- Retirement for Judges at Age 60/12 Years Service or Age 65/10 Years Service*

Senate Bill 112 provided for retirement at age 60 with twelve years service or age 65 with ten years service had been introduced by Senator Seth Hart. Since these are retirement bills, they cannot pass until the next session after a favorable report from the actuarial study.

5. *House Bill 369 - Direct Appeal of Domestic Relation Cases*

House Bill 369 would provide for direct appeals of domestic relation cases. Mr. Martin said this is a 25-page bill that covers many subjects. He stated Holly Sparrow was attending a Sub-Committee Meeting on the bill while the Banc Meeting was in progress. Chief Judge Barnes asked Mr. Martin to relate to the judges the visit she and he had from Judge Jim Morris regarding the expedition of termination cases. Mr. Martin said he had suggested to Judge Morris to expedite termination of parental right cases they could be appealed directly to the Supreme Court which had a lesser case load than the Court of Appeals, could address all cases en Banc and the Supreme Court's decisions would be final. Chief Judge Barnes also suggested since the vast majority of those cases are being affirmed, termination cases could be filed by application to the Supreme Court which means most of the cases would be final within 60 days.

6. *House Bill 115 - Permission to Take the Bar Exam*

Judge Ruffin called to the Court's attention House Bill 115 which is an attempt by the Legislature to infringe upon the power of the Supreme Court to regulate the practice of law in Georgia. He said the Supreme Court was concerned about the infringement of the Legislative Branch on a judicial function. Thereafter, there was a brief discussion regarding the pending bill.

B. Exception Report

Chief Judge Barnes called upon Mr. Martin to discuss the Exception Report. Mr. Martin said that was a report that was previously done by Mary Jo Stephens which resulted in memoranda going to the judges' offices regarding appeals in which briefs were late. The process had been dropped from the conversion docket but Mr. Martin said Mr. Ruggeri assured him it could be put back in. Mr. Martin said once the ability to run that report is reinstated in the conversion docket system the reports will begin to issue again.

C. Central Staff - Jurisdictional Reviews

Judge Mikell reported Central Staff reviewed each and every case that came into the Court, direct appeals and applications. The Jurisdictional Review sheets for the direct appeals are put in the file folders but no longer were sent to the judge's office, in an attempt to save time and paper. Judge Mikell stated any judge who wished to see the Jurisdictional Review sheet could find it in the file folder in the file room in the clerk's office. Also, any case in which Central Staff determines that dismissal or transfer is appropriate would have an order or memorandum to that effect going to the judge's office shortly after docketing.

After a general discussion it was decided no change to this procedure would be made and Central Staff would continue to act as it has.

D. Other

Chief Judge Barnes called upon Mr. Martin to discuss the matter of raising the ceiling for flower fund gifts. Mr. Martin stated it has become difficult to purchase a respectable cut flower arrangement in the Atlanta area for less than \$100.00. After a short discussion, Judge Barnes made a motion to raise the limit to \$100.00. The motion was seconded by Judge Ellington and passed unanimously.

Chief Judge Barnes again thanked Judge Ruffin for his services as Chief Judge. Judge Ruffin thanked the judges for the beautiful gift he had received.

V. ADJOURNMENT:

There being no further business, Judge Phipps made a motion to adjourn, which was seconded by Judge Ellington, and passed unanimously. The meeting was adjourned at 11:30 a.m.

Respectfully submitted,



WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.



Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes

From: 
William L. Martin, III

Subject: April Banc Meeting Minutes

Date: May 8, 2007

Attached please find the April Banc Meeting Minutes which I have revised pursuant to your instructions. Please review them and make whatever changes you deem appropriate. If the Minutes are satisfactory, please initial same and return them to me.

I have also attached the first set of Minutes I sent to you so you can look at your annotations to make sure that I have made the corrections as you intended.

Thank you.

/ld

Attachments



ASUS

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, April 17, 2007, 10:30 a.m.

The April Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, April 17, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. John Ruggeri, Technical Services
Ms. Jan Kelley, Fiscal Officer
Mr. William L. Martin III, Clerk/Court Administrator

I. *Call to Order.*

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. *Approval of February 2007 Minutes.*

Chief Judge Barnes called for approval of the February 2007 banc meeting minutes. Judge Miller made a motion to approve the minutes which was seconded by Presiding Judge Smith. The minutes were approved unanimously.

III. *Report of Technical Services.*

Chief Judge Barnes called upon Mr. Ruggeri for a report from Technical Services. Mr. Ruggeri reported on the docket failure which occurred last month. Mr. Ruggeri stated the backup batteries were not sufficient to cover the additions to the Court's computers that have occurred over the years. Mr. Ruggeri said the batteries would be upgraded to prevent a reoccurrence of the failure to backup the system.

Mr. Ruggeri stated the first e-filing meeting had taken place with the Third Division. Mr. Ruggeri reported that he thought it was very productive.

Mr. Ruggeri said if any person had any questions about the move to e-filing or any other questions about the Court's computerized docket system to call him and he would be happy to meet with them individually.

Judge Phipps inquired if the batteries backing up the system could go bad. Mr. Ruggeri reported that is possible and the life of the batteries is three to five years. However, the failure to back up was occasioned by the fact the battery configuration was not powerful enough and therefore the system simply shutdown.

Mr. Ruggeri said while the Court was closed on Monday, April 23, he would be updating the Court's email system.

IV. *Budget Report.*

Chief Judge Barnes called upon Jan Kelley for a budget report. Ms. Kelley first reported on the FY 2007 supplemental budget. She stated the Court did not get all of the 4% COLA which the Court awarded to most of the employees. One percent of the COLA was not included in the supplemental budget. Additionally, the Court's budget did not receive reimbursement for rental increases and renovation expenses. Finally, the two unfilled positions which were filled in this budget year were not funded in the supplemental budget.

Thereafter, there was general discussion of the 2007 Budget and the Court's inability to pay interns that had already been extended job offers. Ms. Kelley said a judge's travel fund could be utilized to pay for interns. Judge Miller inquired if the money that was to be spent on batteries for backing up the system could be used to pay interns. Ms. Kelley responded if that was the will of the Court it could be done.

Mr. Ruggeri stated the Supreme Court or another agency, such as Bar Admissions, could pick up the costs of buying the batteries. Judge Miller made a motion that the Court permit the Supreme Court or some other agency to pay for the batteries to backup the Court's docket system and for the Court to use the money to fund the summer interns or otherwise as the Court would deem appropriate. Judge Adams seconded the motion. After a general discussion of the matter, the motion passed unanimously.

Ms. Kelley then turned to the FY 2008 budget. The House had taken out the 3% COLA for all judicial branch agencies. She reported the Senate added the 3% COLA back to the judiciary and had added funds for the healthcare increase. At the same time, the Senate had taken out funds for renovated space which were redirected funds. Ms. Kelley reported the FY 2008 budget was still short by approximately \$333,000. Ms. Kelley stated while the Court had always been austere in the budget it presented, she said it may be necessary to enhance the budget to give it more flexibility in dealing with cuts imposed by the Legislature. Thereafter, there was a general discussion about the impacts of the cuts of the FY 2008 budget and the course of action which should be taken by the Court. Presiding Judge Johnson warned the judges not to count on anything in the budget until the budget was final which meant passage and signature by the Governor. Presiding Judge Johnson reminded the judges the Governor had the power to invoke a line item veto.

Judge Phipps suggested the judges reconvene a banc meeting after the session when the budget was final.

Judge Mikell asked what money could be saved or realized if the Court were to defer the e-filing projects for one year. Mr. Ruggeri reported that the contractors were paid from FY2005 money so that money was dedicated for that purpose and if not expended would lapse to the State Treasury. Upon further questioning, Mr. Ruggeri admitted there was \$130,000 in the Technical Services Budget which has been set aside for per diem payments in lieu of filling his fourth authorized position, at this time. This is money set aside to pay Bud Tirey for services he would provide in the conversion process of the existing docket to the e-filing compatible docket.

Judge Bernes asked if the budget was final or if there was action the judges might take individually to affect the final version of the budget. Ms. Kelley and Chief Judge Barnes stated today was probably the last day and that the Green Door Committee comprised of Senators Jack Hill, Eric Johnson and Tommie Williams and House Members Jerry Keen, Mark Burkhalter and Ben Harbin would be the ones to make the final decision on the budget. After more discussion, it was decided that the judges would have a tentative banc meeting for May 15 or 22 to resolve the budget issues after the budget was final and signed by the Governor.

Ms. Kelley and Mr. Ruggeri left the meeting at 11:05 a.m.

V. *New Business.*

Judge Phipps asked Mr. Martin if the IOM could be placed on the S:/ drive in a read only fashion so Court personnel would have access to it. Mr. Martin stated it could be done and, in fact, he and Ms. Sparrow had previously spoken to Mr. Ruggeri about it. Mr. Martin said he felt it was a good idea and it would enable all court personnel to have access to the most recent version of the IOM and it would save time and money in recopying the IOM after changes.

Judge Phipps made a motion to put the IOM on the S:/ drive in a read only fashion. The motion was passed by acclamation.

Judge Ruffin inquired of Mr. Martin as to the status of the new Court seal. Mr. Martin said the seal was on the Court stationary but he did not know about the brown plaster seals which hang on the walls of the judges' offices, banc room and public area. Mr. Martin said he would check with the fiscal office on the matter and advise the Court.

Presiding Judge Blackburn as Chair of the Legislative Committee passed out two bills to the judges which might be of interest: Senate Bill 326 and Senate Bill 330.

VI. *Adjournment.*

There being no further business, Judge Miller made a motion to adjourn which was seconded by Judge Ruffin. Chief Judge Barnes adjourned the meeting at 11:30 a.m.

Respectfully submitted,

WILLIAM L. MARTIN III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
en Banc on the ___ day of
April, 2007.

MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA

TUESDAY, APRIL 17, 2007, 10:30 a.m.

The April Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, April 17, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. John Ruggeri, Technical Services
Ms. Jan Kelley, Fiscal Officer
Mr. William L. Martin III, Clerk/Court Administrator

I. *Call to Order.*

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. *Approval of February 2007 Minutes.*

Chief Judge Barnes called for approval of the February 2007 banc meeting minutes. Judge Miller made a motion to approve the minutes which was seconded by Presiding Judge Smith. The minutes were approved unanimously.

III. *Report of Technical Services.*

Chief Judge Barnes called upon Mr. Ruggeri for a report from Technical Services. Mr. Ruggeri reported on the docket failure which occurred last month. Mr. Ruggeri stated the backup batteries were not sufficient to cover the additions to the Court's computers that have occurred over

the years. Mr. Ruggeri said the batteries would be upgraded to prevent a reoccurrence of the failure to backup the system.

Mr. Ruggeri stated the first e-filing meeting had taken place with the Third Division. Mr. Ruggeri reported that he thought it was very productive.

Mr. Ruggeri said if any person had any questions about the move to e-filing or any other questions about the Court's computerized docket system to call him and he would be happy to meet with them individually.

Judge Phipps inquired if the batteries backing up the system could go bad. Mr. Ruggeri reported that is possible and the life of the batteries is three to five years. However, the failure to back up was occasioned by the fact the battery configuration was not powerful enough and therefore the system simply shutdown.

Mr. Ruggeri said while the Court was closed on Monday, April 23, he would be updating the Court's email system.

IV. *Budget Report.*

Chief Judge Barnes called upon Jan Kelley for a budget report. Ms. Kelley first reported on the FY 2007 supplemental budget. She stated the Court did not get all of the 4% COLA which the Court rewarded to most of the employees. One percent of the COLA was not included in the supplemental budget. Additionally, the Court's budget did not receive reimbursement for rental increases and renovation expenses. Finally, the two unfilled positions which were filled in this budget year were not funded in the supplemental budget.

Thereafter, there was general discussion of the 2007 Budget and the Court's inability to pay interns that had already been extended job offers. Ms. Kelley said a judge's travel fund could be utilized to pay for interns. Judge Miller inquired if the money that was to be spent on batteries for backing up the system could be used to pay interns. Ms. Kelley responded if that was the will of the Court it could be done.

Mr. Ruggeri stated the Supreme Court or another agency, such as Bar Admissions, could pick up the costs of buying the batteries. Judge Miller made a motion that the Court permit the Supreme Court or some other agency to pay for the batteries to backup the Court's docket system and for the Court to use the money to fund the summer interns or otherwise as the Court would deem appropriate. Judge Adams seconded the motion. After a general discussion of the matter, the motion passed unanimously.

Ms. Kelley then turned to the FY 2008 budget. The House had taken out the 3% COLA for all judicial branch agencies. She reported the Senate added the 3% COLA back to the judiciary and had added funds for the healthcare increase. At the same time, the Senate had taken out funds for

I don't recall
mentioning that ??

delete

renovated space which were redirected funds. Ms. Kelley reported the FY 2008 budget was still short by approximately \$333,000. Ms. Kelley stated while the Court had always been austere in the budget it presented, she agreed with Chief Judge Barnes that it may be necessary to enhance the budget to give more flexibility in dealing with cuts imposed by the Legislature. Thereafter, there was a general discussion about the impacts of the cuts of the FY 2008 budget and the course of action which should be taken by the Court. Presiding Judge Johnson warned the judges not to count on anything in the budget until the budget was final which meant passage and signature by the Governor. Presiding Judge Johnson reminded the judges the Governor had the power to invoke a line item veto.

Judge Phipps suggested the judges reconvene a banc meeting after the session when the budget was final.

Judge Mikell asked what money could be saved or realized if the Court were to defer the e-filing projects for one year. Mr. Ruggeri reported that the contractors were paid from FY2005 money so that money was dedicated for that purpose and if not expended would lapse to the State Treasury. Upon further questioning, Mr. Ruggeri admitted there was \$130,000 set aside for per diem payments which were in lieu of his fourth authorized position. This is money set aside to pay Bud Tirey for services he would provide in the conversion process of the existing docket to the e-filing compatible docket. ?

Judge Bernes asked if the budget was final or if there was action the judges might take individually to affect the final version of the budget. Ms. Kelley and Chief Judge Barnes stated today was probably the last day and that the Green Door Committee comprised of Senators Jack Hill, Eric Johnson and Tommie Williams and House Members Jerry Keen, Mark Burkhalter and Ben Harbin would be the ones to make the final decision on the budget. After more discussion, it was decided that the judges would have a tentative banc meeting for May 15 or 22 to resolve the budget issues after the budget was final and signed by the Governor.

Ms. Kelley and Mr. Ruggeri left the meeting at 11:05 a.m.

V. *New Business.*

Judge Phipps asked Mr. Martin if the IOM could be placed on the S:/ drive in a read only fashion so Court personnel would have access to it. Mr. Martin stated it could be done and, in fact, he and Ms. Sparrow had previously spoken to Mr. Ruggeri about it. Mr. Martin said he felt it was a good idea and it would enable all court personnel to have access to the most recent version of the IOM and it would save time and money in recopying the IOM after changes.

Judge Phipps made a motion to put the IOM on the S:/ drive in a read only fashion. The motion was passed by acclamation.

Judge Ruffin inquired of Mr. Martin as to the status of the new Court seal. Mr. Martin said the seal was on the Court stationary but he did not know about the brown plaster seals which hang on the walls of the judges' offices, banc room and public area. Mr. Martin said he would check with the fiscal office on the matter and advise the Court.

Presiding Judge Blackburn as Chair of the Legislative Committee passed out two bills to the judges which might be of interest: Senate Bill 326 and Senate Bill 330.

VI. *Adjournment.*

There being no further business, Judge Miller made a motion to adjourn which was seconded by Judge Ruffin. Chief Judge Barnes adjourned the meeting at 11:30 a.m.

Respectfully submitted,

WILLIAM L. MARTIN III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
en Banc on the ___ day of
April, 2007.



Court of Appeals

Memorandum

To: Chief Judge Anne Elizabeth Barnes

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

Subject: April Banc Meeting Minutes

Date: April 19, 2007

Attached please find the Minutes for the April Banc Meeting. I would appreciate your reviewing them.

Please make whatever changes you deem appropriate. If the Minutes are correct as presented, please initial same and return them to me so I can disseminate them to the judges.

If you have any questions, please give me a call.

Thank you.

/ld

Attachments

MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA

TUESDAY, APRIL 17, 2007, 10:30 a.m.

The April Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, April 17, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
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Presiding Judge G. Alan Blackburn
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Judge John H. Ruffin Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. John Ruggeri, Technical Services
Ms. Jan Kelley, Fiscal Officer
Mr. William L. Martin III, Clerk/Court Administrator

I. *Call to Order.*

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. *Approval of February 2007 Minutes.*

Chief Judge Barnes called for approval of the February 2007 banc meeting minutes. Judge Miller made a motion to approve the minutes which was seconded by Presiding Judge Smith. The minutes were approved unanimously.

III. *Report of Technical Services.*

Chief Judge Barnes called upon Mr. Ruggeri for a report from Technical Services. Mr. Ruggeri reported on the docket failure which occurred last month. Mr. Ruggeri stated the backup

batteries were not sufficient to cover the additions to the Court's computers that have occurred over the years. Mr. Ruggeri said the batteries would be upgraded to prevent a reoccurrence of the failure to backup the system.

Mr. Ruggeri stated the first e-filing meeting had taken place with the Third Division. Mr. Ruggeri reported that he thought it was very productive.

Mr. Ruggeri said if any person had any questions about the move to e-filing or any other questions about the Court's computerized docket system to call him and he would be happy to meet with them individually.

Judge Phipps inquired if the batteries backing up the system could go bad. Mr. Ruggeri reported that is possible and the life of the batteries is three to five years. However, the failure to back up was occasioned by the fact the battery configuration was not powerful enough and therefore the system simply shutdown.

Mr. Ruggeri said while the Court was closed on Monday, April 23, he would be updating the Court's email system.

IV. *Budget Report.*

Chief Judge Barnes called upon Jan Kelley for a budget report. Ms. Kelley first reported on the FY 2007 supplemental budget. She stated the Court did not get all of the 4% COLA which the Court rewarded to most of the employees. One percent of the COLA was not included in the supplemental budget. Additionally, the Court's budget did not receive reimbursement for rental increases and renovation expenses. Finally, the two unfilled positions which were filled in this budget year were not funded in the supplemental budget.

Thereafter, there was general discussion of the 2007 Budget and the Court's inability to pay interns that had already been extended job offers. Ms. Kelley said a judge's travel fund could be utilized to pay for interns. Judge Miller inquired if the money that was to be spent on batteries for backing up the system could be used to pay interns. Ms. Kelley responded if that was the will of the Court it could be done.

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Ms. Kelley then turned to the FY 2008 budget. The House had taken out the 3% COLA for all judicial branch agencies. She reported the Senate added the 3% COLA back to the judiciary and had added funds for the healthcare increase. At the same time, the Senate had taken out funds for renovated space which were redirected funds. Ms. Kelley reported the FY 2008 budget was still short by approximately \$333,000. Ms. Kelley stated while the Court had always been austere in the budget it presented, she agreed with Chief Judge Barnes that it may be necessary to enhance the budget to give more flexibility in dealing with cuts imposed by the Legislature. Thereafter, there was a general discussion about the impacts of the cuts of the FY 2008 budget and the course of action which should be taken by the Court. Presiding Judge Johnson warned the judges not to count on anything in the budget until the budget was final which meant passage and signature by the Governor. Presiding Judge Johnson reminded the judges the Governor had the power to invoke a line item veto.

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Ms. Kelley and Mr. Ruggeri left the meeting at 11:05 a.m.

V. *New Business.*

Judge Phipps asked Mr. Martin if the IOM could be placed on the S:/ drive in a read only fashion so Court personnel would have access to it. Mr. Martin stated it could be done and, in fact, he and Ms. Sparrow had previously spoken to Mr. Ruggeri about it. Mr. Martin said he felt it was a good idea and it would enable all court personnel to have access to the most recent version of the IOM and it would save time and money in recopying the IOM after changes.

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Presiding Judge Blackburn as Chair of the Legislative Committee passed out two bills to the judges which might be of interest: Senate Bill 326 and Senate Bill 330.

VI. *Adjournment.*

There being no further business, Judge Miller made a motion to adjourn which was seconded by Judge Ruffin. Chief Judge Barnes adjourned the meeting at 11:30 a.m.

Respectfully submitted,


WILLIAM L. MARTIN III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
en Banc on the ___ day of
April, 2007.

**COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING**

Tuesday, April 17, 2007
10:30 a.m.

Court Banc Room - 501 Trinity Avenue

- | | | |
|------|-----------------------------------|--------------------|
| I. | Call Meeting to Order | Chief Judge Barnes |
| II. | Approval of February 2007 Minutes | Chief Judge Barnes |
| III. | Report of Technical Services | Mr. John Ruggeri |
| IV. | Budget Report | Ms. Jan Kelley |
| | A. 2007 Supplemental Budget | |
| | B. 2008 Budget | |
| | C. Other ✓ | |
| V. | New Business | |
| VI. | Adjournment | |

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, February 20, 2007 10:30 a.m.

The February Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, February 20, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Absent:

Presiding Judge G. Alan Blackburn

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. John Ruggeri, Technical Services Director (part of the meeting)

I. **CALL TO ORDER:**

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. **APPROVAL OF NOVEMBER 2006 MINUTES:**

Chief Judge Barnes called for approval of the November 2006 Minutes. Presiding Judge Johnson made a motion to approve the Minutes which was seconded by Judge Adams. The Minutes were approved unanimously.

III. OLD BUSINESS:

A. **Fiscal Office Report**

1. *FY2007 Supplemental Budget*

Chief Judge Barnes called upon Judge Mikell and Jan Kelley, Fiscal Officer, for a report on the FY2007 Supplemental Budget and the FY2008 Budget. Judge Mikell stated the supplemental budget needed more money to offset the four percent cost of living allowance the Court had given to its employees and the increase in health care costs. He said the House and Senate had concerns that the Judicial Branch had collaborated to agree on a four percent cost of living rather than a three percent recommended by the Senate, notwithstanding the bill passed authorizing a four percent COLA. Judge Mikell told both the House and Senate the four percent was the action of the Court of Appeals en Banc and was not taken in conjunction with any other agency.

2. *FY2008 Budget*

Judge Mikell said the Court was asking for an additional administrative assistant and an additional staff attorney in the 2008 Budget. Ms. Kelley said she received notice there was going to be an increase in health insurance which would necessitate an additional \$450,000 increase in the Court of Appeals' budget. Judge Mikell suggested if any judge had a friend or an ally in the Senate, that judge may wish to contact the Senator on behalf of the Court and its budget.

3. *Judges' Elevator*

Jan Kelley reported the Georgia Building Authority (GBA) was aware that two judges had recently been trapped in the judges' elevator. GBA is taking steps to address that situation. GBA has contacted Otis Elevator Company which has the contract to service elevators and Otis is getting a newer version of the software which controls the elevator. It is hoped that this will correct the problems with the elevator.

Chief Judge Barnes stated she wanted to get the address of Otis Elevator so that Otis could be notified by the Court, in writing, as to the problems and deficiencies with the elevator so as to put Otis on notice for any injury or harm to any person using the elevator.

B. **Technical Services Update**

Chief Judge Barnes called upon John Ruggeri, Head of Technical Services, for his report. Mr. Ruggeri stated the concern the Court had about a case has been dropped from the Court's docket had been rectified. Mr. Ruggeri said there were several checks and balances in the

system which did in fact bring the error to the Court's attention. The problem was corrected within a day. Mr. Ruggeri said, however, the system is being adjusted so no case could be deleted from the docket system in the future.

1. *E-Filing Update*

Mr. Ruggeri stated the Court is continuing to advance with its e-filing project. Chief Judge Barnes thanked Mr. Ruggeri and Ms. Kelley for their reports; they then left the Banc Meeting.

C. Central Staff Attorneys Update

1. *New Hire*

Judge Mikell reported Ms. Diana Suber was hired as the new Central Staff attorney to fill the position vacated when Chuck Williams retired. Judge Mikell stated the judges had voted via memorandum for this personnel action. Judge Mikell reported Ms Suber is a member of the Atlanta Personnel Board and stated it is possible the Court may get an appeal from the Atlanta Personnel Board and Ms. Suber had offered to resign that position if the Court felt it were a conflict. Thereafter, there was a general discussion regarding the matter. Judge Bernes said she had an employee in a similar situation and that employee had resigned. Presiding Judge Smith stated it was not so much this individual but the Court may be setting a precedent which might cause a problem in the future. Judge Ruffin said he agreed entirely with Presiding Judge Smith.

Judge Phipps stated his concerns as well and Judge Mikell said he would communicate to Ms. Suber she should resign the position with the Atlanta Personnel Board.

2. *Katherine Durant*

Judge Mikell reported Katherine Durant was home from the hospital. He stated she had an operation to remove a benign tumor on her lung and was expected to be out for approximately three weeks.

Judge Phipps asked if the new staff attorney would be telecommuting. Judge Mikell stated that once she had demonstrated a thorough knowledge of her job she would be given the same opportunity to telecommunicate as the other staff attorneys. There was a short discussion about telecommuting. Judge Mikell said any judge on this Court could reach any Central Staff attorney who was telecommuting by telephone. If that staff attorney did not return the judge's call within ten minutes, to please advise Judge Mikell of that fact. Judge Mikell said all the staff attorneys know that as a condition of telecommuting they must be able to respond to any telephone inquiries and if they are not able to do that he could suspend or terminate their right to telecommute or the Court could terminate employment.

Judge Ruffin stated he had asked for a report from Chuck Williams about telecommuting but had never received it.

IV. New Business:

A. Legislation

1. *House Bill 119 - Judicial Pay Raise*

Chief Judge Barnes called upon Mr. Martin for a report on pending legislation. Mr. Martin said House Bill 119, a Judicial Pay Raise, had passed the House as a committee substitute authorizing a pay raise to \$169,500 for Court of Appeals Judges and \$170,500 for Supreme Court Justices.

2. *House Bill 120 - Travel Reimbursement for Judges*

Mr. Martin also reported that House Bill 120, a Travel Reimbursement for Judges also passed the House. This would reimburse judges who live more than 50 miles from the Court one round trip per week, much like the Legislators now receive.

3. *House Bill 309 - Retirement for Judges at Age 60/10 Years Service*

Mr. Martin stated House Bill 309, a retirement for appellate court judges at age 60 with ten years service had been introduced by Representative Barry Fleming.

4. *Senate Bill 112- Retirement for Judges at Age 60/12 Years Service or Age 65/10 Years Service*

Senate Bill 112 provided for retirement at age 60 with twelve years service or age 65 with ten years service had been introduced by Senator Seth Hart. Since these are retirement bills, they cannot pass until the next session after a favorable report from the actuarial study.

5. *House Bill 369 - Direct Appeal of Domestic Relation Cases*

House Bill 369 would provide for direct appeals of domestic relation cases. Mr. Martin said this is a 25-page bill that covers many subjects. He stated Holly Sparrow was attending a Sub-Committee Meeting on the bill while the Banc Meeting was in progress. Chief Judge Barnes asked Mr. Martin to relate to the judges the visit she and he had from Judge Jim Morris regarding the expedition of termination cases. Mr. Martin said he had suggested to Judge Morris to expedite termination of parental right cases they could be appealed directly to the Supreme Court which had a lesser case load than the Court of Appeals, could address all cases en Banc and the Supreme Court's decisions would be final. Chief Judge Barnes also suggested since the vast majority of those cases are being affirmed, termination cases could be filed by application to the Supreme Court which means most of the cases would be final within 60 days.

6. *House Bill 115 - Permission to Take the Bar Exam*

Judge Ruffin called to the Court's attention House Bill 115 which is an attempt by the Legislature to infringe upon the power of the Supreme Court to regulate the practice of law in Georgia. He said the Supreme Court was concerned about the infringement of the Legislative Branch on a judicial function. Thereafter, there was a brief discussion regarding the pending bill.

B. Exception Report

Chief Judge Barnes called upon Mr. Martin to discuss the Exception Report. Mr. Martin said that was a report that was previously done by Mary Jo Stephens which resulted in memoranda going to the judges' offices regarding appeals in which briefs were late. The process had been dropped from the conversion docket but Mr. Martin said Mr. Ruggeri assured him it could be put back in. Mr. Martin said once the ability to run that report is reinstated in the conversion docket system the reports will begin to issue again.

C. Central Staff - Jurisdictional Reviews

Judge Mikell reported Central Staff reviewed each and every case that came into the Court, direct appeals and applications. The Jurisdictional Review sheets for the direct appeals are put in the file folders but no longer were sent to the judge's office, in an attempt to save time and paper. Judge Mikell stated any judge who wished to see the Jurisdictional Review sheet could find it in the file folder in the file room in the clerk's office. Also, any case in which Central Staff determines that dismissal or transfer is appropriate would have an order or memorandum to that effect going to the judge's office shortly after docketing.

After a general discussion it was decided no change to this procedure would be made and Central Staff would continue to act as it has.

D. Other

Chief Judge Barnes called upon Mr. Martin to discuss the matter of raising the ceiling for flower fund gifts. Mr. Martin stated it has become difficult to purchase a respectable cut flower arrangement in the Atlanta area for less than \$100.00. After a short discussion, Judge Barnes made a motion to raise the limit to \$100.00. The motion was seconded by Judge Ellington and passed unanimously.

Chief Judge Barnes again thanked Judge Ruffin for his services as Chief Judge. Judge Ruffin thanked the judges for the beautiful gift he had received.

V. **ADJOURNMENT:**

There being no further business, Judge Phipps made a motion to adjourn, which was seconded by Judge Ellington, and passed unanimously. The meeting was adjourned at 11:30 a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, February 20, 2007 10:30 a.m.

The February Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, February 20, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Absent:

Presiding Judge G. Alan Blackburn

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. John Ruggeri, Technical Services Director (part of the meeting)

I. **CALL TO ORDER:**

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. **APPROVAL OF NOVEMBER 2006 MINUTES:**

Chief Judge Barnes called for approval of the November 2006 Minutes. Presiding Judge Johnson made a motion to approve the Minutes which was seconded by Judge Adams. The Minutes were approved unanimously.

III. **OLD BUSINESS:**

A. **Fiscal Office Report**

1. *FY2007 Supplemental Budget*

Chief Judge Barnes called upon Judge Mikell and Jan Kelley, Fiscal Officer, for a report on the FY2007 Supplemental Budget and the FY2008 Budget. Judge Mikell stated the supplemental budget needed more money to offset the four percent cost of living allowance the Court had given to its employees and the increase in health care costs. He said the House and Senate had concerns that the Judicial Branch had collaborated to agree on a four percent cost of living rather than a three percent recommended by the Senate, notwithstanding the bill passed authorizing a four percent COLA. Judge Mikell told both the House and Senate the four percent was the action of the Court of Appeals en Banc and was not taken in conjunction with any other agency.

2. *FY2008 Budget*

Judge Mikell said the Court was asking for an additional administrative assistant and an additional staff attorney in the 2008 Budget. Ms. Kelley said she received notice there was going to be an increase in health insurance which would necessitate an additional \$450,000 increase in the Court of Appeals' budget. Judge Mikell suggested if any judge had a friend or an ally in the Senate, that judge may wish to contact the Senator on behalf of the Court and its budget.

3. *Judges' Elevator*

Jan Kelley reported the Georgia Building Authority (GBA) was aware that two judges had recently been trapped in the judges' elevator. GBA is taking steps to address that situation. GBA has contacted Otis Elevator Company which has the contract to service elevators and Otis is getting a newer version of the software which controls the elevator. It is hoped that this will correct the problems with the elevator.

Chief Judge Barnes stated she wanted to get the address of Otis Elevator so that Otis could be notified by the Court, in writing, as to the problems and deficiencies with the elevator so as to put Otis on notice for any injury or harm to any person using the elevator.

B. **Technical Services Update**

Chief Judge Barnes called upon John Ruggeri, Head of Technical Services, for his report. Mr. Ruggeri stated the concern the Court had about a case has been dropped from the Court's docket had been rectified. Mr. Ruggeri said there were several checks and balances in the

system which did in fact bring the error to the Court's attention. The problem was corrected within a day. Mr. Ruggeri said, however, the system is being adjusted so no case could be deleted from the docket system in the future.

1. E-Filing Update

Mr. Ruggeri stated the Court is continuing to advance with its e-filing project. Chief Judge Barnes thanked Mr. Ruggeri and Ms. Kelley for their reports; they then left the Banc Meeting.

C. Central Staff Attorneys Update

1. New Hire

Judge Mikell reported Ms. Diana Suber was hired as the new Central Staff attorney to fill the position vacated when Chuck Williams retired. Judge Mikell stated the judges had voted via memorandum for this personnel action. Judge Mikell reported Ms Suber is a member of the Atlanta Personnel Board and stated it is possible the Court may get an appeal from the Atlanta Personnel Board and Ms. Suber had offered to resign that position if the Court felt it were a conflict. Thereafter, there was a general discussion regarding the matter. Judge Bernes said she had an employee in a similar situation and that employee had resigned. Presiding Judge Smith stated it was not so much this individual but the Court may be setting a precedent which might cause a problem in the future. Judge Ruffin said he agreed entirely with Presiding Judge Smith.

Judge Phipps stated his concerns as well and Judge Mikell said he would communicate to Ms. Suber she should resign the position with the Atlanta Personnel Board.

2. Katherine Durant

Judge Mikell reported Katherine Durant was home from the hospital. He stated she had an operation to remove a benign tumor on her lung and was expected to be out for approximately three weeks.

Judge Phipps asked if the new staff attorney would be telecommuting. Judge Mikell stated that once she had demonstrated a thorough knowledge of her job she would be given the same opportunity to telecommunicate as the other staff attorneys. There was a short discussion about telecommuting. Judge Mikell said any judge on this Court could reach any Central Staff attorney who was telecommuting by telephone. If that staff attorney did not return the judge's call within ten minutes, to please advise Judge Mikell of that fact. Judge Mikell said all the staff attorneys know that as a condition of telecommuting they must be able to respond to any telephone inquiries and if they are not able to do that he could suspend or terminate their right to telecommute or the Court could terminate employment.

Judge Ruffin stated he had asked for a report from Chuck Williams about telecommuting but had never received it.

IV. New Business:

A. Legislation

1. *House Bill 119 - Judicial Pay Raise*

Chief Judge Barnes called upon Mr. Martin for a report on pending legislation. Mr. Martin said House Bill 119, a Judicial Pay Raise, had passed the House as a committee substitute authorizing a pay raise to \$169,500 for Court of Appeals Judges and \$170,500 for Supreme Court Justices.

2. *House Bill 120 - Travel Reimbursement for Judges*

Mr. Martin also reported that House Bill 120, a Travel Reimbursement for Judges also passed the House. This would reimburse judges who live more than 50 miles from the Court one round trip per week, much like the Legislators now receive.

3. *House Bill 309 - Retirement for Judges at Age 60/10 Years Service*

Mr. Martin stated House Bill 309, a retirement for appellate court judges at age 60 with ten years service had been introduced by Representative Barry Fleming.

4. *Senate Bill 112- Retirement for Judges at Age 60/12 Years Service or Age 65/10 Years Service*

Senate Bill 112 provided for retirement at age 60 with twelve years service or age 65 with ten years service had been introduced by Senator Seth Hart. Since these are retirement bills, they cannot pass until the next session after a favorable report from the actuarial study.

5. *House Bill 369 - Direct Appeal of Domestic Relation Cases*

House Bill 369 would provide for direct appeals of domestic relation cases. Mr. Martin said this is a 25-page bill that covers many subjects. He stated Holly Sparrow was attending a Sub-Committee Meeting on the bill while the Banc Meeting was in progress. Chief Judge Barnes asked Mr. Martin to relate to the judges the visit she and he had from Judge Jim Morris regarding the expedition of termination cases. Mr. Martin said he had suggested to Judge Morris to expedite termination of parental right cases they could be appealed directly to the Supreme Court which had a lesser case load than the Court of Appeals, could address all cases en Banc and the Supreme Court's decisions would be final. Chief Judge Barnes also suggested since the vast majority of those cases are being affirmed, termination cases could be filed by application to the Supreme Court which means most of the cases would be final within 60 days.

6. *House Bill 115 - Permission to Take the Bar Exam*

Judge Ruffin called to the Court's attention House Bill 115 which is an attempt by the Legislature to infringe upon the power of the Supreme Court to regulate the practice of law in Georgia. He said the Supreme Court was concerned about the infringement of the Legislative Branch on a judicial function. Thereafter, there was a brief discussion regarding the pending bill.

B. Exception Report

Chief Judge Barnes called upon Mr. Martin to discuss the Exception Report. Mr. Martin said that was a report that was previously done by Mary Jo Stephens which resulted in memoranda going to the judges' offices regarding appeals in which briefs were late. The process had been dropped from the conversion docket but Mr. Martin said Mr. Ruggeri assured him it could be put back in. Mr. Martin said once the ability to run that report is reinstated in the conversion docket system the reports will begin to issue again.

C. Central Staff - Jurisdictional Reviews

Judge Mikell reported Central Staff reviewed each and every case that came into the Court, direct appeals and applications. The Jurisdictional Review sheets for the direct appeals are put in the file folders but no longer were sent to the judge's office, in an attempt to save time and paper. Judge Mikell stated any judge who wished to see the Jurisdictional Review sheet could find it in the file folder in the file room in the clerk's office. Also, any case in which Central Staff determines that dismissal or transfer is appropriate would have an order or memorandum to that effect going to the judge's office shortly after docketing.

After a general discussion it was decided no change to this procedure would be made and Central Staff would continue to act as it has.

D. Other

Chief Judge Barnes called upon Mr. Martin to discuss the matter of raising the ceiling for flower fund gifts. Mr. Martin stated it has become difficult to purchase a respectable cut flower arrangement in the Atlanta area for less than \$100.00. After a short discussion, Judge Barnes made a motion to raise the limit to \$100.00. The motion was seconded by Judge Ellington and passed unanimously.

Chief Judge Barnes again thanked Judge Ruffin for his services as Chief Judge. Judge Ruffin thanked the judges for the beautiful gift he had received.

V. ADJOURNMENT:

There being no further business, Judge Phipps made a motion to adjourn, which was seconded by Judge Ellington, and passed unanimously. The meeting was adjourned at 11:30 a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.

SB330

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6 of Chapter 23 of Title 47 of the Official Code of Georgia Annotated,
2 relating to salary, retirement, death, and disability benefits under the Georgia Judicial
3 Retirement System, so as to change provisions relating to retirement benefits for superior
4 court judges and district attorneys; to provide for a certain option for benefits; to provide
5 conditions for an effective date and automatic repeal; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Article 6 of Chapter 23 of Title 47 of the Official Code of Georgia Annotated, relating to
10 salary, retirement, death, and disability benefits under the Georgia Judicial Retirement
11 System, is amended by revising Code Section 47-23-102, relating to vesting and benefits
12 upon retirement, as follows:

13 "47-23-102.

14 (a) The provisions of this subsection shall be applicable to members of this retirement
15 system who are not subject to subsection (b) of this Code section. The right of a member
16 to receive benefits under this chapter shall vest after the member obtains ten years of
17 creditable service; provided, however, that no member shall receive a retirement benefit
18 prior to attaining the age of 60 years. Any member retiring on or after July 1, 1996, and any
19 member who was retired on July 1, 1996, with 16 years or more of creditable service shall
20 receive a benefit equal to 66.66 percent, plus 1 percent for each year of creditable service
21 over 16 years, of the member's salary; provided, however, that no member shall receive
22 more than 24 years of creditable service. Any member retiring with less than 16 years of
23 creditable service may retire at a reduced benefit pursuant to Code Section 47-23-103. Any
24 member who was retired on July 1, 1996, with more than 16 years of creditable service
25 shall receive in July, 1998, a one-time benefit payment equal to two times the product of

1 1 percent of the salary paid to such judge at the time of his or her retirement multiplied by
2 the number of years of creditable service in excess of 16 years.

3 (b) The provisions of this subsection shall be applicable to any person who first becomes
4 a member of this retirement system on or after July 1, 2008, or who again becomes a
5 member and who does not have a vested right to be reinstated in this retirement system, and
6 at the time of becoming or again becoming a member is serving as a superior court judge
7 or district attorney; provided, however, that any member of this retirement system who is
8 serving in such capacity may elect to become subject to the provisions of this paragraph
9 by so notifying the board of trustees in writing not later than October 30, 2008, or within
10 three months after becoming a superior court judge or district attorney. The right of a
11 member subject to this subsection to receive benefits under this chapter shall vest after the
12 member obtains ten years of creditable service; provided, however, that no member shall
13 receive a retirement benefit prior to attaining the age of 60 years. Any member subject to
14 this subsection who retires with 16 years or more of creditable service shall receive a
15 benefit equal to 60 percent, plus 1 percent for each year of creditable service over 16 years,
16 of the member's salary; provided, however, that no member shall receive more than 24
17 years of creditable service. Any member retiring with less than 16 years of creditable
18 service may retire at a reduced benefit pursuant to Code Section 47-23-103."

19 **SECTION 2.**

20 This Act shall become effective on July 1, 2008, only if it is determined to have been
21 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
22 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
23 become effective and shall be automatically repealed in its entirety on July 1, 2008, as
24 required by subsection (a) of Code Section 47-20-50.

25 **SECTION 3.**

26 All laws and parts of laws in conflict with this Act are repealed.

SB 326

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 47-2-244 of the Official Code of Georgia Annotated, relating to
2 optional benefits available to appellate court judges, notice of election of benefits, eligibility
3 for benefits, disability benefits, and survivors benefits, so as to provide for benefits for
4 appellate court judges who are appointed or elected on or after July 1, 2008; to provide for
5 an option for sitting judges; to provide conditions for an effective date and automatic repeal;
6 to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 SECTION 1.

9 Code Section 47-2-244 of the Official Code of Georgia Annotated, relating to optional
10 benefits available to appellate court judges, notice of election of benefits, eligibility for
11 benefits, disability benefits, and survivors benefits, is amended by revising subsection (f) as
12 follows:

13 "(f) After ten years of service as an appellate court judge, such judge shall be entitled to
14 receive during life a retirement benefit payable monthly equivalent to 75 percent of the
15 salary of an appellate court judge then serving in the office from which such judge retired;
16 provided, however, that an appellate court judge subject to the provisions of subsection (n)
17 of this Code section shall receive a benefit as provided in such subsection."

18 SECTION 2.

19 Said Code section is further amended by adding a new subsection to read as follows:

20 "(n)(1) Any person who first becomes an appellate court judge on or after July 1, 2008,
21 or who again becomes a member on or after such date and does not have a vested right
22 to be reinitiated in this retirement system shall be subject to the provisions of this
23 subsection; provided, however, that except as specifically provided in this subsection, the
24 provisions of this Code section shall be applicable to such persons. Any member who is

1 serving as an appellate court judge on June 30, 2008, may elect to become subject to this
2 subsection by notifying the board of trustees in writing not later than October 30, 2008.
3 (2) After ten years of service as an appellate court judge, such judge shall be entitled to
4 receive during life a retirement benefit payable monthly equivalent to 66.66 percent, plus
5 1 percent for each year of creditable service over ten years, of the member's salary;
6 provided, however, that no member shall receive more than 20 years of creditable
7 service."

8

SECTION 3.

9 This Act shall become effective on July 1, 2008, only if it is determined to have been
10 concurrently funded as provided in Chapter 20 of Title 47 of the Official Code of Georgia
11 Annotated, the "Public Retirement Systems Standards Law"; otherwise, this Act shall not
12 become effective and shall be automatically repealed in its entirety on July 1, 2008, as
13 required by subsection (a) of Code Section 47-20-50.

14

SECTION 4.

15 All laws and parts of laws in conflict with this Act are repealed.

**COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING**

Tuesday, April 17, 2007
10:30 a.m.

Court Banc Room - 501 Trinity Avenue

- | | | |
|------|-----------------------------------|--------------------|
| I. | Call Meeting to Order | Chief Judge Barnes |
| II. | Approval of February 2007 Minutes | Chief Judge Barnes |
| III. | Report of Technical Services | Mr. John Ruggeri |
| IV. | Budget Report | Ms. Jan Kelley |
| | A. 2007 Supplemental Budget | |
| | B. 2008 Budget | |
| | C. Other | |
| V. | New Business | |
| VI. | Adjournment | |

COURT OF APPEALS OF GEORGIA
FY 2007
PROJECTED BUDGET CUTS

April 16, 2007

	100 %	FY 07 APPROP	ACTUAL TO DATE	YTD COMMITTED REV/EXP	7/1/06 - 6/30/07 PROJ REV/EXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET BUDGET	BUDGET VARIANCE	COMMENTS
REVENUE											
APPROPRIATION											
		12,751,212	12,751,212	13,106,502	13,106,502	355,290		13,106,502	13,106,502	0	
		90,000	106,738	119,388	119,388			119,388	90,000	(29,388)	
		-	-	-	-			-	-	-	
		90,000	106,738	119,388	119,388	-	-	119,388	90,000	(29,388)	
	83.3%	12,841,212	12,857,950	13,225,890	13,225,890	355,290	-	13,225,890	13,196,502	(29,388)	
EXPENSES											
PERSONAL SERVICES											
501000 REGULAR SALARIES		8,369,738	6,725,812	8,557,376	8,557,376	108,406		8,557,376	8,478,144	79,232	
502000 ANNUAL LEAVE		30,000	60,781	60,781	60,781	-		60,781	30,000	30,781	
503000 SUPPLEMENTAL PAY		-	-	-	-	-		-	-	-	
512000 LABOR-PERMANENT		-	-	-	-	-		-	-	-	
513000 LABOR-TEMPORARY		65,000	26,110	65,000	65,000	-	(38,890)	26,110	65,000	(38,890)	Eliminate Summer Interns
514000 EMPLOYER FICA		556,857	441,312	581,427	581,427	39,661		581,427	596,518	(15,091)	
515000 EMPLOYER RETIREMENT		934,744	721,002	964,889	964,889	(20,966)		964,889	913,778	51,111	
516000 EMPLOYER HEALTH INSURANCE		1,198,048	1,073,771	1,441,583	1,441,583	223,918		1,441,583	1,421,966	19,618	
517000 PERSONAL LIABILITY INSURANCE		-	-	-	-	-		-	-	-	
518000 UNEMPLOYMENT INSURANCE		11,688	11,688	11,688	11,688	-		11,688	11,688	-	
519000 WORKER'S COMPENSATION		-	4,271	4,271	4,271	4,271		4,271	4,271	-	
520000 MERIT SYSTEM ASSESSMENTS		13,524	13,524	13,524	13,524	-		13,524	13,524	-	
	83.3%	11,179,599	9,078,271	11,700,539	11,700,539	355,290	(38,890)	11,661,649	11,534,889	126,759	
TOTAL PERSONAL SERVICES											
Revised Budget											

COURT OF APPEALS OF GEORGIA
FY 2007
PROJECTED BUDGET CUTS

AS OF

April 16, 2007

100
%

OPERATING EXPENSES

	FY 07 APPROP	ACTUAL TO DATE	YTD COMMITTED REV/EXP	7/1/06 - 6/30/07 PROJ REVEXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET BUDGET	BUDGET VARIANCE	COMMENTS
611000 POSTAGE	24,300	19,106	19,106	25,181	-		25,181	24,300	881	
612000 MOTOR VEHICLE EXPENSE	1,100	1,546	1,546	1,702	-		1,702	1,100	602	
613000 PRINTING & PUBLICATIONS	15,000	18,561	18,561	18,906	-	(3,300)	15,606	15,000	606	
614000 SUPPLIES & MATERIALS	108,500	143,216	143,369	210,918	-		210,918	108,500	102,418	
615000 REPAIRS & MAINTENANCE	93,500	106,258	109,193	143,695	-	(750)	142,945	93,500	49,445	
616000 EQUIP >\$1K<\$5K	223,850	43,394	43,394	143,394	-	(70,000)	73,394	223,850	(150,456)	Reduce Equip Budget
619000 RENTS OTHER THAN REAL ESTATE	3,780	3,917	3,917	4,355	-	-	4,355	3,780	575	
620000 INSURANCE & BONDING	1,350	2,232	2,232	2,232	-		2,232	1,350	882	
622000 FREIGHT EXP	3,488	4,824	4,824	5,724	-		5,724	3,488	2,236	
627000 OTHER OPERATING EXPENSES	61,346	49,401	49,401	59,201	-	(1,000)	58,201	61,346	(3,145)	
640000 TRAVEL EXPENSES	35,800	23,206	23,206	38,240	-		38,240	35,800	2,440	Eliminate Summer Interns
720000 EQUIPMENT	22,000	-	-	22,000	-	(22,000)	-	22,000	(22,000)	
821000 COMPUTER EQUIPMENT	64,500	22,848	35,190	65,190	-	(30,000)	35,190	64,500	(29,310)	
814000 I.T. EXP - SUPPLIES & MATERIALS	16,500	3,242	3,242	6,992	-		6,992	16,500	(9,508)	
815000 I.T. EXP - REPAIRS & MAINTENANCE	15,300	5,981	5,981	7,781	-		7,781	15,300	(7,519)	
816000 I.T. EXP - I.T. EQUIP <\$5K	70,540	25,148	25,148	55,448	-		55,448	70,540	(15,092)	
819000 I.T. EXP - RENTAL NOT RE	-	-	-	-	-	-	-	-	-	
823000 SOFTWARE CAPITALIZED	-	-	-	-	-	-	-	-	-	
863000 SOFTWARE NOT CAPITALIZED	69,000	2,342	2,342	67,342	-	(64,000)	3,342	69,000	(65,658)	
864000 SOFTWARE MAINTENANCE & SUPPORT	48,518	21,208	26,233	48,233	-	(20,000)	28,233	48,518	(20,285)	
648000 REAL ESTATE RENTALS	516,870	442,692	442,692	614,114	-	(1,000)	613,114	516,870	96,244	
848000 I.T. REAL ESTATE RENTALS	-	-	-	-	-	-	-	-	-	
871000 VOICE/DATA COMM SVC-GTA BILLINGS	81,463	51,768	51,768	67,866	-		67,866	81,463	(13,597)	
872000 VOICE/DATA COMM SVCS-DATA-NOT GTA	-	-	-	-	-	-	-	-	-	

COURT OF APPEALS OF GEORGIA
 FY 2007
 PROJECTED BUDGET CUTS

AS OF

April 16, 2007

		FY 07 APPROP	ACTUAL TO DATE	YTD COMMITTED REVEXP	7/1/06 - 6/30/07 PROJ REVEXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET BUDGET	BUDGET VARIANCE	COMMENTS
872011 VOICE/DATA-OTHER SVCS-NOT GTA	100	48,192	33,720	33,720	46,625	-	-	46,625	48,192	(1,567)	
651000 PROFESSIONAL SVCS		4,200	1,323	1,323	1,764	-	-	1,764	4,200	(2,436)	
652000 PROFESSIONAL SVCS-EXP		-	-	-	-	-	-	-	-	-	
651000 PROFESSIONAL SVCS-I.T.		132,516	101,400	111,600	135,516	-	(23,916)	111,600	132,516	(20,916)	
652000 PROFESSIONAL SVCS-I.T. EXP		-	-	-	-	-	-	-	-	-	
653000 OTHER CONTRACTUAL SVCS		-	-	-	7,500	-	-	7,500	-	7,500	
TOTAL OPERATING EXPENSES		1,661,613	1,127,332	1,190,990	1,799,919	-	(235,966)	1,563,953	1,661,613	(97,660)	
TOTAL EXPENSES	83.3%	12,841,212	10,205,603	12,891,529	13,500,458	355,290	(274,856)	13,225,602	13,196,502	29,099	
REMAINING AVAILABLE		-	2,652,347	334,361	(274,568)	-	(274,856)	288			
TOTAL STATE FUNDS									13,106,502	0	
OTHER FUNDS									90,000	(29,388)	
EXCESS OTHER FUNDS									29,388	119,388	
TOTAL FUNDS	83.3%	12,841,212	10,205,603	12,891,529	13,500,458	-	(274,856)	13,225,602	13,225,890	(289)	100%

Section 5: Appeals, Court of	Governor's Recommendation	House		Senate		Conference Committee			
		State Funds	Total Funds	State Funds	Total Funds	State Funds	Total Funds	State Funds	Total Funds
FY2007 Budget	HB1027	\$12,751,212	\$12,841,212	\$12,751,212	\$12,841,212	\$12,751,212	\$12,841,212	\$12,751,212	\$12,841,212
5.1 Court of Appeals									
5.1.1. Provide funds for a 2.89% payraise for Judges and 4% payraise for staff. (H: Reduce payraise to 3% for staff.)		\$195,817	\$195,817	\$143,164	\$143,164	\$143,164	\$143,164	\$143,164	\$143,164
5.1.2. Increase funds to reflect an adjustment in the employer share of State Health Benefit Plan premiums from 14.20% to 16.713%.		\$207,855	\$207,855	\$207,855	\$207,855	\$207,855	\$207,855	\$207,855	\$207,855
5.1.3. Increase funds to reflect an adjustment in Workers' Compensation premiums.		\$4,271	\$4,271	\$4,271	\$4,271	\$4,271	\$4,271	\$4,271	\$4,271
5.1.4. Provide for an adjustment to the Georgia Building Authority (GBA) real estate rental rate for office space.		\$96,299	\$96,299	\$96,299	\$96,299	\$0	\$0	\$0	\$0
5.1.5. Provide for an increase in real estate rent for new space for Judges on 3rd floor of the Judicial Building.		\$51,761	\$51,761	\$51,761	\$51,761	\$0	\$0	\$0	\$0
5.1.6. Reinstate funding for 2 positions eliminated in FY 2005.		\$98,440	\$98,440	\$0	\$0	\$0	\$0	\$0	\$0
Section 5: Appeals, Court of	<i>Agency Net</i>	\$654,443	\$654,443	\$503,350	\$503,350	\$355,290	\$355,290	\$355,290	\$355,290
FY2007A Budget	HB 94	\$13,405,655	\$13,495,655	\$13,254,562	\$13,344,562	\$13,106,502	\$13,196,502	\$13,106,502	\$13,196,502

A 300,000

Section 5: Appeals, Court of Court of Appeals

Continuation Budget

TOTAL STATE FUNDS	\$12,751,212	\$12,751,212	\$12,751,212
State General Funds	\$12,751,212	\$12,751,212	\$12,751,212
TOTAL AGENCY FUNDS	\$90,000	\$90,000	\$90,000
Sales and Services	\$90,000	\$90,000	\$90,000
Sales and Services Not Itemized	\$90,000	\$90,000	\$90,000
TOTAL PUBLIC FUNDS	\$12,841,212	\$12,841,212	\$12,841,212

13.1 Increase funds to annualize the FY07 2.89% pay raise for Judges and 4% pay raise for staff. (H and S: Reduce pay raise to 3%)

State General Funds	\$377,721	\$286,325	\$286,325
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13.2 Increase funds to annualize the FY07 adjustment in the employer share of State Health Benefit Plan (SHBP) premiums.

State General Funds	\$273,257	\$273,257	\$273,257
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13.3 Increase funds to annualize the FY07 adjustment in Workers' Compensation premiums.

State General Funds	\$4,271	\$4,271	\$4,271
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13.4 Increase funds to annualize the reinstatement of two positions.

State General Funds	\$98,440	\$98,440	\$0
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13.5 Increase funds for a 3% pay raise for judges and staff effective January 1, 2008.

State General Funds	\$159,571	\$0	\$159,571
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13.6 Increase funds for an administrative assistant and a staff attorney position.

State General Funds	\$162,657	\$162,657	\$162,657
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13.7 Increase funds for storage space at an off-site location for disaster recovery. (One-Time Change)

State General Funds	\$30,000	\$30,000	\$30,000
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13.8 Increase funds for an adjustment to the Georgia Building Authority (GBA) real estate rate for the Health Building.

State General Funds	\$21,487	\$21,487	\$21,487
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13.9 Increase funds for the renovated space for Judges on the third floor of the Judicial Building. (One-Time Change)

State General Funds			\$51,761
Sales and Services Not Itemized			\$60,000
TOTAL PUBLIC FUNDS			\$111,761

13.10 Eliminate one-time funds received in HB85 (FY06) for the renovation of the Health and Judicial Buildings.

State General Funds			(\$500,000)
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13.11 Realize Georgia Technology Authority (GTA) savings through rate renegotiations and reduce funds from operations.

State General Funds			(\$6,794)
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13.12 Increase funds to reflect the increase in the employer share of State Health Benefit Plan (SHBP) premiums from 16.713% to 22.843%.

State General Funds			\$547,138
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13.13 Increase funds to reflect the FY08 adjustment in Workers' Compensation premiums.

State General Funds			\$27,226
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13. Court of Appeals

Appropriation (HB 95)

The purpose of this appropriation is to review and exercise appellate and certiorari jurisdiction in all cases not reserved to the Supreme Court or any other court of this state.

TOTAL STATE FUNDS	\$13,878,616	\$13,627,649	\$13,808,111
State General Funds	\$13,878,616	\$13,627,649	\$13,808,111
TOTAL AGENCY FUNDS	\$90,000	\$90,000	\$150,000
Sales and Services	\$90,000	\$90,000	\$150,000
Sales and Services Not Itemized	\$90,000	\$90,000	\$150,000
TOTAL PUBLIC FUNDS	\$13,968,616	\$13,717,649	\$13,958,111

Section 6: Judicial Council

Georgia Office of Dispute Resolution

Continuation Budget

The purpose of this appropriation is to oversee the development of court-connected alternative dispute resolution programs in Georgia.

Section 53: Supplanting Federal Funds

No State appropriations authorized under this Act shall be used to continue programs currently funded entirely with Federal funds.

Section 54: Leases

In accordance with the requirements of Article IX, Section VI, Paragraph 1a of the Constitution of the State of Georgia, as amended, there is hereby appropriated payable to each department, agency, or institution of the State sums sufficient to satisfy the payments required to be made in each year, under existing lease contracts between any department, agency, or institution of the State, and any authority created and activated at the time of the effective date of the aforesaid constitutional provision, as amended, or appropriated for the State fiscal year addressed within this Act. If for any reason any of the sums herein provided under any other provision of this Act are insufficient to make the required payments in full, there shall be taken from other funds appropriated to the department, agency or institution involved, an amount sufficient to satisfy such deficiency in full and the lease payment constitutes a first charge on all such appropriations.

Section 55: Flex

Notwithstanding any other statement of purpose, the purpose of each appropriation of Federal Funds and the purpose of each appropriation of Other Funds shall be the stated purpose or any other lawful purpose consistent with the fund source and the general law powers of the budget unit. In the preceding sentence, "Federal Funds" means any federal funding source whether specifically identified or not specifically identified; "Other Funds" means all other fund sources except State Funds or Federal Funds, including without limitation, Intra-State Government Transfers. This paragraph does not permit an agency to include within its flex the appropriations for an agency attached to it for administrative purposes.

Section 56: Salary Adjustments

The appropriations to budget units made above include funds for, and have the added purpose of, the following salary increases and adjustments, administered in conformity with the applicable compensation and performance management plans as provided by law:

- 1.) A general salary increase of three percent for employees of the Executive and Legislative Branches. The amount for this Item is calculated according to an effective date of January 1, 2008.
- 2.) In lieu of other numbered items, (a) to provide for the cost-of-living adjustment authorized by O.C.G.A. § 45-7-4(b) for each state officer whose salary is set by Code Sections 45-7-4(a), in a percentage determined by the Office of Planning and Budget according to O.C.G.A. § 45-7-4(b), with members of the General Assembly subject to the further provisions of O.C.G.A. § 45-7-4(b) as to amount and effective date; (b) To provide for increases of up to three percent for other department heads and officers whose salary is not set by statute; (c) Subject to the provisions of O.C.G.A. § 45-7-4(b), the amount for this Item is calculated according to an effective date of January 1, 2008.
- 3.) In addition to other numbered Items, for budget units with employees of the Executive Branch, an amount equal to 0.5% of total personal services, calculated as of the end of calendar year 2006 for an effective date of January 1, 2008, for market adjustments, performance incentives and equity adjustments.
- 4.) Before items 1 and 3 above, but not in lieu of them, funds to adjust salaries of certain employees in the job titles and departments shown in the "Summary of Identified Job Classifications" on page 38 of The Governor's Budget Report FY 2008. The employees are those within the listed job titles and agencies with salaries below 75% of the salary determined by the Commissioner of Personnel Administration in December of 2006 to be the market midpoint rate for their job titles. The purpose is to adjust salaries of incumbents to 75% of such market midpoint rate, calculated for an effective date of January 1, 2008.
- 5.) In lieu of other numbered items, (a) to provide for a 3% increase across the State Salary Schedule of the State Board of Education through a 3% increase in the state base salary. This proposed 3% salary improvement is in addition to the salary increases awarded to certificated personnel through normal progression on the teacher salary schedule for the State Board of Education. This Item includes as well and without limitation teachers and administrators in state agencies whose salaries, by the authority of addenda to the Statewide Salary Plan, are determined from the State Salary Schedule of the State Board of Education. The

amount for this paragraph is calculated according to an effective date of September 1, 2007.

(b) To provide for a 3% increase in funding for salaries for lunchroom workers and for a 3% increase in the state base salary for local school bus drivers. The amount for this paragraph is calculated according to an effective date of July 1, 2007.

6.) In lieu of other numbered items, to provide a 3% funding level for increases for teachers and other academic personnel within the Department of Early Care and Learning. The amount for this Item is calculated according to an effective date of September 1, 2007.

7.) In lieu of other numbered items, to provide a 3% funding level for merit increases for Regents faculty and non-academic personnel. The amount for this Item is calculated according to an effective date of January 1, 2008.

8.) In lieu of other numbered items, to provide a 3% salary increase for public librarians administered by the Board of Regents. The amount for this Item is calculated according to an effective date of January 1, 2008.

9.) In lieu of other numbered items, to provide for a 3% salary increase for teachers and support personnel within the Department of Technical and Adult Education. The amount for this Item is calculated according to an effective date of January 1, 2008.

10.) For personnel of the Department of Public Safety, a general salary increase reflecting the appropriate continuation market benchmark salaries in the following job titles:

Trooper First Class (Job Code: 17708),
Trooper (Job Code: 17706),
Cadet (DPS) (Job Code: 17707),
Trooper Cadet/Trooper School (Job Code: 17710),
Sergeant First Class (Job Code 17705),
Lieutenant (Job Class 17232),
Lieutenant First Class (Job Class 17703),
MCCD Officer Cadet (Job Code: 17805)
MCCD Corporal (Job Code: 17804),
MCCD Sergeant (Job Code: 17803), and
MCCD Lieutenant (Job Code 17806).

Section 57: General Obligation Bonds Repealed, Revised or Reinstated

The following paragraph of the General Appropriations Act for state fiscal year 2004-2005 (Section 63 of Ga. L. 2004, pp. 994, 1046, 1050), as carried forward in Section 63 of House Bill 84 (Ga. L. 2005, pp. 1262, 1307, 1311), in Section 48 of House Bill 85 (Ga. L. 2005, pp. 1319, 1415, 1426) and in Section 50 of House Bill 1026 (Ga. L. 2006, Book One, Volume Two Appendix, commencing as p. 1 of 226) is hereby repealed in its entirety:

From the appropriation designated "State General Funds (New)," \$4,520,000 is specifically appropriated for the purpose of financing projects and facilities for the Department of Transportation, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$20,000,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of sixty months.

The following paragraph of the General Appropriations Act for state fiscal year 2004-2005 (Section 63 of Ga. L. 2004, p. 994, 1046, 1053) as carried forward in Section 63 of House Bill 84 (Ga. L. 2005, pp. 1262, 1307, 1314) and amended in Section 51 of House Bill 1026 (Ga. L. 2006, Book One, Volume Two Appendix, commencing as p. 1 of 226) to read as follow:

From the appropriation designated "State General Funds (New)," \$1,237,314 is specifically appropriated for the purpose of financing projects and facilities for the Department of Technical and Adult Education, by means of the acquisition, construction, development, extension, enlargement, or improvement of land, waters, property, highways, buildings, structures, equipment or facilities, both real and personal, necessary or useful in connection therewith, through the issuance of not more than \$14,222,000 in principal amount of General Obligation Debt, the instruments of which shall have maturities not in excess of two hundred and forty months.

AS OF

July 1, 2007

COURT OF APPEALS OF GEORGIA
 FY 2008 SUPPLEMENTAL BUDGET - RENT
 PROJECTED BUDGET CUTS

REVENUE

APPROPRIATION

REVENUE COLLECTIONS

OTHER FUNDS

TOTAL REVENUE

EXPENSES

PERSONAL SERVICES

501000 REGULAR SALARIES

502000 ANNUAL LEAVE

503000 SUPPLEMENTAL PAY

512000 LABOR-PERMANENT

513000 LABOR-TEMPORARY

514000 EMPLOYER FICA

515000 EMPLOYER RETIREMENT

516000 EMPLOYER HEALTH INSURANCE

517000 PERSONAL LIABILITY INSURANCE

518000 UNEMPLOYMENT INSURANCE

519000 WORKER'S COMPENSATION

520000 MERIT SYSTEM ASSESSMENTS

TOTAL PERSONAL SERVICES

Revised Budget

	FY 08 REQUEST	FY 08 APPROP	ACTUAL TO DATE	YTD COMMITTED REV/EXP	7/1/07 - 6/30/08 PROJ REV/EXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET	BUDGET VARIANCE	COMMENTS
REVENUE COLLECTIONS	13,878,616	13,808,111	-	14,291,270	13,808,111	311,566	(174,458)	13,633,653	14,119,677	486,024	
OTHER FUNDS	90,000	150,000	-	90,000	90,000	-	-	90,000	90,000	-	
TOTAL REVENUE	13,968,616	13,958,111	-	14,381,270	13,898,111	311,566	(174,458)	13,723,653	14,209,677	486,024	
PERSONAL SERVICES											
501000 REGULAR SALARIES	\$9,015,853	8,891,908	-	8,922,017	8,922,017	-	-	8,898,625	8,891,908	6,717	HIRE-NEW POSITIONS-JAN08
502000 ANNUAL LEAVE	\$30,000	30,000	-	30,000	30,000	-	(23,392)	8,898,625	30,000	(30,000)	NO COLA FOR STAFF
503000 SUPPLEMENTAL PAY	\$0	-	-	-	-	-	(30,000)	-	-	-	Do Not Fill Positions under ALP
512000 LABOR-PERMANENT	\$0	-	-	-	-	-	-	-	-	-	made up
513000 LABOR-TEMPORARY	\$65,000	65,000	-	65,000	65,000	-	(65,000)	-	65,000	(65,000)	Eliminate Summer Intern
514000 EMPLOYER FICA	\$598,371	583,957	-	691,714	691,714	-	-	-	-	-	Program FY 2008
515000 EMPLOYER RETIREMENT	\$1,004,428	984,583	-	1,007,182	1,007,182	-	(1,448)	690,267	583,957	106,310	
516000 EMPLOYER HEALTH INSURANCE	\$1,511,833	2,027,339	-	2,038,056	2,038,056	-	(2,435)	1,004,747	984,583	20,164	
517000 PERSONAL LIABILITY INSURANCE	\$0	-	-	-	-	-	(5,343)	2,032,713	2,027,339	5,374	
518000 UNEMPLOYMENT INSURANCE	\$11,942	11,942	-	11,942	11,942	-	-	-	-	-	0
519000 WORKER'S COMPENSATION	\$4,271	31,497	-	31,497	31,497	-	-	-	-	-	
520000 MERIT SYSTEM ASSESSMENTS	\$13,818	13,818	-	13,818	13,818	-	-	-	-	-	
TOTAL PERSONAL SERVICES	12,255,516	12,640,044	-	12,811,226	12,811,226	-	(127,618)	12,683,609	12,640,044	43,565	

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**COURT OF APPEALS OF GEORGIA
FY 2008 SUPPLEMENTAL BUDGET - RENT
PROJECTED BUDGET CUTS**

AS OF

July 1, 2007

REVENUE

1

APPROPRIATION

REVENUE COLLECTIONS

OTHER FUNDS

TOTAL OTHER FUNDS

TOTAL REVENUE

EXPENSES

PERSONAL SERVICES

501000 REGULAR SALARIES
502000 ANNUAL LEAVE
503000 SUPPLEMENTAL PAY
512000 LABOR-PERMANENT
513000 LABOR-TEMPORARY

514000 EMPLOYER FICA
515000 EMPLOYER RETIREMENT
516000 EMPLOYER HEALTH INSURANCE

517000 PERSONAL LIABILITY INSURANCE
518000 UNEMPLOYMENT INSURANCE
519000 WORKER'S COMPENSATION
520000 MERIT SYSTEM ASSESSMENTS

TOTAL PERSONAL SERVICES

Revised Budget

	FY 08 REQUEST	FY 08 APPROP	ACTUAL TO DATE	YTD COMMITTED REV/EXP	7/1/07 - 6/30/08 PROJ REV/EXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET	BUDGET VARIANCE	COMMENTS
REVENUE											
APPROPRIATION	13,878,616	13,808,111	-	14,291,270	13,808,111	311,566	(174,458)	13,633,653	14,119,677	486,024	
REVENUE COLLECTIONS	90,000	150,000	-	90,000	90,000	-	-	90,000	90,000	-	
OTHER FUNDS	-	-	-	-	-	-	-	-	-	-	
TOTAL OTHER FUNDS	90,000	150,000	-	90,000	90,000	-	-	90,000	90,000	-	
TOTAL REVENUE	13,968,616	13,958,111	-	14,381,270	13,898,111	311,566	(174,458)	13,723,653	14,209,677	486,024	
EXPENSES											
PERSONAL SERVICES											
501000 REGULAR SALARIES	\$9,015,853	8,891,908	-	8,922,017	8,922,017	-	(23,392)	8,898,625	8,891,908	6,717	HIRE-NEW POSITIONS-JAN08 NO COLA FOR STAFF
502000 ANNUAL LEAVE	\$30,000	30,000	-	30,000	30,000	-	(30,000)	-	30,000	(30,000)	Do Not Fill Positions under ALP made up
503000 SUPPLEMENTAL PAY	\$0	-	-	-	-	-	-	-	-	-	
512000 LABOR-PERMANENT	\$0	-	-	-	-	-	-	-	-	-	
513000 LABOR-TEMPORARY	\$65,000	65,000	-	65,000	65,000	-	(65,000)	-	65,000	(65,000)	Eliminate Summer Intern Program FY 2008
514000 EMPLOYER FICA	\$598,371	583,957	-	691,714	691,714	-	(1,448)	690,267	583,957	106,310	
515000 EMPLOYER RETIREMENT	\$1,004,428	984,583	-	1,007,182	1,007,182	-	(2,435)	1,004,747	984,583	20,164	
516000 EMPLOYER HEALTH INSURANCE	\$1,511,833	2,027,339	-	2,038,056	2,038,056	-	(5,343)	2,032,713	2,027,339	5,374	
517000 PERSONAL LIABILITY INSURANCE	\$0	-	-	-	-	-	-	-	-	-	
518000 UNEMPLOYMENT INSURANCE	\$11,942	11,942	-	11,942	11,942	-	-	11,942	11,942	0	
519000 WORKER'S COMPENSATION	\$4,271	31,497	-	31,497	31,497	-	-	31,497	31,497	-	
520000 MERIT SYSTEM ASSESSMENTS	\$13,818	13,818	-	13,818	13,818	-	-	13,818	13,818	-	
TOTAL PERSONAL SERVICES	12,255,516	12,640,044		12,811,226	12,811,226	-	(127,618)	12,683,609	12,640,044	43,565	
Revised Budget											

**COURT OF APEALS OF GEORGIA
FY 2008 SUPPLEMENTAL BUDGET - RENT
PROJECTED BUDGET CUTS**

AS OF

July 1, 2007

OPERATING EXPENSES

	FY 08 REQUEST	FY 06 APPROP	ACTUAL TO DATE	YTD COMMITTED REV/EXP	7/1/07 - 6/30/08 PROJ REV/EXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET	BUDGET VARIANCE	COMMENTS
611000 POSTAGE	\$27,900	26,000	-	27,892	27,892	-		27,892	26,000	1,892	
612000 MOTOR VEHICLE EXPENSE	\$2,300	1,100	-	2,143	2,143	-	(1,000)	1,143	1,100	43	
613000 PRINTING & PUBLICATIONS	\$15,000	8,000	-	10,442	10,442	-	(1,000)	9,442	8,000	1,442	
614000 SUPPLIES & MATERIALS	\$109,349	109,349	-	134,500	134,500	-		134,500	109,349	25,151	
615000 REPAIRS & MAINTENANCE	\$63,600	63,600	-	16,510	16,510	-		16,510	63,600	(47,090)	
616000 EQUIP >\$1K<\$5K	\$100,000	40,000	-	100,000	100,000	-	(40,000)	60,000	40,000	20,000	
619000 RENTS OTHER THAN REAL ESTATE	\$2,888	2,888	-	1,752	1,752	-		1,752	2,888	(1,136)	
620000 INSURANCE & BONDING	\$2,261	2,261	-	2,261	2,261	-		2,261	2,261	-	
622000 FREIGHT EXP	\$3,500	3,500	-	3,600	3,600	-		3,600	3,500	100	
627000 OTHER OPERATING EXPENSES	\$63,500	63,500	-	43,774	43,774	-		43,774	63,500	(19,726)	
640000 TRAVEL EXPENSES	\$40,000	40,000	-	44,976	44,976	-		44,976	40,000	4,976	
720000 EQUIPMENT	\$22,000	5,000	-	22,000	22,000	-		22,000	5,000	17,000	
821000 COMPUTER EQUIPMENT	\$38,000	38,000	-	38,000	38,000	-		38,000	38,000	-	
814000 I.T. EXP - SUPPLIES & MATERIALS	\$13,800	10,000	-	16,500	16,500	-		16,500	10,000	6,500	
815000 I.T. EXP - REPAIRS & MAINTENANCE	\$14,400	6,324	-	6,635	6,635	-		6,635	6,324	311	
816000 I.T. EXP - I.T. EQUIP <\$5K	\$127,350	75,000	-	68,540	68,540	-		68,540	75,000	(6,460)	
819000 I.T. EXP - RENTAL NOT RE	\$0	-	-	-	-	-		-	-	-	
823000 SOFTWARE CAPITALIZED	\$0	-	-	-	-	-		-	-	-	
863000 SOFTWARE NOT CAPITALIZED	\$20,600	20,600	-	20,600	20,600	-		20,600	20,600	-	
864000 SOFTWARE MAINTENANCE & SUPPORT	\$31,630	31,630	-	31,630	31,630	-		31,630	31,630	-	
648000 REAL ESTATE RENTALS	\$685,686	485,881	-	685,686	685,686	-		685,686	485,881	199,805	
848000 I.T. REAL ESTATE RENTALS	\$30,000	30,000	-	30,000	30,000	311,566		30,000	341,566	(311,566)	
871000 VOICE/DATA COMM SVC-GTA BILLINGS	\$89,924	63,206	-	69,080	69,080	-	(5,874)	63,206	63,206	0	
872000 VOICE/DATA COMM SVCS-DATA-NOT GTA	\$0	-	-	-	-	-		-	-	-	
872011 VOICE/DATA-OTHER SVCS-NOT GTA	\$55,212	55,212	-	51,742	51,742	-	3,470	55,212	55,212	0	
651000 PROFESSIONAL SVCS	\$4,200	4,200	-	1,764	1,764	-	(2,436)	(672)	4,200	(4,872)	
652000 PROFESSIONAL SVCS-EXP	\$0	-	-	-	-	-		-	-	-	

**COURT OF APPEALS OF GEORGIA
FY 2008 SUPPLEMENTAL BUDGET - RENT
PROJECTED BUDGET CUTS**

AS OF

July 1, 2007

651000 PROFESSIONAL SVCS-I.T.

652000 PROFESSIONAL SVCS-I.T. EXP

653000 OTHER CONTRACTUAL SVCS

TOTAL OPERATING EXPENSES

TOTAL EXPENSES

REMAINING AVAILABLE

TOTAL STATE FUNDS

OTHER FUNDS

EXCESS OTHER FUNDS

TOTAL FUNDS

FY 08 REQUEST	FY 08 APPROP	ACTUAL TO DATE	YTD COMMITTED REV/EXP	7/1/07 - 6/30/08 PROJ REV/EXP	SUPPL AMENDMENT	PROPOSED BUDGET CUTS	REVISED PROJECTION	BUDGET	BUDGET VARIANCE	COMMENTS
\$150,000	132,816	-	132,516	132,516	-	-	132,516	132,816	(300)	
\$0	-	-	-	-	-	-	-	-	-	
\$0	-	-	7,500	7,500	-	-	7,500	-	7,500	
1,713,100	1,318,067	-	1,570,044	1,570,044	311,566	(46,840)	1,523,204	1,629,633	(106,429)	
13,968,616	13,958,111	-	14,381,270	14,381,270	311,566	(174,458)	14,206,812	14,269,677	(62,865)	
-	-	-	-	(483,159)	-	(174,458)	(483,159)	EXCESS OTHER FUNDS (60,000)	2,865	
-	-	-	-	-	-	-	-	Unallocated Budget Cut	2,865	
-	-	-	-	-	-	-	-	14,119,677	486,024	
-	-	-	-	-	-	-	-	90,000	-	
-	-	-	-	-	-	-	-	-	90,000	
13,968,616	13,958,111	-	14,381,270	14,381,270	-	(174,458)	14,206,812	14,209,677	(2,865)	100%

SHBP
\$ 134,484

\$ 412,654.07
\$ 547,138.00



Court of Appeals

Memorandum

To: All Judges
From:  William L. Martin, III
Subject: Disqualification and Recusal of Judges
Date: May 18, 2007



Since the Court's recusal/disqualification policy will be an agenda item at the banc meeting on Tuesday, May 22, 2007, Chief Judge Barnes asked me to distribute this information to each of you regarding revisiting this policy in light of recent increases in the number of recusals and, as a result, a need for a more equitable distribution of the workload. The current Court policy is found in Chapter XXXIII of the Internal Operations Manual.

Under this policy, a judge sends a memo to the Clerk stating that he/she is disqualified or recused and returns the record and all pleadings. The Clerk then transfers the case on the docket, prepares an order making the reassignment, and sends the order with the record, a new tracking sheet and a cover memorandum to the newly assigned judge. The tasks in the Clerk's office associated with a transfer consume on average over 30 minutes per case

transferred. The case is reassigned to the next judge on the same panel. If the transfer occurs within the docket year, the clerk's office assigns a newly docketed case to the transferring judge in reciprocation so that each judge's caseload will be as equal as possible at the end of the docketing year. If the docket has closed for the year at the time of the transfer, for instance, a 2006 case is transferred when the Court has been docketing to 2007, there will be no reciprocation.

If a judge who is assigned to a case to vote only is disqualified or recused, the corresponding judge on the next panel is assigned to vote on the appeal. For example, the presiding judge of the second division would vote in place of the presiding judge of the first panel. There is no reciprocation when there is a transfer for voting purposes only.

There are two types of suggested changes to the current process: changes to reduce the number of transfers and changes in assigning cases.

A. Possible Changes to Reduce the Numbers of Transfers

1. Each judge will create a list of persons or businesses for which the Clerk's office should employ an across the board recusal, for example, there is a particular lawyer or law firm to which a judge is closely related or a business in which a judge is a director or has a significant interest. Each Judge would be asked to review the list annually. The Clerk's

Office on docketing a case would check the list and make sure a case with either those persons or businesses were not assigned to a judge who had indicated a blanket recusal. That judge instead would be assigned the next case docketed so that the caseload would continue to be equalized. The Clerk's office may not be able to identify 100% of these cases when they are filed, but it would substantially reduce transfers compared to the past. This change would reduce both the workload of the Clerk's office in effecting a transfer and the workload of the judges and their staffs who may otherwise have begun work on a case before it is transferred. This was the Court's policy in the recent past.

2. Each judge will review the Court's internal docketing notice (yellow sheet) sent to his or her office within 48 hours of docketing to determine if he or she should recuse or is disqualified. The Notice includes the party names, attorney names, trial judge name and case type. In most cases, this is sufficient information from which to determine if disqualification/recusal is necessary. A quick notice to the Clerk's Office, if a transfer is necessary, will save court staff wasted effort in researching the case.

B. Possible Changes in Assigning Cases.

1. The judge to which the transfer is made, at the time of a transfer, could select any case he or she has been assigned to transfer to the recusing/disqualified judge. The case to be

transferred back would have to be identified immediately upon notice of the transfer, otherwise the transferring judge would receive the next docketed case as is now the practice. If the choice of a case to reciprocate was not made immediately, the docket system programming would have to be changed since it is currently programmed to reciprocate with the next docketed case after the transfer is made. Otherwise, either docketing of cases would be delayed or significant programming of the docket system will have to be undertaken.

2. A transfer would be randomly assigned to any judge on the Court rather than to the next judge on a panel in order to more evenly spread the work coming from recusals/disqualifications. Although this would possibly provide a more equitable division of the workload arising from transferred cases, it may result in judges more frequently having to sit with other divisions for oral argument. Judges' offices would have to keep a close eye on the case assignments and oral argument dates. Either a manual or automated random draw procedure for the Clerk's Office would have to be created. There will also be further docket programming necessary to modify the current assignment process.

These are the solutions which have been suggested, but there may be others you or the other judges would like to discuss.

bcc: Holly Sparrow
Bill Martin



Court of Appeals

Memorandum

To: William L. Martin, III
From: Holly Sparrow *HS*
Subject: Copies of Briefs - Lexis & West
Date: June 5, 2007

Attached is my revised suggested proposal for the purchase of briefs. It differs in the several respects from the proposal in Tom Leighton's recent letter to Chief Judge Barnes. Please see my comments below.

(1) West includes associated appellate court orders in its database and I have excluded these from our proposal.

(2) West proposes to pay a \$15,000 flat fee for briefs and records dating back to 1997 and \$2500 per year for prospective briefs and records. \$15,000 would only be \$1500 per year for each of the years 1997-2006. I have proposed \$2500 for each of the past years based on your suggestions. Also, I found out from Barbara Smith at Datek that they charge \$17 a roll to

copy microfilm. So for approximately \$850 (\$17 x 50 rolls) we could copy a year of microfilm for West. In that way, there is less time of our staff involved and less wear and tear on the copy machines to produce the microfilm for the past years they want. Based on the \$2,500 figure, we would still make a profit of about \$1500 for each past year.

(3) West also propose^d to pay \$2500 per year for briefs prospectively. This is much less than \$1 per page for every case in a year. For example, there are over 1200 civil case direct appeals each year and conservatively using 40 pages for the appellant's and appellee's briefs together is 1200 times 40 pages or \$48,000. If the publisher chooses to select only certain cases as has been previously suggested, the amount would be considerably less. For example, we received a list of 1910 cases 1997-2006 from LEXIS, and using those numbers it would be 1910 cases time 40 pages or \$76,400 for 9 years which is about \$8,488 per year.

(4) I think LEXIS and West will expect the agreement to specify a turnaround time for copies of current year's briefs. We should consider this in light of other work in the office and the wear and tear on the copy machines.

(5) Also, I suggest we not agree to making copies prospectively for more than a year or two so that we can renegotiate the deal if we want to do so.

Proposal for Copies of Briefs

A. Cases Docketed Prior to 2006

\$2500 for microfilm of cases docketed in year. Purchaser agrees to use only the images of briefs from the film. ? Purchaser may not publish or use in any of its databases any briefs that have been sealed by Court Order. No orders, opinions or other documents will be copied or used in purchaser's database or other products. Purchaser shall specify the years of microfilmed cases that shall be copied.

B. Current Cases

Option 1 - \$1 per page for briefs from the current year and the immediate past year (2006-2007). Purchaser may choose to have copies made of only selected cases for these years. Purchaser will provide a list of selected cases by _____ date. If the list is not received by _____, Court of Appeals will copy all briefs from civil cases docketed in 2006 and 2007 through _____. Court of Appeals personnel will make the copies and mail them by U.S. Postal Mail to Purchaser along with an invoice for the copies.

Option 2 - Purchaser shall hire contractors approved by the Court to make copies of briefs from the current year to date and the immediate past year (1/1/2006- __ / ____ /2007). Copies shall be made during non- business hours in the Clerk's Office. Purchaser shall also pay Court of Appeals \$.50 per copy and for the paper and toner used. The Court of Appeals will send to Purchaser an invoice with the copies. Contractors must meet security clearance requirements of the Court of Appeals.

C. Copies of briefs will be furnished for the remainder of the year 2007 to Purchaser on the same basis as Option 1 or Option 2, but on a (weekly?) basis with an invoice being sent monthly to the Purchaser.

D. Purchaser may contract to purchase future years briefs at a rate to be agreed in such new contract.

E. Payment for microfilm must be made before the microfilm will be sent to Purchaser.

F. Invoices must be paid within _____ days of issuance. The Court of Appeals will discontinue providing copies of briefs to Purchaser if the invoices are not timely paid.

G. Purchaser agrees to redact financial account information, individual identification information such as social security numbers and driver's license number, and the names of any individual identified as a minor in the documents prior to use of the material in any of Purchaser's products. [Anything else? Date of Birth?]



Court of Appeals

Memorandum

To: All Judges
From: Presiding Judge Smith
Subject: Court Rule Amendments
Date: September 17, 2007

Attached you will find the Report of the Rules Committee responding to Chief Judge Barnes additional suggestions for revisions September 4th.

The Rules will be on the agenda for the banc meeting tomorrow and I would like to vote on their approval. If you need another copy of the full set of the proposed rules that were distributed earlier, please let me and I will have another copy prepared for you. Also, I shall have a copy at the banc meeting.

Rules Committee Report September 17, 2007

Response of Committee to Chief Judge Barnes' Memorandum

of September 4, 2007

a. The memorandum suggests that the words "staff attorney" be added to Rule 1 (b).

The Committee opposes this change since staff attorneys are already included in the Rule as members of a judge's staff .

b. The purposes of the Committee changes to Rule 4 (c) and (d) was to eliminate the certified mail rule and commercial delivery rule so as to reduce the time the clerk's office spends verifying the appropriate date to give to a filing and to reduce the number of filing date changes. Rarely has the Court had problems with parties using an office or private postage meter to claim a false date of the mailing. Parties can always contest the date with a motion to the Court if they believe the date was falsified. Although the Committee endorsed these changes to Rule 4 (c) and (d), the Committee believes that the Banc should make the final decision.

c. The Committee does not oppose changing the order of the series in Rule 10 to "any judge, opposing counsel, or any Court."

d . The Committee responds to Chief Judge Barnes proposal to change the word "may" to "will" in Rule 13, 22, and 23. The Court should retain the discretion to

dismiss an appeal when a brief is untimely rather than make the dismissal a requirement. In an effort to clarify the language, it is suggested that the words “may subject the appeal to dismissal” in Rule 13 be changed to “may result in the dismissal of the appeal” and the same change be made to Rule 23 (a).

e. The Committee does not oppose adding language that the Court Reporter should place the page numbers of depositions and trial transcripts “on the bottom of the page.”

f. See d. above.

g. See d. above.

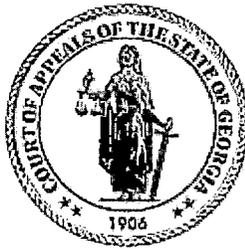
h. See d. above.

i. and j. These add the word “any” before petition. The Committee agrees with this change to Rule 30 and Rule 31 since it provides for situations in which applications arise from a sua sponte ruling of the Court rather than a written motion or petition.

k. The memorandum changes the wording in Rule 31 (e) requiring a stamped “filed” copy of the order to stamped “filed” copy of the order or judgment. The Committee does not oppose this change.

l. The Committee and the Chief Judge are in agreement with the change to Rule 33 recommended by Judge Miller and the Clerk which appeared in the Committee’s original recommendation to the Banc.

- m. The Committee agrees with the deletion of the word “as” in Rule 37 (e).
- n. The Committee opposes the suggested change to revised Rule 41 to make the first two sentences of paragraph (b) of Rule 41 a new section (a). The Committee prefers the current Rule’s order which proceeds from general information about motions to the more specific information about motion form. Also, creating a new paragraph from the first two sentences of (b) will create confusion concerning the meaning and application of the last sentence in the current paragraph (b).
- o. Of course, the Committee agrees with correction of the typo on the word “party” in the second sentence of Rule 42 (a).
- p. The Committee agrees with the replacement of the words “gone out” to “issued” in Rule 42 (b)
- q. The Committee opposes addition of Rules relating to the media. First, the Rules are directed to practice in the court by parties and their counsel not to outsiders to the cases such as the media. Secondly, the Court already has an administrative order which governs media coverage in the courtroom. The Clerk is currently working with the IT staff and expects to have that administrative order and the media coverage request form on the Court’s web page shortly.
- r. The Committee agrees to amend the proposed rules to include the comma before the last word in a series.



Court of Appeals

Memorandum

To: All Judges
From: 
William L. Martin, III
Subject: Administrative Banc Meeting, July 17, 2007
Date: July 12, 2007

Enclosed please find the Agenda for the Administrative Banc Meeting scheduled for 10:30 a.m. July 17, 2007 in the Court Banc Room behind the main lobby of the clerk's office located at Suite 501 of the 47 Trinity Avenue, S.W., building. Chief Judge Barnes has asked that, at your option, if any chair of a committee has a committee report, please send a copy of the written report to all judges prior to the Banc Meeting.

Chief Judge Barnes does not intend to have committee reports from the chairs at this Banc Meeting.

Also, enclosed please find a copy of the proposed Rules which Holly Sparrow and I have been working with the Rules Committee comprised of Presiding Judge Smith, Judge Miller and Judge Bernes.

There are three substantive matters which would require Court action at the Banc Meeting, although, the Court may wish not to defer action to a subsequent meeting.

To: All Judges
Subject: Administrative Banc Meeting, July 17, 2007
Date: July 12, 2007
Page: 2

These items are specifically:

- [1] Raising the penalties from \$1,000 to \$2,500 for frivolous appeals or contempt. This is in line with what the Supreme Court did several years ago.
- [2] To charge attorneys who get personal appearance \$30.00, or more if the Court deems appropriate, for their appearance in the Court. To me, it only seems fair since we are charging Georgia lawyers \$30.00 to be members of the Court.
- [3] A return to the Court's prior policy of having the judgment line recite the disqualification, recusal or non-participation of a judge in a particular case. This is a suggestion of Judge Miller on the Rules Committee. This is the prior practice of the Court and makes for better audit trails among the AAs in circulating the cases and to Marti Head in making sure the judgment lines go out correctly.

Thank you.

/ld

Enclosures

COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING

Tuesday, July 17, 2007

10:30 a.m.

Court Banc Room • 47 Trinity Avenue, S.W.

Atlanta, Georgia 30334

A G E N D A

- | | | |
|-------|---|------------------------------|
| I. | Call Meeting to Order | Chief Judge Barnes |
| II. | Announcement of Quorum | Chief Judge Barnes |
| III. | Approval of May, 2007 Banc Meeting Minutes | Chief Judge Barnes |
| IV. | Report of Technical Services - E Filing Status Updating | Judge Phipps
John Ruggeri |
| V. | Budget Report | Jan Kelley |
| VI. | Washington Street Entrance - Security Concerns | Judge Ruffin |
| VII. | Sale of Briefs to LexisNexis - Thomson West | Bill Martin |
| VIII. | Rules Revision | Presiding Judge Smith |
| IX. | Old Business | |
| X. | New Business | |
| XI. | Other | |
| XII. | Adjournment | |

Rules
of the
Court of Appeals
of the
State of Georgia

(Date)

(Some changes have been made to make the text uniform for example, the comma before the last word in a series has been eliminated and the word “will” has been replaced by “shall” where inconsistencies were noted.)

RULES

COURT OF APPEALS OF GEORGIA

These rules are not intended to reiterate all applicable laws. Where the word "counsel" has been used, this ~~will~~ shall include pro se parties. The latest version of these rules can be found at the Court web site: www.gaappeals.us.

The effective date of these rules shall be **DATE**.

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I. GENERAL

Rule 1.

(a) Requirement for Written and Signed Documents.

All filings, documents, motions, briefs, requests and communications relating to appeals shall be in writing, shall be filed with the Clerk's office, shall be signed by an attorney of record, an attorney granted courtesy appearance or pro se parties, and shall include the mailing address and telephone number of the attorney or pro se party signing the document, and shall show that copies have been furnished to opposing counsel. Documents with conformed or stamped signatures by judges, attorneys, law firm staff, or an attorney's employee ~~will~~ shall not be

accepted. No signatures by express permission are permitted. All pleadings, including, but limited to briefs, motions, requests, applications, and notices shall be signed by counsel filing the document. All signed documents shall include the State Bar of Georgia membership number of all submitting attorneys.

(b) Communications with the Court.

There shall be no communications relating to pending cases to any judge or member of the judge's staff.

(c) Documents.

All documents filed with the Court shall be typed or printed on non-transparent, letter size (8 ½" x 11") white paper and bound at the top with staples or

fasteners (round head or Acco) except as provided in Rule 46. [This addition to be effective immediately prior to implementation of e-filing system.] ~~and all matters contained therein, including quotations and footnotes,~~ All documents filed with the Court shall have no less than double spacing between the lines including quotations and footnotes. Letter spacing and type or font size shall be no smaller than ~~Courier 10 cpi, 12 point (or equivalent).~~ 10 characters per inch. Notwithstanding the ten (10) characters per inch requirement, the Court ~~will~~ shall accept in lieu thereof Times New Roman Regular 14pt (Western). Any documents ~~which~~ that do not comply with the Court rules ~~the Court deems inappropriate as to type size, type style and/or form~~ may be returned to counsel ~~after filing by the Court,~~ with notice of the

defect of the pleading, and/or ~~and~~ counsel may be ordered to redact and recast such documents. All paper documents filed with this Court shall have a non-glossy, white back of recyclable paper, heavier than regular stationery-type paper.

(d) Counsel.

All reference to counsel in these rules shall include pro se parties.

(e) Facsimile Filing.

The Court does not accept facsimile filings.

Rule 2.

(a) Clerk's Office Hours of Operation and Location.

The Clerk's office shall be open Monday through Friday from 8:30 a.m. to 4:30 p.m. E.S.T./E.D.T. The address is: Clerk, Court of Appeals of Georgia, Suite 501, 47 Trinity Avenue, S.W., ~~334 State Judicial Building, 40 Mitchell Street,~~ Atlanta, Georgia 30334. The telephone number is (404) 656-3450.

(b) Filing Fees.

All filings requiring fees must be accompanied by a check or money order, ~~or~~ a sufficient pauper's affidavit or a form showing a public defender has been appointed to represent the party. ~~The Clerk's office cannot be responsible for filings accompanied by cash.~~ The Clerk is not responsible for cash accompanying a filing.

(c) Stamped “Filed” Copy.

If a return stamped “filed” copy of a filed document is needed, parties filing such documents must include an extra copy and a pre-addressed stamped envelope with sufficient postage to have the document returned.

Rule 3. Expiration Date.

When an expiration date falls on Saturday, Sunday, or an official state or national holiday, the time is extended to the next business day.

Rule 4. Filing.

(a) Drop Box

The Clerk’s office has provided a drop box at the street level entrance to the 47 Trinity Avenue Building

for filing documents after business hours. Although the Clerk’s Office hours are 8:30 a.m. to 4:30 p.m., the 47 Trinity Avenue Building is generally open from 7:00 a.m. to 5:00 p.m. Since the building hours of operation are controlled by the Georgia Building Authority, ~~check~~ please refer to the court web site at www.gaappeals.us for current hours. ~~Any items placed in the drop box after 4:30 p.m., Monday through Friday, will be docketed to the date the documents were placed in the drop box.~~ The Judicial Building is open from 7:00 a.m. until generally 5:00 p.m. Court personnel will remove the documents from the drop box each the morning of the following business day and clock documents to the present time and date and file the documents to the date they were placed in the drop box prior business day.

Handwritten notes:
to the Clerk's Office
by 5:00 p.m.
Yes

(b) Motions for Reconsideration.

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

~~Rule 4 (c) does not apply to motions for reconsideration.~~

(c) Other Documents.

Any other document shall be deemed filed, except as provided under Rule 46, on the earlier of

(1) The date ~~it~~ is physically delivered to the Clerk's office, with sufficient costs, if applicable, and clocked in by the Clerk's office staff; or

(2) The postmark date that appears on the transmittal envelope or container, if the document is accompanied with sufficient costs, if applicable. It is deposited in the United States Postal Service registered or certified mail, the United States Postal Service postmark date on the envelope or container, and with sufficient costs, if applicable;

(3) ~~It is delivered to the United States Postal Service or a commercial delivery company, with sufficient costs, if applicable, for overnight delivery.~~

~~(d) Proof of Filing.~~

~~The United States Postal Service or commercial delivery company receipt must be submitted to the Clerk's office upon request. An office or private postage meter date is not sufficient.~~

Rule 5. Costs.

Costs in all cases are \$80.00 unless a sufficient pauper's affidavit or a form showing a public defender has been appointed to represent the party is filed with the Court or contained in the record. Costs shall be paid upon filing of applications or, in direct appeals, upon filing of appellant's brief. Costs are not required to file an appellant's brief in a direct appeal which is filed pursuant to an order of this Court granting an interlocutory or discretionary application.

Costs are incurred and appellant and appellant's counsel are liable for costs when the case is docketed. The Clerk shall not file any matter unless the costs have been paid, or a sufficient pauper's affidavit has been filed, or an affidavit appointing a public defender to represent the Appellant on appeal has been filed or evidence of indigency is contained in the record.

Rule 6. Copies and Certificate of Service.

All documents filed with the Clerk shall include an original and two copies. One of the copies shall be submitted in a scan ready form, that is, with print on one-side only, containing no dividers or tabs, and without staples or any other bindings requiring removal before scanning other than a pressure clip or rubber band. [This statement should be effective

immediately prior to implementation of the e-filing system.] All documents shall show copies have been furnished to opposing counsel. Service shall be shown by written acknowledgment, certificate of counsel or affidavit of server, to include the name and complete mailing address of all opposing counsel. Service shall be made before filing. Any document without a Certificate of Service ~~will~~ shall not be accepted for filing. (The Certificate of Service shall be signed by counsel and attached to the document filed.)

Rule 7. Contempt.

Breach of any rule of the Court of Appeals or failure to comply with an order of this Court subjects the offending party and/or attorney to contempt and may subject the appeal to dismissal or cause appellee's

brief to be stricken. The Court may, upon a finding of conduct constituting contempt, impose a fine not to exceed ~~\$1,000.00~~ \$2,500.00 [if approved by Court] against each contemner or revoke the license to practice in this Court, or both.

Rule 8. Notice of Cause for Disqualification or Recusal.

Cause for disqualification or recusal of a judge of this Court shall be brought to the attention of the Clerk as soon as practicable. See Rule 44.

II. ATTORNEYS

Rule 9. Attorneys.

(a) Application and Oath.

Any member of the State Bar of Georgia may be admitted to practice in this Court upon written application, and the certificate of at least two attorneys of this Court, that such member is of good private and professional character. The oath, ~~which is required~~ may be administered by the Clerk, Deputy Clerk or Deputy Administrator. It may to be taken in open Court or before a Judge in Chambers or in the Clerk's Office ., ~~and which shall be subscribed in a book to be kept by the Clerk and known as the "Roll Book,"~~ The oath is as follows:

I do solemnly swear (or affirm) that I will conduct myself as an attorney or counselor of this Court truly and honestly, justly and uprightly, and according to law; and that I will support the Constitution of the State

of Georgia and the Constitution of the United States. So help me God.

After the oath has been administered, the applicant shall sign the roll of attorneys admitted to practice in the Court.

(b) Fee.

The fee for admission is \$30.00, payable to the Clerk, who ~~will~~ shall issue a license under the seal of the Court as evidence of applicant's authority to practice.

(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 or a resident attorney, who is not a member of the State Bar of Georgia, may also petition this Court to be heard as associate counsel or counsel in a single case, without being admitted as a regular practitioner in this Court~~ by showing that the attorney is certified in good-standing in the Bar of the highest court of another state, district or territory. A request for courtesy appearance shall be made by motion which shall state the name and address of the attorney seeking to appear by courtesy and contain proof of that attorney's admittance and good standing in the bar of the highest court of another state, district or

territory and accompanied by a check or money order in the amount of \$30.00 payable to the Clerk of the Court of Appeals of Georgia. The motion may be made by the attorney requesting courtesy appearance or a member of the bar of this court on behalf of the attorney requesting courtesy appearance.

(d) Withdrawal or Substitution of Counsel.

Any withdrawal or substitution of attorneys of record in the Court shall be communicated to the Court by written motion with a copy to substituted counsel, opposing counsel and the withdrawing or substituting attorney's client. A Motion to Withdraw as Counsel shall contain the address of the withdrawing counsel's client, or if the address is unknown, the motion shall

contain a statement that the client's address is unknown and shall contain the client's last known address.

(e) Change of Address or Telephone Number.

If during the pendency of any appeal or application counsel for either party has a change of address or telephone number, counsel shall file a notification of change of address or telephone number with the Court, notifying the Court of counsel's correct address and telephone number, and the effective date of such change.

The notification of change of address or telephone number shall be filed as a separate document, an

original and two copies, with service made to opposing counsel.

Upon receipt of the notification of change of address or telephone number, the Clerk ~~will~~ shall enter the change of address or telephone number on the Court's docket and all further notices generated from the Court ~~will~~ shall be to counsel's new address.

Failure of counsel to properly notify the Court of any change of address or telephone number, which may result in counsel not receiving notification of Court action, shall not be grounds to reinstate or reconsider any matter adverse to counsel or parties because of the failure of counsel to receive notification from the Court.

(f) The Court of Appeals does not recognize, nor grant, Leaves of Court or Leaves of Absence.

Rule 10. Personal Remarks.

Opposing Counsel or Judge.

Personal remarks, whether oral or written, which are discourteous or disparaging to opposing counsel, to any judge or ~~the~~ any Court, are strictly forbidden.

III. DOCKETS; CALENDARS; HEARINGS

Rule 11. Appeals, How Entered.

(a) Docketing.

No appeal shall be docketed until the notice of appeal and a record, and transcript, if requested, are filed in

the Clerk's office. Each notice of appeal shall be docketed as a separate case.

(b) Transfer of Cases.

Whenever an appeal or application filed in this Court is within the jurisdiction of the Supreme Court, such appeal or application shall be transferred by order to that court.

(c) Transferred Cases.

Appeals or applications transferred to this Court from the Supreme Court shall be docketed as of the date they are received in this Court.

(d) Premature Docketing.

Any case docketed prior to the entire record coming to the Court, as requested by the parties, may be remanded to the trial court until such time as the record is so prepared and delivered to the Court.

Rule 12. Closing of the Dockets.

The docket for the January, April, and September terms shall close at noon on the 15th day of December, April and August, respectively. By order, a closed docket may be opened when expedient for the docketing of a case or cases so that a judgment may be rendered by the Court at the earliest practicable date.

Rule 13. Notice of Docketing.

Upon the docketing of every appeal and application for appeal, the Clerk shall mail notice of the docketing date and schedule for briefing to all counsel. The notice of docketing of a direct appeal shall include a statement that failure to file the enumeration of errors and appellant's brief within the time required, except as extended upon motion for good cause shown [This phrase is not on the docketing notice] may subject the appeal to dismissal. The notice shall also state that: Failure to timely file responsive briefs may result in their non-consideration; a brief shall be filed by the appellee in all criminal appeals when the State is the appellee; and upon failure to file such brief, the State's representative may be or subject the counsel to contempt. [Again the docketing notice is not so

~~specific as the former language]~~ Failure of counsel to receive the docketing notice shall not relieve counsel of the responsibility to file briefs timely. See Rule 23.

Rule 14. ~~Notice of Call.~~ Calendar; Conflicts

(a) Calendars to be Mailed.

The Clerk shall mail the calendar to counsel in each appeal to be orally argued at least 14 days prior to the date set for oral argument at the addresses shown on the notice of appeal unless the Court is otherwise advised under Rule 9(e).

(b) Non-Receipt of Calendar.

Counsel not receiving a calendar at least 10 days prior to the tentative oral argument dates should contact

the Clerk's office to inquire about oral argument dates.

(c) Conflicts - State and Federal Court.

(1) Counsel shall not be deemed to have a conflict unless such counsel:

(i) Is lead counsel in two or more of the actions affected; and

(ii) Certifies that the matters cannot be adequately handled by other counsel.

(2) When there is an apparent conflict:

(i) Appellate arguments prevail over trials, hearings and conferences.

(ii) The action first filed takes precedence.

(iii) Felony actions prevail over civil actions.

(iv) Misdemeanors stand on equal footing with civil actions.

(v) The courts are assigned the following priorities:

(aa) United States Supreme Court.

(bb) Supreme Court of the State of Georgia.

(cc) Federal Courts of Appeal and State Courts of Appeal.

(dd) United States District Courts and Superior Courts.

(ee) Federal Magistrate Courts and State Courts.

(ff) Probate, Juvenile and Magistrate Courts.

(3) The Clerk shall resolve conflicts so as to accommodate all parties insofar as possible.

(4) Using the above criteria, the only time a conflict exists is when the actions are in courts of equal priority, are of the same type and were filed on the same day. When such conflict exists, counsel shall give prompt written notice of the conflict to opposing counsel and to the clerk of each court.

(5) When it is evident that counsel's presence is required in more than one court on the same day and no conflict actually exists under the above criteria, counsel shall nevertheless inform all courts

concerned, giving the style of the case and the date of filing.

Rule 15. No Prosecution, Frivolous Appeals and Penalties.

(a) On the call of the case for argument, if the appellant does not appear, and has not filed a brief, the Court may dismiss the appeal for want of prosecution. ~~If the appellee or appellee's counsel shall appear, such appellee or counsel may move to reopen the record and insist upon an affirmance of the judgment below.~~

(b) The panel of the Court ruling on a case, with or without motion, may by majority vote impose a

penalty not to exceed ~~\$1,000.00~~ \$2,500.00 against any party and/or party's counsel in any civil case in which there is a direct appeal, application for discretionary appeal, application for interlocutory appeal, or motion which is determined to be frivolous. ~~[The Court may wish to increase this penalty to \$2,500 which is the amount the Supreme Court approved for itself a few years ago.]~~

(c) The imposition of such penalty shall constitute, a money judgment in favor of appellee against appellant or appellant's counsel or in favor of appellant against appellee or appellee's counsel, as the Court directs. Upon filing of the remittitur in the trial court, the penalty may be collected as are other money judgments.

IV. EXTENSION OF TIME FOR NOTICE OF APPEAL, ETC.

Rule 16. Extension of Time for Filing.

(a) Pursuant to the provisions of O.C.G.A. § 5-6-39, requests for extensions of time, which must be in writing, may be made only upon showing a bona fide effort has been made to obtain the extension from the trial court and the reason it could not be obtained. Any motion for extension of time to file a Notice of Appeal made in this Court shall be made as a Rule 40 (b) motion and shall be accompanied by an \$80.00 filing fee or sufficient pauper's affidavit.

(b) Extensions of time to file briefs shall must be requested by motion and shall be subject to the

Court's discretion. All extensions shall be by written order and no oral extension shall be recognized.

Failure to request an extension of time to file a brief prior to the date the brief is due may result in the non-consideration of the motion and/or the dismissal of the appeal.

(c) No extension of time shall be granted for filing interlocutory or discretionary applications or filing responses thereto.

V. RECORDS AND TRANSCRIPTS

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. Trial court orders included in the record must contain the signature of the trial court judge. Conformed signatures, stamped signatures, and signatures with permission shall not ~~Conformed signatures will not~~ be accepted. Transmittal shall be by the clerk or deputy personally or by first class United States mail, ~~or express mail~~, or commercial courier or delivery service, charges prepaid. Transmittal by a party or attorney is prohibited.

Rule 18. Preparation and Arrangement of Records and Transcripts.

(a) Records and transcripts, to include depositions, shall be printed on one side of letter-size, white paper ~~not less than letter size~~ of good quality with ample spacing (at least double spaced) and margins so that they may be easily read. The margin at the top shall be of sufficient space so that the transcript may be read when folded over at the top. Type size shall not be smaller than ~~Courier 10 cpi, 12 point (or equivalent)~~ 10 characters per inch. Notwithstanding the 10 characters per inch requirement, the Court ~~will~~ shall accept in lieu thereof Times New Roman Regular 14pt (Western). The record shall include an index, and the pages shall be numbered consecutively.

(b) Any records or transcripts delivered to this Court from the trial court, and sealed by the trial

court, with an order of the trial court attached to the record, shall remain sealed until a motion is made to unseal the record and/or the record is unsealed by this Court. Counsel for any party may move this Court for an order to unseal or seal any record in the Court.

Rule 19. Transmission of Transcript.

The original transcript shall be a separate document and not attached to the record. It shall ~~should~~ show the style of the case, and contain an index and the pages shall be numbered consecutively. Voluminous transcripts may be bound in separate parts. The court reporter and trial court clerk shall certify each part.

Rule 20. Objections to Records or Transcripts; Waiver.

Appellee shall be deemed to have waived any failure of the appellant to comply with the provisions of the Appellate Practice Act relating to the filing of the transcript of the evidence and proceedings or transmittal of the record to this Court, unless objection thereto was made and ruled upon in the trial court prior to transmittal and such order is appealed as provided by law.

Rule 21. Physical Evidence - Original Evidence.

Any party relying on physical evidence may include as a part of the transcript or record a photograph, a videotape or an audiotape recording of the evidence,

together with an explanation or description, if deemed necessary, in lieu of and transmitting the original evidence. No original evidence or exhibits shall be transmitted to the Court unless the Court directs the clerk of the trial court to transmit such original evidence or exhibits, or upon the grant of a written motion of the party or parties desiring such original evidence or exhibits to be transmitted to the Court. The motion shall be specific as to what original evidence or exhibits shall be transmitted to the Court and the reason such original evidence or exhibits are necessary for the determination of the appeal. After the remittitur has been issued from the Court to the trial court, all original evidence or exhibits shall be returned to the clerk of the trial court. In no event, unless directed by this Court, shall physical evidence

be transmitted to the Court which is bulky, cumbersome, or expensive to transport, or which, by reason of its nature, is dangerous to handle; or which is contraband. Any video or audio recording of evidence shall be submitted to the Court of Appeals in one of the following formats: VHS, DVD, video or audio CD, or audio cassette tape.

VI. ENUMERATION OF ERRORS

Rule 22. Filing.

(a) Time of Filing.

Pursuant to O.C.G.A. §5-6-40, the enumeration of errors, which shall be Part 2 of the appellant's brief, shall be filed within 20 days after the case is docketed.

A separate enumeration of errors is not required.

(b) Jurisdictional Statement.

The enumeration of errors shall contain a statement of jurisdiction as to why this Court, and not the Supreme Court, has jurisdiction.

VII. BRIEFS

**Rule 23. Time of Filing; Contempt; Dismissal;
Service.**

(a) Appellant's brief, which shall contain as Part 2 an enumeration of errors, shall be filed within 20 days after the appeal is docketed. Failure to file within that time, unless extended upon motion for good cause shown, may subject the appeal to dismissal, and may subject the offender to contempt. See Rule 7 and Rule 13.

Appellant's motion for extension of time to file brief and enumeration of errors must be filed prior to the date the documents are due or the Court may dismiss the appeal.

(b) Appellee's brief shall be filed within 40 days after the appeal is docketed or 20 days after the filing of appellant's brief, whichever is later. Failure to timely file may result in non-consideration of the brief and may subject counsel to contempt. See also Rule 13. A brief shall be filed by the appellee in all criminal appeals when the State is the appellee; and upon failure to file such brief, the State's representative may be subject to contempt. [moved from Rule 13 Docket Notice to here]

(c) Appellant may file a reply brief within 20 days from the date of filing of appellee's brief. Appellee has no right to respond to appellant's reply brief except as permitted under Rule 27.

Rule 24. Preparation.

(a) Briefs shall be limited to an initial appellant's brief, a responding appellee's brief and a reply brief of the appellant. Other briefs ~~will~~ shall be accepted only if filed as an Amicus Curiae brief (Rule 26) or a supplemental brief in accordance with Rule 27 (Rule 27). Briefs ~~will~~ shall not be accepted unless filed by a pro se party, a member of the State Bar of Georgia admitted to the Court or an attorney granted a courtesy appearance in accordance with Rule 9 (c). Counsel are required to file an original and two copies

of their brief for each docketed appeal, including companion cases and cross appeals.

(b) Paper, Spacing.

All briefs shall be filed in conformity with Rule 1 (a) and (c) and Rule 6. ~~Electronic briefs will~~ shall not be accepted by the Court unless a motion requesting permission to file has been filed and granted by the Court. Such motion must indicate the medium, file format and any software required to view the brief. Permission to file in an electronic form does not relieve the party from filing the required number of paper copies. [The prior highlighted sentences will need to be deleted when the e-filing system is activated and the first sentence modified to something like: All briefs shall be filed in conformity with Rule

1(a) and (c) and Rule 6 except as provided in Rule 46

Electronic Filing of Documents.]

(c) Margins.

Writing shall be on only one side of each sheet with a margin of not less than two inches at the top and a margin of at least one inch on the sides and bottom of each page.

(d) Citations.

All citations of cases shall be by name of the case as well as by volume, page and year of the Official Report. Cases not yet reported shall be cited by the Court of Appeals or Supreme Court case number and date of decision.

(e) Pages to be Numbered.

The pages of each brief shall be sequentially numbered with Arabic numerals.

(f) Limitation as to Length.

Briefs and responsive briefs shall be limited to 30 pages in civil cases and 50 pages in criminal cases including certificates of service, indexes, exhibits and appendices, except upon written ~~application~~ motion directed to the Clerk and approved by the Court. Appellant's reply brief shall be limited to 15 pages. See Rule 27 for additional briefs.

(g) Attachments and Exhibits.

Documents attached to an appellate brief, which have not been certified by the clerk of the trial court as a

part of the appellate record and forwarded to this Court, ~~will~~ shall not be considered on appeal.

(h) Address of Defendant.

Counsel for defendant shall include the address of the defendant in a criminal case on the face of the brief and shall notify the Court of any change of address.

Rule 25. Structure and Content.

(a) Appellant.

The brief of appellant shall consist of three parts:

(1) Part One shall contain a succinct and accurate statement of the proceedings below and the material facts relevant to the appeal and the citation of such parts of the record or transcript essential to a consideration of the errors

complained of, and a statement of the method by which each enumeration of error was preserved for consideration. Record and transcript citations ~~must~~ shall be to the volume or part of the record or transcript and the page numbers that appear on the appellate records or transcript as sent from the trial court ~~below~~.

(2) Part Two shall consist of the enumeration of errors.

(3) Part Three shall contain the argument and citation of authorities. It shall also include a concise statement of the applicable standard of review with supporting authority for each issue presented in the brief.

(b) Appellee.

The brief of appellee shall be divided in the following manner:

(1) Part One shall point out any material inaccuracy or incompleteness of appellant's statement of facts and any additional statement of facts deemed necessary, plus such additional parts of the record or transcript deemed material. Failure to do so shall constitute consent to a decision based on the appellant's statement of facts. Except as controverted, appellant's statement of facts may be accepted by this Court as true.

(2) Part Two shall contain appellee's argument and the citation of authorities as to each

enumeration of error. It shall also include the standard of review if different from that contended by the appellant.

(c) General Provisions.

(1) Sequence of Argument.

The sequence of arguments in the briefs shall follow the order of the enumeration of errors, and shall be numbered accordingly.

(2) Unsupported Claim of Error Treated as ~~Abandoned~~; References to Record and Transcripts

Any enumeration of error which is not supported in the brief by citation of authority or argument may be deemed abandoned.

(i) Each enumerated error shall be supported in the brief by specific reference to the record or transcript. In the absence of such reference, the Court will not search for or consider such enumeration.

(ii) A contention that certain matters are not supported by the record may be answered by reference to particular pages where they appear.

(iii) Reference to the record shall ~~should~~ be indicated by specific volume or part of the record and by (R-Page Number of the Record). Reference to the transcript shall ~~should~~ be indicated by specific volume or

part of the transcript and by (T-Page Number of the Transcript). Reference to a motion transcript shall ~~should~~ be indicated by (MT-Page Number of the Transcript and date of the hearing).

~~(iv)~~ (3) Sealing Briefs or Motions No briefs or motions shall be filed under seal unless counsel has moved the Court for permission to file under seal and the Court has granted such motion.

Rule 26. Amicus Curiae Briefs.

Amicus Curiae briefs may be filed without leave of Court, disclosing the identity and interest of the person or group on whose behalf the brief is filed and

limited to issues properly raised by the parties. Only members of the Bar of this Court or attorneys appearing by courtesy may file Amicus Curiae briefs. Amicus Curiae briefs shall conform to Rule 24 (b)-(g).

Rule 27. Supplemental Briefs.

(a) Briefs of the parties shall be limited to an appellant's brief, an appellee's brief, and an appellant's reply brief. Supplemental briefs may be filed only by leave of the Court. Counsel may file a motion for permission to file supplemental briefs. Contemporaneously with filing a motion, counsel may file, as a separate document, an original and two copies of the supplemental brief, not to exceed 15 pages. A Certificate of Service must be attached to

the supplemental brief and service must be made on opposing counsel.

(b) Parties are not permitted to file letter briefs nor letter cites. Any communication with the Court regarding recent authority which comes to the attention of a party subsequent to the filing of such party's brief or after oral argument, but before decision, must be filed in compliance with 27 (a) above as a supplemental brief, ~~an original and two copies, with a Certificate of Service, and service must be made on opposing counsel.~~ Any response shall be made promptly and in accordance with this rule.

VIII. ARGUMENT

Rule 28. [The sections of this Rule have been rearranged.]

(a) Request and Time.

(1) Unless expressly ordered by the Court, oral argument is never mandatory and argument may be submitted by briefs only. A case ~~will~~ shall be placed on the calendar for oral argument only upon the granting of the request of either party. Oral argument is not permitted for applications or motions.

(2) A request for oral argument shall be filed within 20 days from the date the case is docketed in this Court. An extension of time to file brief

and enumeration of errors does not extend the time to request oral argument.

(3) The request must be a separate document, an original and two copies, directed to the Clerk, certifying that opposing counsel has been notified of the request and that opposing counsel desires, or does not desire, to argue orally. The request shall identify counsel who is scheduled to argue, and any change shall be communicated to the Clerk as soon as practicable.

(4) A request shall contain a brief statement describing specifically how ~~demonstrating that~~ the decisional process will be significantly aided by oral argument. The request should be self-

contained and should convey the specific reason or reasons oral argument would be beneficial to the Court. Counsel should not assume the brief or the record will shall be considered in ruling on the request for oral argument.

(b) Waiver

After either side has been granted oral argument, it may be waived by either side, but waiver by the requester does not remove the case from the oral argument calendar. If either counsel decides to waive oral argument after it has been granted, waiving counsel must notify other counsel and the Court of the fact.

Argument ~~will~~ shall not be allowed on behalf of any party whose brief has not been timely filed, unless permission is granted by the Court. Counsel requesting extension of time to file briefs waive oral argument if the extension is beyond the end of the term.

Oral argument is waived if counsel is not actually inside the courtroom when the case is formally called in its order for argument.

(c) Time of Oral Argument

~~(2) Argument is limited to 30 minutes for each case, 15 minutes on each side, unless by special leave an extension of time is granted. No additional time will be granted except on application made in writing at~~

~~least 5 days before the date set for the call of the case. If additional time is granted, the case will be placed at the end of the calendar unless otherwise ordered by the Court. Appeals, cross appeals, companion cases, and related cases shall be considered to be one case for purpose of oral argument. In the discretion of the Court, a companion case may be treated as a separate case for oral argument if counsel so requests by written motion at least 5 days before the date set for oral argument. Where there are third parties or additional parties with divergent interests, additional time may be requested and granted as set out above.~~

(1) Calendar Order ~~(3)~~ Appeals in which oral argument has been granted pursuant to Rule 28 (a) ~~will~~ shall be assigned to the calendar

in the order in which they appear on the docket, unless otherwise ordered. When a case has been reached in its order on the calendar, it ~~will~~ shall not be postponed except for good reason shown. Postponements of oral argument are not favored, and no postponement shall be granted under any circumstances that would allow oral argument to take place during a term of the Court subsequent to the term for which the case was docketed.

(2) Length

Argument is limited to 30 minutes for each case, 15 minutes on each side, unless by special leave an extension of time is granted. On the day of the argument, Counsel may request 5, 10, or 15

minutes for argument. If counsel do not agree on the length of oral argument, the longer time requested shall prevail and each counsel shall be given the same amount of time. Ordinarily, cases shall be argued in the following order: first, 5 minute cases; second, 10 minute cases; and third, 15 minutes cases.

No additional time ~~will~~ shall be granted for argument ~~except on application motion~~ made in writing at least 5 days before the date set for the call of the case. If additional time is granted, the case ~~will~~ shall be placed at the end of the calendar unless otherwise ordered by the Court. Appeals, cross appeals, companion cases, and related cases shall be considered to be one case

for purpose of oral argument. In the discretion of the Court, a companion case may be treated as a separate case for oral argument if counsel so requests by written motion at least 5 days before the date set for oral argument and the motion is granted by the Court. Where there are third parties or additional parties with divergent interests, additional time may be requested and granted as set out above.

~~(4) If either counsel decides to waive oral argument after it has been granted, waiving counsel must notify other counsel and the Court of that fact.~~

~~(b)~~ **(d) Number of Arguments. Counsel**

Arguing.

Ordinarily, when both sides of an appeal are argued, only two counsel on each side ~~will~~ shall be heard. When only one side of an appeal is argued, or when arguments are to be made on behalf of more than two parties, no more than one counsel per party shall be heard. For exception, see paragraph 28-~~(h)~~(i).

~~(c)~~ **(e) Opening and Concluding; Rebuttal.**

Appellant has the right to open and conclude the arguments.

~~(d)~~ **(f) Courtroom Decorum.**

(1) Counsel appearing for oral argument shall check in with the Clerk in the courtroom at 9:30

a.m. on the date of oral argument specifying who ~~will~~ shall argue and for how long.

(2) Talking, reading newspapers or other material, and audibly studying briefs and arranging papers are prohibited in the courtroom. The lawyers' lounge has been provided for this purpose.

(3) All counsel appearing before the Court must be properly attired.

~~(e)~~ **Presence of Counsel.**

~~Oral argument is waived if counsel is not actually inside the courtroom when the case is formally called in its order for argument.~~

~~(f)~~ Time of Argument.

~~Counsel may request 5, 10 or 15 minutes for argument. If counsel do not agree on the length of oral argument, the longer time requested shall prevail and each counsel shall be given the same amount of time. Ordinarily, cases will be argued in the following order: first, 5 minute cases; second, 10 minute cases; and third, 15 minute cases.~~

(g) Recording

Oral argument shall be recorded only for the use and benefit of the Court.

~~(g)~~ (h) Oral Argument Open to the Public.

Counsel may move the Court to exclude the public for a good cause shown. Such motion shall be filed not

later than 24 hours prior to oral argument. News media may be granted permission ~~are permitted to~~ photograph or videotape oral argument pursuant to in accordance with the Court's standing order regarding media in the courtroom.

~~(h)~~ (i) Procedural Questions.

The Presiding Judge shall decide all questions or issues arising at oral argument.

Rule 29. Hearing by Quorum.

~~(a)~~ Whenever a Division of the Court is on the bench for the purpose of hearing oral argument, and a quorum (two judges) is present, the Division shall proceed with the call of the docket.

~~(b)~~ Oral arguments shall be tape recorded for the use and benefit of the Court.

IX. APPLICATION FOR INTERLOCUTORY

APPEAL

Rule 30. Interlocutory Applications.

(a) An application for leave to appeal an interlocutory order ~~will~~ shall be granted only when it appears from the documents submitted that:

(1) The issue to be decided appears to be dispositive of the case; or

(2) The order appears erroneous and will probably cause a substantial error at trial or will

adversely affect the rights of the appealing party until entry of final judgment in which case the appeal will be expedited; or

(3) The establishment of precedent is desirable.

(b) Applications for interlocutory appeal shall contain a jurisdictional statement and have attached a stamped “filed” copy of the court's order to be appealed and a stamped “filed” copy of the certificate of immediate review. The trial court's order and certificate of immediate review must contain the signature of the trial court judge. Neither conformed signatures nor stamped signatures shall ~~Conformed signatures will not~~ be accepted.

(c) The clerk is prohibited from receiving the application without the \$80.00 filing fee, ~~or a~~ sufficient pauper's affidavit, or a public defender's appointment to represent the party on appeal. See O.C.G.A. §5-6-4.

(d) The applicant shall include a copy of ^{any} ~~the~~ petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion with the application.

(e) ~~(d)~~ Applications for interlocutory appeal pursuant to OCGA § 5-6-34 (b) ~~should~~ shall have copies of all submitted materials from the record tabbed and indexed and shall be securely bound at the top with staples or fasteners (round head or Acco). If

not tabbed, indexed and securely bound at the top, the ~~petition~~ application is subject to dismissal or return for preparation according to the Court's rules. The materials must be sufficient to apprise the Court of the appellate issues, in context, and support the arguments advanced. Failure to submit sufficient material to apprise the Court of the issues and support the argument shall result in denial of the application.

Applications and responses to applications are limited to 30 pages in civil cases and 50 pages in criminal cases, exclusive of attached exhibits and parts of the record, and ~~should~~ shall follow the general format of briefs as to margins.

(f) ~~(e)~~ No application for interlocutory appeal shall be filed under seal unless counsel has moved the

Court for permission to file under seal and the Court has granted such motion.

(g) (f)—No extension of time shall be granted for filing of interlocutory applications or responses to interlocutory applications.

(h) (g)—Responses are due within 10 days of docketing. No response is required, unless ordered by the Court.

(i) (h)—If an interlocutory application is granted, appellant must file a notice of appeal in the trial court within 10 days of the date of the order granting the application.

X. APPLICATION FOR DISCRETIONARY APPEAL

Rule 31. Discretionary Applications.

(a) An application for leave to appeal a final judgment in cases subject to appeal under O.C.G.A. § 5-6-35 will shall be granted only when:

(1) Reversible error appears to exist; or

(2) The establishment of a precedent is desirable.

(b) The applicant shall include a copy of the petition or motion which led directly to the order or judgment

being appealed and a copy of any responses to the petition or motion with the application.

~~(c) (b)~~ Applications for discretionary appeal pursuant to O.C.G.A. § 5-6-35 ~~should~~ shall have copies of all submitted material from the record tabbed and indexed and shall be securely bound at the top with staples or fasteners (round head or Acco). If not tabbed, indexed and securely bound at the top, the ~~petition~~ motion is subject to dismissal or return for preparation according to the Court's rules. The material must be sufficient to apprise the Court of the appellate issues, in context, and support the arguments advanced. Failure to submit sufficient material to apprise the Court of the issues and support the argument shall result in denial of the application.

Applications and responses to applications are limited to 30 pages in civil cases and 50 pages in criminal cases, exclusive of attached exhibits and parts of the record, and ~~should~~ shall follow the general format of briefs as to margins.

~~(d) (e)~~ The clerk is prohibited from receiving the application without the \$80.00 filing fee, ~~or~~ a sufficient pauper's affidavit, or a public defender's appointment to represent the party on appeal. See O.C.G.A. §5-6-4.

~~(e) (d)~~ Discretionary appeals must contain a stamped "filed" copy of the trial court's order from which the appeal is sought. The stamped "filed" copy of the trial court's order must contain the signature of *or judge*

the trial court judge. Neither conformed signatures nor stamped signatures shall ~~Conformed signatures~~ ~~will not~~ be accepted.

~~(f) (e)~~ No application for discretionary appeal shall be filed under seal unless counsel has moved the Court for permission to file under seal and the Court has granted such motion.

~~(g) (f)~~ No extensions of time ~~will~~ shall be granted in filing discretionary applications or responses to discretionary applications.

~~(h) (g)~~ Responses are due within 10 days of docketing. No response is required, unless ordered by the Court.

~~(i) (h)~~ If the discretionary application is granted, appellant must file a notice of appeal in the trial court within 10 days of the date of the order granting the application.

XI. TIME FOR FILING APPLICATIONS

Rule 32. Time for Filing.

(a) An application for interlocutory appeal shall be filed in this Court within 10 days of the entry of the trial court's order granting the certificate for

immediate review. Entry of the trial court's order shall be the date it is filed with the trial court clerk.

(b) An application for discretionary appeal shall be filed in this Court generally within 30 days of the date of the entry of the trial court's order being appealed. Pursuant to O.C.G.A. §44-7-56, a discretionary application involving a dispossessory action must be filed within 7 days of the entry of the trial court's order. Entry of the trial court's order shall be the date it is filed with the trial court clerk.

(c) Applications to appeal interlocutory or discretionary orders of which the Supreme Court has jurisdiction shall be transferred to that Court, if timely filed.

XII. OPINIONS AND JUDGMENTS

Rule 33. Showing of Concurrence or Dissent.

~~Each~~ The judgment line on an opinion shall show on its face the votes. ~~, non-participation, or disqualification of each judge.~~ ~~[Although this change was approved in the banc meeting 4/19/2005, Clerk suggests reconsideration. This information in the judgment line provides a check for AAs and the Opinions Clerk so that an opinion is not issued with the wrong judge names. Judge Miller agrees and suggests the following wording]~~ The judgment line on an opinion shall show on its face, recusal, disqualification, or non-participation of each judge.

(a) Judgment as Precedent.

If an appeal is decided by a three-judge Court, a A judgment in which all three judges of the Division fully concur is a binding precedent; provided, however, an opinion is physical precedent only with respect to any division of the opinion for which there is a concurrence in the judgment only or there is a special concurrence without a statement of agreement with all that is said. in the opinion or a concurrence in the judgment only, the opinion is a physical precedent only. If the appeal is decided by a seven or twelve-judge Court, a full concurrence by a majority of judges is a binding precedent; provided, however, an opinion is physical precedent only with respect to any division of the opinion for which there are ~~but if the judgment is made only by special concurrences without a statement of agreement with all that is said in the~~

~~opinion or by concurrences in the judgment only or special concurrences without a statement of agreement with all that is said in the division, resulting in a there being general concurrence by less than a majority of the Judges with respect to the division., it is a physical precedent only.~~ The opinion of a case which is physical precedent shall be marked as such.

(b) Unreported Opinion.

An unreported opinion is neither a physical nor binding precedent but establishes the law of the case as provided by O.C.G.A. § 9-11-60 (h).

Rule 34. Reporting of Opinions.

Opinions are reported except as otherwise designated by the Court.

The official reports shall list the cases in which opinions were written but not officially reported and shall indicate the authors and participants in the opinions.

Rule 35. Copies of Opinions.

As soon as practicable after judgment, the Clerk shall furnish, without charge, a copy of the opinion to counsel for each party and to the trial judge. Additional copies cost \$1.00 per page, with a minimum cost of \$5.00 per opinion.

Rule 36. Affirmance Without Opinion, When Rendered.

Cases in which:

- (1) The evidence supports the judgment;
- (2) No reversible error of law appears and an opinion would have no precedential value;
- (3) The judgment of the court below adequately explains the decision; and/or
- (4) The issues are controlled adversely to the appellant for the reasons and authority given in the appellee's brief may be affirmed without opinion. Rule 36 cases have no precedential value.

XIII. RECONSIDERATION

Rule 37. Motions for Reconsideration.

(a) Physical Preparation.

Motions for reconsideration shall be prepared in accordance with Rule 24.

(b) Time of Filing.

Motions for reconsideration ~~must~~ shall be filed within 10 days from the rendition of the judgment or dismissal. Motions for reconsideration must be physically received in the Court for filing within 10 days of the order or judgment for which reconsideration is sought. ~~The certified mail and commercial overnight delivery rules do not apply to motions for reconsideration.~~ See Rule 4. No

extension of time shall be granted except for providential cause on written ~~application~~ motion made before the expiration of 10 days. No response to a motion for reconsideration is required, but any party wishing to respond must do so expeditiously.

(c) Time May be Limited.

The Court may by special order in any case direct that the remittitur be transmitted to the clerk of the trial court immediately after the rendition of the decision and judgment, or at any other time, without awaiting the expiration of 10 days, and may by special order limit the time within which a motion for reconsideration may be filed to any period less than 10 days.

(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 with the Supreme Court of Georgia.

(e) Basis for Granting.

A reconsideration ~~will~~ shall be granted on motion of the requesting party, only when it appears that the Court overlooked a material fact in the record, a statute or a decision which is controlling ^e authority and which would require a different judgment from that rendered, or has erroneously construed or

misapplied a provision of law or a controlling authority.

(f) Opinion May be Revised Without Grant of Motion.

If, upon the consideration of a motion for reconsideration, the Court decides its judgment as rendered is correct but that some revision of the opinion is appropriate, it may revise the opinion accordingly, without granting reconsideration.

(g) Voting on Motions, Effect.

A motion for reconsideration shall be voted on by the judges who voted on the original opinion. If there is a dissent on the motion for reconsideration on a three-judge case, the motion shall be voted on by

seven judges, or should the Court deem it appropriate, 12 judges.

(h) No Oral Argument

Oral argument is not permitted on a Motion for Reconsideration.

XIV. CERTIORARI

Rule 38.

(a) Supreme Court of Georgia.

(1) Notice of intention to petition for writ of certiorari shall be filed with the Clerk of this Court within 10 days after the judgment or, if motion for reconsideration is filed, within 10 days after the order ruling on reconsideration. Filing a motion for reconsideration is not a

prerequisite for filing a petition for writ of certiorari.

(2) Petition for writ of certiorari to the Supreme Court of Georgia is governed by the rules of that Court. Notice of filing a petition for writ of certiorari shall be filed in this Court simultaneously with the filing of the petition in the Supreme Court.

(b) Supreme Court of the United States.

(1) Notice of intention to petition for writ of certiorari shall be filed with the Clerk of this Court within 20 days after denial of a petition for writ of certiorari by the Supreme Court of Georgia.

(2) Notice of filing a petition for a writ of certiorari shall be filed in this Court simultaneously with the filing of a petition in the Supreme Court of the United States.

XV. REMITTITUR

Rule 39. Transmittal.

(a) Remittiturs shall be transmitted to the clerk of the trial court as soon as practicable after the expiration of 10 days from the date of the judgment unless otherwise ordered or unless a motion for reconsideration or notice of intention to apply to the Supreme Court of Georgia for writ of certiorari has been filed.

(b) Notice of intention to apply to the Supreme Court of the United States for writ of certiorari generally will not stay the remittitur.

XVI. SUPERSEDEAS

Rule 40. Supersedeas.

(a) Civil Cases.

The notice of appeal filed as provided in O.C.G.A. §§ 5-6-34(a), 5-6-37 and 5-6-38 shall serve as supersedeas upon payment of all costs in the trial court by the appellant. See O.C.G.A. § 5-6-46. Upon motion by the appellee, made in the trial court before or after the appeal is docketed in the appellate court, the trial court may require supersedeas bond to be given with such surety and in such amount as the trial court may require. The filing of an application for

discretionary appeal shall act as a supersedeas to the extent that a notice of appeal acts as a supersedeas. See O.C.G.A. § 5-6-35 (h).

(b) Emergencies.

In the exercise of its inherent power this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power ~~will~~ shall be exercised sparingly. Generally, no order ~~will~~ shall be made or direction given in an appeal until it has been docketed in this Court.

A Rule 40 (b) motion ~~must~~ shall:

~~(1) (i)~~ Contain an explanation why an order of this Court is necessary and why the action requested is time sensitive;

~~(2) (ii)~~—Contain a stamped “filed” copy of the order being appealed;

~~(3) (iii)~~—Contain a stamped “filed” copy of the notice of appeal, if such has been filed in the trial court;

~~(4) (iv)~~ Show that service has been perfected upon the opposing party before filing the motion with the Court; and

~~(5) (v)~~—Be accompanied by an \$80.00 filing fee, ~~or a sufficient pauper's affidavit~~ or a form showing a public defender has been appointed to represent the party, unless the motion is filed in a pending case already docketed with the Court.

XVII. MOTIONS AND RESPONSES

Rule 41. Preparation and Filing.

(a) Filing in Triplicate.

Motions and responses to motions shall be filed as an original and two copies as set out in Rule 6. Motions, not letters, ~~should~~ shall be filed whenever counsel wish the Court to take any action.

Below is excerpt from Rule 41 Motions with proposed change adding a new (c).

(b) Form and Physical Preparation.

All motions and responses shall be filed as separate documents, and shall not be filed as joint, compound ~~motions~~ or alternative motions. No motions or responses to motions shall be filed in the body of briefs, applications or responses to applications. Motions and responses shall be prepared in accordance with Rule 24. Parties may cite to the record, but shall not attach to the motion or response to a motion exhibits that are included in the trial court record. Failure to comply with this rule may result in non-consideration of such motions or responses.

(c) Motion to Supplement the Record

In a motion to supplement the record, Counsel shall describe the material to be supplemented; but shall

not attach the supplemental materials to the motion filed with the Court unless directed to do so by the Court. If the motion is granted, the Clerk of Court will obtain the supplemental record from the trial court clerk.

(d) ~~(c)~~—Motions to Dismiss.

Notice of a motion to dismiss and of the grounds thereof shall be given in writing to counsel for the appellant by service made and shown as required in Rule 1 (a). If such notice cannot be given, the motion ~~will~~ shall be entertained and the Court in its discretion ~~will~~ shall give such direction as may seem proper. Whenever it appears the Court has no jurisdiction of a pending appeal, it ~~will~~ shall be dismissed or transferred to the Supreme Court, as the facts and/or law require.

(e) ~~(d)~~—Response Time to Motions.

Responses to motions ~~should~~ shall be made as soon as possible since the Court generally acts on motions quickly. There is no 10 day rule for time to respond to motions.

(f) ~~(e)~~—Reconsideration.

See Rule 37.

(g) ~~(f)~~—Motion to Withdraw Appeal.

- (1)** Whenever appellant decides not to pursue an appeal, such party shall promptly file a motion for permission to withdraw the appeal.
- (2)** In a criminal case, unless the state is the appellant, the motion shall include an affidavit from defendant agreeing to the withdrawal of the appeal. Should the defendant refuse to provide

such affidavit, that fact shall be made known to the Court and the grounds for the withdrawal of the appeal shall be stated in the motion.

XVIII. OFFICE PAPERS

Rule 42. Access and Retention of Office Papers.

(a) Papers shall not be taken from the Clerk's office without leave of the Court. When leave is granted, the party receiving the paper shall receipt the Clerk herefore. The Clerk may deliver records to the Clerk of the Supreme Court.

(b) One year after the remittitur has ~~gone~~^{issued} out, the party paying for the record and transcript may claim

them. Otherwise all records and transcripts ~~will~~ shall be recycled, unless the parties notify the Clerk, in writing, that the record should be maintained, and the reason therefore.

(c) If the parties anticipate that the case will return to the Court or be appealed to the United States Supreme Court, the parties must notify the Clerk, in writing, to hold the record.

XIX. PARTIES

Rule 43. Parties, How Made.

(a) Suggestion of Death of Party.

The death of a party in a pending appeal may be suggested by counsel for either side at any time.

(b) Legal Representative May Volunteer.

The legal representative of the deceased party may voluntarily become a party to the appeal at any time.

(c) Temporary Administrator.

A temporary administrator is regarded as a competent party.

(d) Substituted Party.

Whenever a party is substituted, counsel for the substituting party shall notify the Clerk and opposing counsel of such substitution.

XX. DISQUALIFICATIONS AND RECUSALS

Rule 44. Disqualifications and Recusals.

(a) Any motion to disqualify or recuse a judge in a particular case shall be filed in writing, and shall contain such evidence and affidavits which shall fully assert the facts upon which the motion is founded. Such motion shall be filed within 20 days of the date of docketing, unless good cause is shown for failure to meet such time requirements.

(b) The affidavit shall clearly state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons and circumstances which demonstrate either bias in favor of any adverse party or prejudice against the

moving party or systematic pattern of prejudicial conduct. Allegations consisting of conclusions and opinions are not legally sufficient to support the motion or warrant further proceedings.

(c) The determination of the recusal motion shall be made upon the written record and no hearing or oral argument shall be permitted.

XXI. EXPEDITED APPEALS UNDER THE PARENTAL NOTIFICATION ACT

Rule 45.

(a) This rule is adopted under the authority of the Georgia Constitution, Article 6, § 1, ¶ 4 (1983); O.C.G.A. §§ 15-1-5 and 15-11-114 (e) to provide for

the expedited consideration of appeals under the "Parental Notification Act." (O.C.G.A. § 15-11-110 et seq.)

(b) Any minor to whom a juvenile court has denied a waiver of notice under O.C.G.A. § 15-11-114 (d) may obtain an expedited appeal to this Court.

For the purpose of this rule, in computing time, Saturdays, Sundays and holidays shall be included. Rule 3 shall govern in the event an expiration date falls on such a date.

(c) A minor seeking an expedited appeal shall file a notice of appeal and a certified copy of the order denying waiver of notice with the Clerk of this Court. A copy of the notice of appeal ~~must~~ shall also

be filed with the juvenile court. The name, address and telephone number of the Guardian Ad Litem and any Counsel of Record ~~must~~ shall be included with the notice of appeal. Upon receipt of the notice of appeal, this Court ~~will~~ shall issue an order to the juvenile court directing that the record and transcript of the hearing be transmitted to and received by this Court within 5 days from the date of filing of the notice of appeal with this Court. An enumeration of errors shall be filed within the time period for the filing of the record. If a brief is desired, it shall also be filed within the time period for the filing of the record. No filing fee is required.

(d) The record of the juvenile court shall be certified by the clerk of the juvenile court and transmitted to this Court under seal.

(e) The Clerk shall assign the appeal to a panel of this Court, who shall take the matter under consideration and shall issue its decision within 5 days of receipt of the record.

(f) In order to expedite further appellate review, a motion for reconsideration shall not be required. However, if the decision of this Court affirms the judgment of the juvenile court, the minor may file a motion for reconsideration and the same ~~will~~ shall be governed by Rule 37, except that such a motion shall be filed within 5 days from the date of the decision of this Court and may be filed out of term. Any motion for reconsideration ~~will~~ shall be decided by the Court within 5 days of filing thereof.

(g) If the decision of this Court reverses the judgment of the juvenile court, the remittitur ~~will~~ shall be forwarded to the clerk of the juvenile court immediately after the rendition of the decision. If the decision of this Court affirms the judgment of the juvenile court, the remittitur shall be transmitted to the clerk of the juvenile court as soon as practicable after the expiration of 5 days from the date of the judgment unless otherwise ordered or unless a motion for reconsideration or notice of intention to apply to the Supreme Court for writ of certiorari has been filed.

(h) Upon good cause shown, the Court ~~will~~ shall enter such orders as ~~will~~ shall further expedite the processing of these cases.

(i) In order to invoke the foregoing special procedures, the notice of appeal must be filed within 5 days of receipt by the minor of the juvenile court's order.

(j) All pleadings, briefs, orders, transcripts, exhibits and any other written or recorded material that are part of the record shall be considered and treated by the Court as confidential. Upon conclusion of the appellate proceedings, the record ~~will~~ shall be sealed, and the contents of the record shall not be disclosed, except upon order of this Court or the Supreme Court of Georgia.

XXII. ELECTRONIC FILING OF DOCUMENTS

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COURT OF APPEALS OF GEORGIA
Administrative Bar Meeting
Tuesday, July 17, 2007 10:30 a.m.

A G E N D A

- I. Call Meeting to Order CJ Barnes
- II. Announcement of Quorum CJ Barnes
- III. Approval of May, 2007 Bar Meeting Minutes of Bar
- IV. Report of Technical Services - E-Filing Status Update HEP
JR
- V. Budget Report Jan Kelley
- VI. Sale of Briefs to Lexis Nexis - Thomson West Bill Hunt
- VII. Rules Revision PJ Smith
- VIII. Old Business
- IX. New Business
- X. Other
- XI. Adjournment

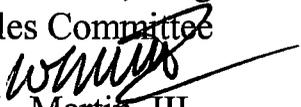




Court of Appeals

Memorandum

To: Judge J. D. Smith, Judge Miller & Judge Bernes
Court Rules Committee

From: 
William L. Martin, III

Subject: Revision of Court Rules

Date: June 29, 2007

Attached you will find a copy of the Revision of the Court Rules which Holly and I hope address your previous suggestions and comments. As before, the draft is marked with underlining for additions and strike-out for deletions.

In addition, highlighted lines indicate a policy decision which must be made. One of these increases the penalty amounts for contempt (Rule 7) and frivolous appeals (Rule 15). As you will recall, the Supreme Court increased its penalties from \$1000 to \$2500 a few years ago, and that is what we propose to do. I have also proposed a \$30 fee for each attorney granted courtesy appearance in a case. See Rule 9 (c). Georgia lawyers have to pay \$30 to practice in this Court, and I feel out-of-state lawyers should have to pay at least the same amount.

Finally, please pay particular attention to Rule 33 which contains the changes proposed by Judges Miller and Bernes.

If you have any questions or wish to discuss any of the changes with me, please do not hesitate to contact me. I hope that the suggested rules revision can be distributed to all the judges in time to be included on the July 17th banc agenda and be proposed for adoption at that meeting. Once the Rules are adopted, I will need to coordinate the effective date with the Court Reporters publication dates.

cc: Chief Judge Barnes



Court of Appeals

Memorandum

To: All Judges
From: William L. Martin, III
Subject: Summary of Proposals to Purchase Court of Appeals Briefs
Date: September 17, 2007

The Court of Appeals has received proposals from both Thomson West and Lexis Nexis to purchase civil case briefs.

Thomson West began scanning briefs to their database in 2003. Thomson West initially made an offer to our Court in July, 2005, and again sent a formal offer in April, 2007. The 2007 offer is essentially the same as the 2005 offer, that is, no charge access to their brief database, \$15,000 for briefs dating back from the current year to 1997, and then \$2,500 per year prospectively and shipping costs.

Lexis Nexis more recently created a briefs database first contacting us in April 2007 and then again sending a new offer last week. Lexis's initial proposal only offered access to their brief database at no charge. The more recent offer proposes a fee of \$.25 per page copied and the copier paper consumed in the process, and postage necessary to mail the copies. Lexis-Nexis seeks briefs from 2006 forward.

From: Tee Barnes
To: Bill Martin
Date: 9/17/2007 9:34 AM
Subject: West briefs

Bill,

According to the office the only thing we supply to West are the slip opinions at \$1.00 per page.

I have an email inquiry to Justice Melton's office to explain when we ship the briefs to UGA -- and I will advise you once I get that info and whether West has access to them through that avenue.

In the interim, can you explain what the C/A does with regard to the briefs for West and what you charge.

Thank you. Tee.

PS: please remember to pass along the "message" to CJ Barnes that we discussed last week...

November 28, 2006
Atlanta, Georgia

CHIEF JUDGE'S BIENNIAL REPORT, 2005-2006

By: Chief Judge John H. Ruffin, Jr.

I know of no precedent for a Chief Judge's Report to the Court of Appeals. Conversely, I know of nothing which prohibits such a report. Accordingly, this report is provided for several reasons: (1) it serves as a reminder of what was (or was not) accomplished during the last biennium; (2) it provides a summary which, hopefully, will facilitate the Court's work in areas where the Court wishes to continue (or discontinue) certain practices or policies; (3) it provides a record of some continuity; and (4) provides some suggestions which the Court may wish to consider.

Initially, I wish to thank you for allowing me to serve as Chief Judge for the last biennium. It has been an exciting tenure with great challenges. Some challenges could be anticipated, others could not. Nonetheless, almost all had to be and must be met if the Court is to continue to function and perform efficiently. For the modest accomplishments that were made, I must concede that they would not and cannot succeed without the support of each of you, and I humbly thank you. For those goals which were not met, I accept full responsibility. Simply put, I should have put forth greater effort.

Two Thousand Five started with my investiture by the Honorable Anthony A. Alaimo, Senior Judge, U.S. District Court, Southern District of Georgia. I realized early in my tenure that the duties of the Chief Judge are more important than the tenure of the Chief Judge, irrespective of who is the Chief Judge.

Responsibility drives the office of the Chief Judge, not tenure. I also learned that listening is more important than talking; that accessibility is equally as important as listening; that patience is as important as accessibility; and that everyone has problems, and many cannot be solved by the Chief Judge.

Surprisingly, there were no rules of parliamentary procedure to guide the Court through its business. As a result, banc meetings at one time were prolix and time-consuming. I believe that the adoption of Robert's Rules of Order streamlined our meetings, time was more efficiently used, and as a result, the Court's business was accomplished with greater dispatch, and nothing was lost in the process.

The biennium also began with the nagging problem of space for our judges and staff attorneys. As a last resort, and after considering other sites, two of our judges were moved to the Equitable Building from the Health Building, and I am happy to report that they will be moving back to the Judicial Building upon completion of the current renovations.

Another priority was to improve the working relationship between our Court and the Georgia Supreme Court. I have worked very closely with Chief Justice Sears and we agree that such cooperation is desirable, doable, and will be done. You may not recognize this significant step, but I, as Chief Judge, readily recognize the improvement. The good relationship will continue in direct proportion to the commitment of the members of both courts. I am also happy to report that our relationship with the federal district court judges also improved, as indicated by the luncheon which our Court hosted for the federal judges, and their subsequent comments.

An effective new judge orientation program needs to be established and implemented. I tried to informally implement such, and based upon that experience, I now believe that a formal orientation program needs to be adopted. (A new judge should not see the Court of Appeals through the eyes of a single judge. Perspectives differ, and a new judge needs to see the varying perspectives irrespective of which he/she ultimately adopts.)

We were quite fortunate to have an assessment of our security needs done by the U.S. Marshal of the Northern District of Georgia. While the assessment has not been fully implemented, it has helped us as we make our current renovations and plans for the future. For months I have known of major developments that are planned, but I am unable to share them with you at the request of GBA and the Capitol Police. I only mention this now to let you know that security is not just idle talk. Countless hours are spent with representatives from GBA, the Supreme Court, and the Attorney General as we prepare to upgrade our security to meet the growing needs for modern security. Approximately \$250,000.00 has been allocated for security cameras alone. Security remains an on-going concern, and effective planning is essential.

We sponsored a legislative reception for key legislators jointly with the Supreme Court. While the fruits of that reception have not yet proved to be financially rewarding, it was an opportunity we felt that we could not forego, especially since we were invited to participate by the Supreme Court. That reception may yet bear fruit.

Many of us believe that our former Court Seal did not accurately reflect what the Court of Appeals is about. As a result, we voted overwhelmingly to change the seal to be reflective of our judicial role. The seal should be available soon.

During the first year of the biennium we held the Chief Judge's "Meet the Interns Party". Many interns come to this Court and we never meet them or interact with them. Moreover, their experience and ours can be enriched if we get to know each other. The cost was borne entirely by the Chief Judge, and the event was not repeated because of the expense. One Court employee, upon learning that the expense was borne solely by the Chief Judge generously contributed to the cause. That employee will remain anonymous unless that employee wishes to be known. I appreciate that employee's generosity. I hope that some way will be found to continue the practice of welcoming our interns in a joint and meaningful way.

Michael Douglas, one of our IT employees, died July 12, 2005. Many of us attended his funeral and were surprised to learn so many positive things about him. As a result, we found how little we know of each other, despite our daily working together. On September 14, 2006 we hosted an "Honors Day Party" so that Court employees could better get to know each other. Our employees displayed their culinary talents as well as their non-culinary talents as we enjoyed honoring our employees for their talents.

Three matters occupied an inordinate amount of time during the last biennium: (1) space considerations and the move of our judges; (2) security concerns; and (3) the Court's Centennial. I have earlier alluded to the space considerations, and I will simply say that it is the desire of all judges to have all of us in the Judicial Building. The clerk's office now has adequate and, I might add, esthetic-looking quarters. If there are any of you who have not seen the facilities, I invite you to do so. The Health Building renovations also accommodate our fiscal office and our IT Department.

Technology steers the 21st Century. In this regard, e-filing has become an essential part of court operations. Whether a court has e-filing capability will determine in large measure that court's efficiency. We are extremely fortunate to have an IT staff that is dedicated to the capability and efficiency of our Court. I wish to thank all of our IT staff for the insight, creativity, and dedication that you bring to our Court.

Finally, the Centennial Celebration was the success we worked to accomplish. The last year of the biennium began with a Proclamation by the Governor and the General Assembly proclaiming this year as our Centennial Year. A Proclamation program was held at the Capitol on January 10, 2006.

We were fortunate that our fiscal office found money to purchase centennial robes, which now become our ceremonial robes (without the honor cord).

The State Bar of Georgia also recognized our Centennial Celebration by Resolution at the State Bar's Annual Meeting this past June.

We are indebted to Judge M. Yvette Miller for our theme for the Centennial, "Let Justice Be Served." Judge Miller, we thank you.

We held oral arguments across the state in commemorating our Centennial. We were warmly received in the various communities, we received good press coverage, and we dined royally. Panels held oral arguments at the following sites:

March 23, 2006, Augusta-Richmond County
March 27, 2006, Georgia State University
April 20, 2006, Savannah
May 24, 2006, Jackson County
September 6, 2006, Chickamauga
September 8, 2006, Statesboro
September 14, 2006, Wayne County
September 20, 2006, Fort Valley

September 21, 2006 Mercer University Law School
September 27, 2006, Gainesville
September 29, 2006, Morehouse College

Many thanks go to Bob McAteer and Ashley Stollar of AOC for preparing our Centennial displays at each oral argument site. We were able to secure a grant for the video history for the Court from Fred Smith of the Georgia Civil Justice Foundation.

Our own Bob McAteer did an excellent and first-rate job on the Court's history. Additionally, he videotaped our Centennial oral arguments. The Centennial Dinner attendees were given a copy of the video history, and each attendee will receive a copy of the written history upon publication. Incidentally, the video history will be distributed to high schools throughout Georgia. We also owe a debt of gratitude to Presiding Judge Smith for his power point presentation of the Court's history. Thank you Judge Smith. I am also indebted to Presiding Judge Smith for graciously surrendering his position presiding over panel four so that I could speak on behalf of the Centennial. Thank you again Judge Smith.

The Court also sponsored a panel discussion on Religion and Law at the State Bar's Annual Meeting. Judge Anne Elizabeth Barnes spearheaded this activity which included panelists Jeffrey O. Bramlett, Bondurant Mixson & Elmore; Albert M. Pearson III, Moritakis Kushel Pearson & Gardner LLP; and Vernadette Ramirez Broyles. Our featured speaker, Professor John Witte, Jr., Emory University School of Law, is a national expert in this area of the law, and we were quite fortunate to get him to participate. Again, it was through the courtesy of Judge Barnes that we were able to do this. Thank you Judge Barnes.

Another Centennial activity consisted of discussions among lawyers and judges regarding "Judicial Independence." These discussions took place at several law firms around the city. While no consensus was reached on certain issues, the discussions were fruitful and intellectual. I am especially indebted to Presiding Judge Smith, Judge Barnes, Judge Phipps, and Judge Bernes for their participation, along with Justice Carol Hunstein.

Another Centennial activity that the Court sponsored was an oratorical contest for high school students across the state, on the independence of the judiciary. This activity was spearheaded by Jill Pryor, Bondurant Mixson & Elmore, and Caleb Smith of Cartersville is the first place winner (\$7,500). The second and third place winners are Patrick Berg and Molly Holmes, with (\$5,000) and (\$2,500) prizes, respectively.

Finally, the culminating and signature event sponsored by the Court was the Centennial Dinner which had almost 1,000 persons in attendance. The Honorable William R. Wilson, Jr., United States District Court Judge for the Eastern District of Arkansas was our featured speaker. Justice Served, Inc. was the proud sponsor of our signature event, including the oratorical contest prizes.

In addition to the assistance from the judges of this Court, a great debt of gratitude is due to our able Clerk/Court Administrator, William L. Martin and his capable deputy clerk, Holly Sparrow. The core committee of the Centennial Committee consisted of Dianne Joy, Lendon Gibbs, and Marion T. Pope in addition to Bill Martin and Holly Sparrow. Without the tireless efforts of this group, the Centennial Dinner would have been a colossal failure. I wish to thank each member of this core group.

Recently I have been introduced to the concept that “you cannot manage what you do not measure.” It is a concept to which I am wedded, and which I readily commend to this Court. There must be more oversight with the various departments of this Court. If not, the departments will drive the Court’s operations, rather than the judges. Each department is essential to the Court’s operation, but as judges, the responsibility devolves upon us to provide the necessary oversight. Such oversight is woefully lacking.

Our concern has to be greater than seeing to it that our cases are completed by distress. In like manner, we cannot measure our success by the single criterion of meeting the distress deadline. Effective planning must be done and our plans must be diligently executed. These are areas of activities that are peculiar to judicial oversight, with the necessary input from staff.

When the Court was expanded in July, 1999, we did not examine our rules to see whether changes in the rules were warranted. In short, we did not plan for the expansion beyond the physical facilities. Accordingly, we should now revisit and revise our rules where necessary. My experience suggests that the following changes are warranted, but this list is illustrative, not exhaustive:

1. Panels should be reorganized with the Chief Judge presiding over panel number one.
2. The Chief Judge should appoint the other three Presiding Judges consistent with his/her notions of a “team” which can effectively administer the Court’s programs and provide for greater efficiency.
3. The Executive Council should be used more often, thereby freeing judges from attending monthly banc meetings. (But there should be a minimum number of banc meetings per year.)
4. The current banc room should become our “robing” room and the conference room in the Health Building should become our banc room.

5. The Committee on Judicial Compensation and the Rules Committee should become standing committees.
6. The strategic plan introduced to the Court under then Chief Judge Johnson is a good one, and it should be revisited with tweaking where necessary.

Finally, the political climate has changed considerably. At one time one of our fears was that TV cameras would spy on us for news purposes. Given today's political climate, your next challenger may have filmed you under conditions which may warrant explanation. I implore each of you to watch your conduct and attendance. Those of you who have just been re-elected without opposition for another six years may feel safe. However, I remind you that just when you think you are invulnerable is the time when you are most vulnerable.

Again, I wish to thank each of you for allowing me to serve as Chief Judge of this great Court. I hope that I have done nothing to reflect adversely on the office or this Court, and I hope that I never will. Thank you.

COURT OF APPEALS OF GEORGIA

SALARY SCALE

EXPERIENCE

SALARY CAP	
COLA	0.0%

ADMINISTRATIVE ASSISTANTS

	COURT OF APPEALS				SUPREME COURT			PP	MO	YEAR
	SALARY SCALE				SALARY SCALE					
	SEMI-MO	MO	YEAR		SEMI-MO	MO	YEAR			
Less than 6 months	\$ 1,778.25	\$ 3,556.50	\$ 42,678.00		\$ 1,487.50	\$ 2,975.00	\$ 35,700.00	\$ (290.75)	\$ (581.50)	\$ (6,978.00)
1/2 to 1 1/2 year	\$ 1,828.82	\$ 3,657.64	\$ 43,891.68	0-2 YRS				\$ (341.32)	\$ (682.64)	\$ (8,191.68)
1 1/2 to 2 1/2 years	\$ 1,891.90	\$ 3,783.80	\$ 45,405.60					\$ (404.40)	\$ (808.80)	\$ (9,705.60)
2 1/2 to 3 1/2 years	\$ 1,964.81	\$ 3,929.62	\$ 47,155.44	2-3 YRS	\$ 1,700.00	\$ 3,400.00	\$ 40,800.00	\$ (264.81)	\$ (529.62)	\$ (6,355.44)
3 1/2 to 4 1/2 years	\$ 2,042.68	\$ 4,085.36	\$ 49,024.32	3-4 YRS	\$ 1,827.00	\$ 3,654.00	\$ 43,848.00	\$ (215.68)	\$ (431.36)	\$ (5,176.32)
4 1/2 to 5 1/2 years	\$ 2,103.52	\$ 4,207.04	\$ 50,484.48	4-6 YRS	\$ 1,955.00	\$ 3,910.00	\$ 46,920.00	\$ (148.52)	\$ (297.04)	\$ (3,564.48)
5 1/2 to 6 1/2 years	\$ 2,164.61	\$ 4,329.22	\$ 51,950.64					\$ (209.61)	\$ (419.22)	\$ (5,030.64)
6 1/2 to 8 years	\$ 2,236.80	\$ 4,473.60	\$ 53,683.20	5-8 YRS	\$ 2,082.50	\$ 4,165.00	\$ 49,980.00	\$ (154.30)	\$ (308.60)	\$ (3,703.20)
8 to 10 years	\$ 2,283.76	\$ 4,567.52	\$ 54,810.24	8-10 YRS	\$ 2,167.50	\$ 4,335.00	\$ 52,020.00	\$ (116.26)	\$ (232.52)	\$ (2,790.24)
Over 10 years	\$ 2,330.52	\$ 4,661.04	\$ 55,932.48	10-12 YRS	\$ 2,356.75	\$ 4,713.50	\$ 56,562.00	\$ 26.23	\$ 52.46	\$ 629.52
				> 12 YRS	\$ 2,451.00	\$ 4,902.00	\$ 58,824.00	\$ 120.48	\$ 240.96	\$ 2,891.52

COURT OF APPEALS OF GEORGIA

SALARY SCALE

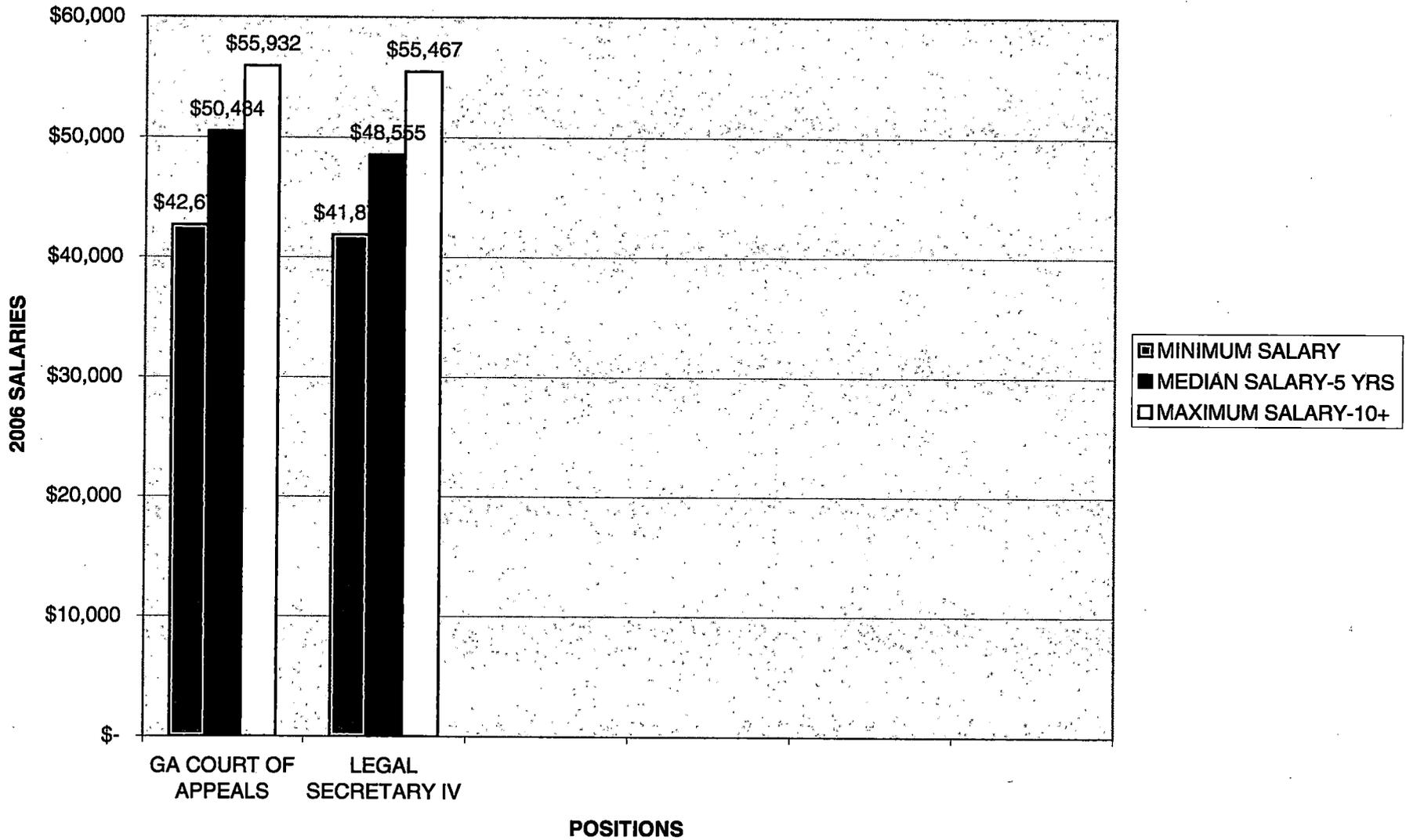
EXPERIENCE

SALARY CAP	
COLA	4.0%

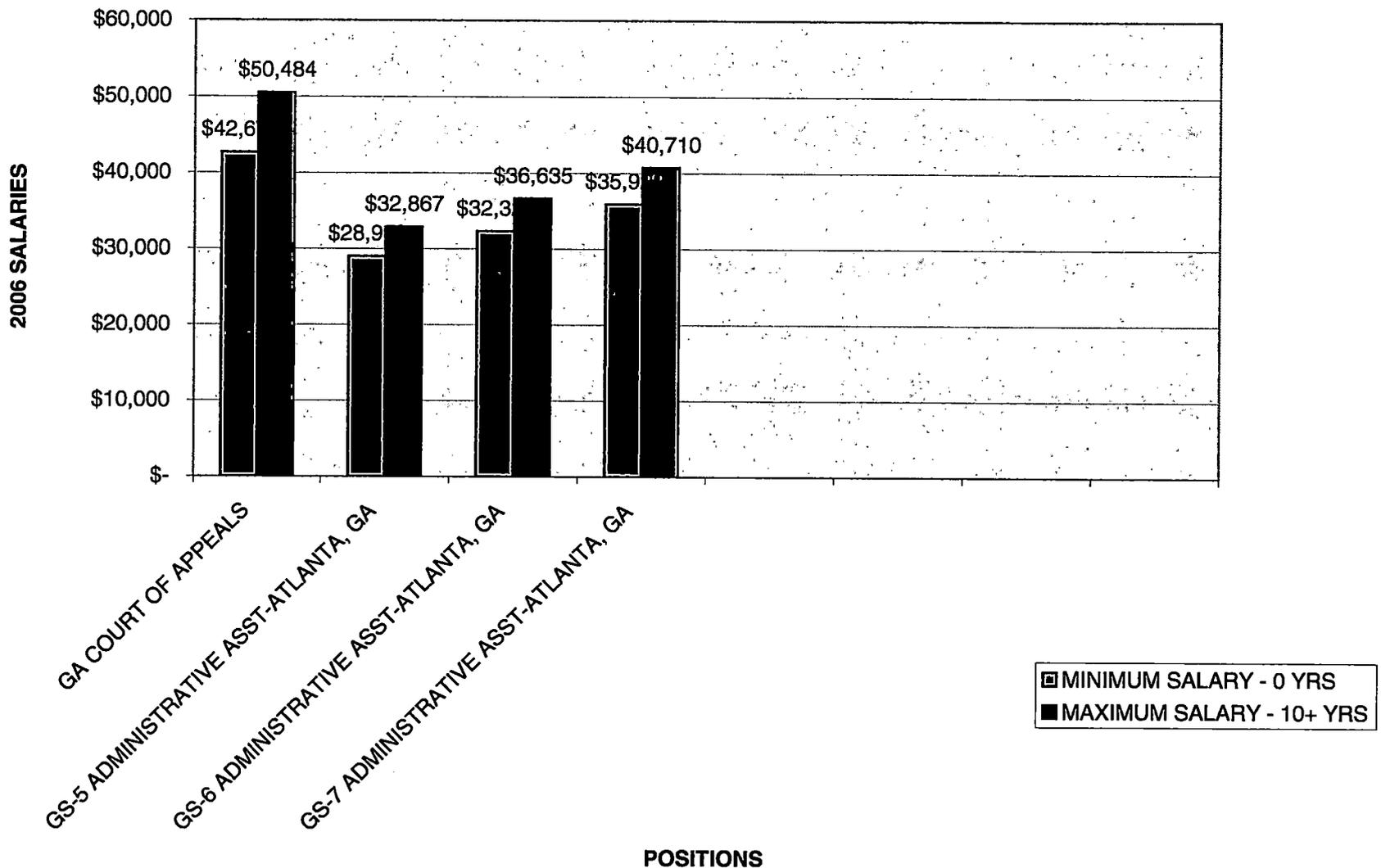
ADMINISTRATIVE ASSISTANTS

	COURT OF APPEALS				SUPREME COURT			PP	MO	YEAR
	SALARY SCALE				SALARY SCALE					
	SEMI-MO	MO	YEAR		SEMI-MO	MO	YEAR			
Less than 6 months	\$ 1,849.38	\$ 3,698.76	\$ 44,385.12		\$ 1,547.00	\$ 3,094.00	\$ 37,128.00	\$ (302.38)	\$ (604.76)	\$ (7,257.12)
1/2 to 1 1/2 year	\$ 1,901.97	\$ 3,803.94	\$ 45,647.28	0-2 YRS				\$ (354.97)	\$ (709.94)	\$ (8,519.28)
1 1/2 to 2 1/2 years	\$ 1,967.58	\$ 3,935.16	\$ 47,221.92					\$ (420.58)	\$ (841.16)	\$ (10,093.92)
2 1/2 to 3 1/2 years	\$ 2,043.40	\$ 4,086.80	\$ 49,041.60	2-3 YRS	\$ 1,768.00	\$ 3,536.00	\$ 42,432.00	\$ (275.40)	\$ (550.80)	\$ (6,609.60)
3 1/2 to 4 1/2 years	\$ 2,124.39	\$ 4,248.78	\$ 50,985.36	3-4 YRS	\$ 1,900.08	\$ 3,800.16	\$ 45,601.92	\$ (224.31)	\$ (448.62)	\$ (5,383.44)
4 1/2 to 5 1/2 years	\$ 2,187.66	\$ 4,375.32	\$ 52,503.84	4-6 YRS	\$ 2,033.20	\$ 4,066.40	\$ 48,796.80	\$ (154.46)	\$ (308.92)	\$ (3,707.04)
5 1/2 to 6 1/2 years	\$ 2,251.19	\$ 4,502.38	\$ 54,028.56					\$ (217.99)	\$ (435.98)	\$ (5,231.76)
6 1/2 to 8 years	\$ 2,326.27	\$ 4,652.54	\$ 55,830.48	5-8 YRS	\$ 2,165.80	\$ 4,331.60	\$ 51,979.20	\$ (160.47)	\$ (320.94)	\$ (3,851.28)
8 to 10 years	\$ 2,375.11	\$ 4,750.22	\$ 57,002.64	8-10 YRS	\$ 2,254.20	\$ 4,508.40	\$ 54,100.80	\$ (120.91)	\$ (241.82)	\$ (2,901.84)
Over 10 years	\$ 2,423.74	\$ 4,847.48	\$ 58,169.76	10-12 YRS	\$ 2,451.02	\$ 4,902.04	\$ 58,824.48	\$ 27.28	\$ 54.56	\$ 654.72
				> 12 YRS	\$ 2,549.04	\$ 5,098.08	\$ 61,176.96	\$ 125.30	\$ 250.60	\$ 3,007.20

ADMINISTRATIVE ASSISTANTS-GA COURT OF APPEALS & PRIVATE SECTOR



ADMINISTRATIVE ASSISTANTS-FEDERAL/STATE GOVERNMENT



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Changes on table for Supreme Court

By Brandon Larrabee | *Morris News Service*

Tuesday, November 28, 2006

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ATLANTA - Sweeping changes to the Georgia Supreme Court could be made in the coming legislative session after stinging defeats of conservative candidates in the past two judicial elections, according to those involved in the discussions.

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At the behest of Republican leaders, the Southeastern Legal Foundation has begun examining ways to transform the court, including adding as many as two justices to the seven-judge bench and returning the elections to partisan contests, according to the group.

It isn't clear how much support either approach has, though the Republican chairman of the House Judiciary Committee said he doesn't see partisan elections returning.

Shannon Goessling, the executive director of the foundation, confirmed that the conservative group had been asked by "legislative leadership" and some national organizations to look into ways of revamping the court. She wouldn't offer specifics about who had requested the look.

"We're pursuing it with vigor and appreciate being asked," Ms. Goessling said.

Expanding the court and making the elections partisan again are just two of several ideas under consideration, Ms. Goessling said. Other options include electing the court from geographic districts, placing term limits on judges and tightening conflict-of-interest rules.

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Athens Top Jobs

The review could be completed by the end of the year, Ms. Goessling said.

One argument for expanding the court is to account for a greater caseload brought on by the state's booming population.

"That would ... probably justify the addition of a couple more justices to the Supreme Court of Georgia," said House Majority Whip Barry Fleming, a Harlem Republican and member of the House Judiciary Committee.

An increased workload would be the only reason for expanding the court, say some groups who are wary of the change.

"I'm suspicious of the motives of expanding the court," said Bill Bozarth, the executive director of Common Cause Georgia, a good government group.

Among those supporting possible changes to the court is the Safety and Prosperity Coalition, a group that supports laws restricting medical malpractice lawsuits and was a major player in the effort to defeat current Justice Carol Hunstein's bid for re-election against Mike Wiggins.

"The clear advantage of that is to get a more fair and balanced judiciary," Eric Dial, the chairman of the coalition, said of the possible expansion. "Right now, we don't have that."

Gov. Sonny Perdue's press secretary said the governor was aware of the proposals dealing with the Supreme Court, but Heather Hedrick wouldn't say whether Mr. Perdue would include any of the changes as part of his legislative package for the session beginning in January.

Returning to partisan elections is probably a nonstarter, said House Judiciary Chairman Wendell Willard, R-Atlanta, at least in part because it would require a two-thirds vote of both chambers of the General Assembly and would require approval by referendum.

"As a lawyer, being a Republican, I don't want to have my client being uncomfortable going before a judge that was elected as a Democrat," he said.

Mr. Willard also said he would prefer looking at expanding the Court of Appeals, as was done in recent years, before considering a boost in the size of the Supreme Court.

Others, including Common Case and the League of Women Voters of Georgia, are crafting a proposal that would create a public financing system for judicial campaigns, removing both money from lawyers who might later come before the court and parties that have increasingly participated in judicial elections through tactics like "multicandidate ads."

Reach Brandon Larrabee at (404) 681-1701 or brandon.larrabee@morris.com.

THE IMPACT

Adding judges to the state's high court could help move cases through the system more quickly, which would be a plus as the state's population grows and the number of cases increases. Adding judges to the court is one of several changes being considered.

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The Augusta Commission will consider hiring a former Macon, Ga., assistant attorney next week as general counsel to head a proposed new in-house law department.

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EDUCATION

University of Georgia School of Law
J.D., *summa cum laude*, 1992
Class Rank: 4 of 202
GPA: 3.88

Athens, Georgia

Honors and activities: Order of the Coif; AmJur Prize Awards in Civil Procedure I & II, Legal Research & Writing I & II; Hughes Spalding Scholar (full scholarship plus additional stipend); Russell Competition, Best Brief of Appellant; *Georgia Law Review*, Executive Notes Editor (1991-1992), Editorial Board (1990-1991), Publication: *Grady v. Corbin: An Unsuccessful Effort to Define "Same Offense,"* 25 Ga. L. Rev. 143 (1991); Russell Moot Court Competition; Prisoner Legal Counseling Project.

Davidson College
B.A., with Honors in History, *magna cum laude*, 1989
GPA: 3.93

Davidson, North Carolina

Honors and activities: *Phi Beta Kappa*; Ken Kelley History Scholar; Member of Rusk House, a social and eating club; Women's Club Soccer; Intramural Sports.

Swarthmore College
1985-1986

Swarthmore, Pennsylvania

EXPERIENCE

Office of State Administrative Hearings
Atlanta, Georgia

June 2006 to Present

Administrative Law Judge: Conducted hearings and issued decisions on appeals from state agency action.

The Honorable John H. Ruffin
Georgia Court of Appeals
Atlanta, Georgia
Staff Attorney

1996-1997, 2001 to June 2006

~~Fittou~~ Chilton Vannor
prod liab.

King & Spalding
Atlanta, Georgia

1993-1996, 2000-2001

Litigation Associate: Practiced on the tort litigation team; handled day-to-day management of numerous product liability cases; conducted depositions and witness interviews; prepared witnesses for trial; argued motions; corresponded with clients daily; researched and drafted briefs and legal memoranda.

United States Department of Justice, Antitrust Division
Atlanta, Georgia

1997-2000

Trial Attorney: Prepared complex antitrust cases for criminal prosecution; conducted numerous grand jury examinations; interviewed witnesses; analyzed corporate documents for antitrust violations; drafted legal motions and briefs; negotiated plea agreements.

The Honorable Orinda D. Evans

1992-1993

United States District Court for the Northern District of Georgia

Judicial Clerk: Researched and drafted judicial opinions; analyzed relevant case law; prepared legal memoranda.

FY 2009 BUDGET REQUEST

Governor Perdue has directed a culture change in the state budgeting process so that it is a more effective and efficient, results-oriented, and customer-focused. All future budgets are now predicated on programs that support departmental business plans. Program data will be used to determine whether base funding should be continued for programs.

Program budgeting incorporates strategic planning and performance measurements in the annual budget development cycle. Budget requests should be supported by performance measures that indicate how efficiently a program is operated, how well customers are served, and whether the program achieved its intended outcomes.

There are two major components of the FY 2009 Planning Requirements:

- a: Four-year Strategic Plan
- b. Annual Business Plan with Associated Performance Measurements.

These requirements apply to ALL agencies, including authorities, and to all programs, including those not receiving a direct appropriation of state funds.

Revenue growth for FY 2009 is suggested to be modest compared to growth in key state services such as education, healthcare, and public safety. As such, Governor Perdue is employing a fiscally conservative approach to the FY 2009 budget focused on the State's most critical needs.

During this budget cycle, agencies are asked to identify a minimum of 2% of their state general funds for reduction. In addition, agencies may request up to a 2% enhancement of their state general funds budget. Agencies must demonstrate that the requested enhancement is necessary for the program to achieve its goals and objectives and enables the agency to better achieve its overall mission.

While Judicial Branch agencies do not have to follow the Governor's budget mandates. We are, however, often requested to justify any exceptions. Please consider this information when making suggestions for budget enhancements and help us justify any request in accordance with the following criteria:

Justifiable reasons for enhancements are as follows:

1. Increase access to services
2. Cost or price of goods increasing
3. Eligibility for services change
4. Frequency of use (utilization) change
5. Increase in clients or students
6. Legislative mandate
7. Scope of services change
8. Administrative Change

COURT OF APPEALS BUDGET EFFORTS - FY 2007 & FY 2008

The Fiscal Year 2007 Supplemental Budget & FY 2008 Budget Requests were submitted by September 1, 2006. Budget Hearings usually begin in January but this year was the exception. Listed below are the various meetings and hearings that were held.

August 1, 2006 - Kevin Fillion, Director of the Senate Budget Office requested a meeting prior to budget submission.. At this meeting he told Jan Kelley that if our agency had too aggressive of a budget, then whatever the House did not award the Senate would take an additional amount equal to the non-funded request since the House did not have to share any additional funds that became available in the budget. NOTE: This appears to be what happened since the Court of Appeals budget request was reduced by \$151,093 in personal services through House cuts and additional \$148,060 through Senate Cuts.

As you know, we have never had an aggressive budget. This year's budget is no exception, other than the controversy between the 3% and 4% COLA, and the reinstatement of full funding for our personal services, everything was a request for reimbursement of increased expenses which were passed through to us and beyond our control. Monies in the current year budget including \$500,000 which was appropriated in FY 2006 for the space project were redirected to increases in space rental as well as other routine increases. All current funds were redirected before we asked the Legislature for any enhanced funds.

September 13, 2006 - Preliminary Budget Hearing held by Senate Appropriations Subcommittee. Jan Kelley attended and presented a brief summary of our budget requests for FY 2007 & FY 2008. Only Senator Bill Hamrick and Senator Preston Smith were available for our presentation. The response from the Senate was not positive.

November 16, 2006 - Meeting with Public Safety Subcommittee Chairman, Mack Crawford. This meeting was attended by Judge Mikell, Bill Martin & Jan Kelley as well as House Budget Office (HBO) Director Charlie Walker, and HBO Deputy Director, Martha Wigton. Our budget request as well as the detailed information we disseminated to them received positive feedback. The meeting ended on a positive note.

January 16, 2007 - Meeting with new Public Safety Subcommittee Chairman, Chuck Martin. This meeting was attended by Judge Mikell and Jan Kelley. Judge Mikell briefly went over our budget requests for FY 07 and FY 08. We were asked to resubmit detailed budget information that had previously been sent to Mack Crawford. Jan Kelley submitted the information to his assistant, Jenee Burke, the same day.

Budget Efforts - FY 2007 & FY 2008
Court of Appeals

January 23, 2007 - House Appropriations Public Safety Subcommittee Budget Hearing (FY 07 Budget) Chief Judge Anne E. Barnes, Judge Mikell, Bill Martin, and Jan Kelley attended. Judge Mikell presented the budget. We were questioned regarding why the Court gave a 4% instead of 3% COLA to staff.

February 2, 2007 - Senate Tour of Judicial Space. Senator Preston Smith and Kevin Fillion, Director of the Senate Budget Office toured the renovated space. Comments were made as to how expensive the renovation project had been. They, however, seemed satisfied when they left that we had not exceeded normal construction and finish standards.

February 7, 2007 - Senate Appropriations Judicial Subcommittee Budget Hearing (FY 07).

Chief Judge Anne E. Barnes, Judge Mikell, Bill Martin, and Jan Kelley attended. Judge Mikell presented the budget. We were questioned regarding why the Court gave a 4% instead of 3% COLA to staff.

Budget Enhancement: An email request was sent by Jan Kelley to our budget analysts at OPB, HBO, and SBO as well as to Chuck Martin and Senator Preston Smith to add \$547,138 to our budget request to cover the proposed health insurance increase from (16.713% to 22.843%).

February 8, 2007 - House Appropriations Public Safety Subcommittee Budget Hearing for FY 2008. Chief Judge Anne E. Barnes, Judge Mikell, Bill Martin, and Jan Kelley attended. Judge Mikell presented the budget. An extra \$547,138 was verbally requested to cover the proposed for Health Insurance increase.

February 19, 2007 - House Appropriations Public Safety Subcommittee Budget Hearing for FY 2008. Chief Judge Anne Barnes, Judge Mikell, Bill Martin, and Jan Kelley attended. Judge Mikell presented the budget.

Budget Efforts - FY 2007 & FY 2008
Court of Appeals

March 1, 2007 - Meeting with Senator Jack Hill regarding budget concerns (FY 2007 & FY 2008).

Chief Judge Anne E. Barnes, Bill Martin, and Jan Kelley attended. Kevin Fillion, Director of the Senate Budget Office was also present. Discussion ensued regarding our budget concerns and why we were having problems getting funding for the previously vacant (authorized positions). Kevin Fillion stressed that because they did not appropriate the funds in the original budget request that they felt they did acted on this request. He mentioned that they never really had the authority to authorize positions. It was mentioned that the State was moving to a Zero-Based Budget. Which means there would be no continuation items carried over. Each year they would look at the budget request fully and the agencies performance measurements and fund those items that they felt were most efficient.

When the cost of the space project, was mentioned, Senator Hill did say that the report he had received confirmation from the visit that we did nothing over the top. We gave both Senator Hill and Kevin Fillion a detailed list of all payments to GBA for the project showing the overrun of \$152,516. ~~Kevin Fillion made a comment that while we could not control the cost of the project coordinated by GBA that the Court did control the decision to stay on Capitol Hill and the costs were ultimately an outcome of that decision.~~ We informed Senator Hill that the \$500,000 appropriated in the original FY 2006 budget was seed money to start the obtain the space and start the space/renovation project and never was the cost of the project. At that time of this appropriation, no details were available. We did, however, provide details of the estimated costs to the Appropriations Committee when they were available and they were included with our enhancement request for the remaining monies needed in our FY 2006 Amended Budget Request.

March 13, 2007 - House Appropriations Public Safety Subcommittee Budget Hearing for FY 2008. Judge Mikell, Judge Bernes, Bill Martin, and Jan Kelley attended. Judge Mikell presented the budget.

March 14, 2007 -Lunch at the Commerce Club w/ Speaker Glen Richardson, his Chief of Staff, Chris Cummiskey, Representative Barry A. Fleming, Representative Wendell Willard, and Representative David Ralston. At this luncheon, Chief Judge Barnes spoke to Glen Richardson regarding our budget needs.

Budget Efforts - FY 2007 & FY 2008
Court of Appeals

March 19, 2007 - Meeting with Public Safety Subcommittee Chairman Chuck Martin (House)- RE: FY 2008 Budget

Jan Kelley attended. They had asked Judicial Branches to see if they could absorb Health Insurance increase for FY 2008 in budget request. Jan replied that we could not absorb any of the costs; that our budget was tight. She proposed that the State look at raising filing fees instead of cutting our budget. Filing fee information was given to Chuck Martin regarding costs of filing fees in other states, etc.

March 21, 2007 - Senate Appropriations Judicial Subcommittee Budget Hearing (FY 2007)

Chief Anne E. Barnes, Judge Mikell, Bill Martin, and Jan Kelley. Judge Mikell presented budget. An extra \$547,138 was requested to cover increased proposed for Health Insurance. Senator Preston Smith questioned the need for the rent money since it was the last quarter in the year. He mentioned that we would have already paid our bill so that we shouldn't need the funds. Jan Kelley told Senator Hill that we needed the funds and would delay paying the bill until our FY 2007 Supplemental Appropriation was received.

March 22, 2007 - House Appropriations Public Safety Subcommittee Budget Hearing (FY 2007)

Chief Judge E. Barnes and Judge Mikell attended. Judge Mikell presented budget.

Individual Meetings regarding concerns over budget:

Presiding Judge Johnson met with Senator Tommie Williams and outlined our budget items and concerns. As a result, \$51,761 of state funds were appropriated in our FY 2008 budget for overrun of renovation expenses. Other judges either made phone calls or visited with various Representatives or Senators regarding our budget.

Budget Efforts - FY 2007 & FY 2008
Court of Appeals

Correspondence:

April 13, 2007- Chief Judge Barnes wrote letters to all of the members of the Green Door (Conference Committee-Representative Mark Burkhalter, Representative Jerry Keen, Representative Ben Harbin, Senator Eric Johnson and Senator Tommie Williams) regarding our budget concerns and requested that they put the \$500,000 back into our budget.

April 17, 2007-Chief Judge Barnes wrote letters concerning our budget to Senator Jack Hill, Senator Eric Johnson, Representative Ben Harbin, Senator Tommie Williams, Representative Jerry Keen, and Representative Mark Burkhalter.

April 18, 2007-Chief Judge Barnes wrote letters which were hand-delivered concerning our budget to Representative Chuck Martin and Senator Preston Smith.

BUDGET PROCESS

The State of Georgia's Constitution requires that the State operate under a balanced budget. This means that the state cannot incur a deficit and cannot borrow money for operating funds. No expenses can be incurred for which funds are not available. And no state funds can be spent unless they are authorized in an appropriation bill approved by the **General Assembly** and signed by the **Governor**.

The State of Georgia operates on a fiscal year basis. The Fiscal Year for the State begins on **July 1st and ends on June 30th of each year**. *We are currently in FY 2007 which ends on June 30, 2007. FY 2008 will begin on July 1, 2007 and end on June 30, 2008.*

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Sometimes, the Appropriations committees of the House and Senate hold joint hearings on the Governor's **Amended General Budget proposal** the week before the General Assembly convenes. The two chambers may also hold a joint hearing for the **General Appropriations Budget proposal after** the first week of the session. These meetings are discretionary at the call of the chairs.

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appropriation to be vote on by both Houses. The House and the Senate must vote **Yea or Nea** on the **Conference Committee Report**. No amendments to the Conference Committee Report are allowed.

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Appropriations equate to cash for each agency. However, unlike a checking account, in which you can spend all the funds available until such time as they are depleted, the appropriated funds are only available during the fiscal year for which they are appropriated. Each agency must account for all expenses and liabilities incurred for the fiscal year and such expenses are to be paid from those funds appropriated. Agencies must account for all expenses and liabilities incurred for each fiscal year, whether or not they are actually paid during that fiscal year. Any funds available over incurred expenses or liabilities must be returned to the State Treasury and cannot be kept by the agency for future use.

LEASES-

In accordance with the Appropriations Bill, Section 54 of the House Bill 95 (FY 2008 Appropriations Bill) "there is hereby appropriated payable to each department, agency, or institution of the State sums sufficient to satisfy the payments required to be made in each year under existing lease contracts between any department, agency, or institution of the State, and any authority created and activated at the time of the effective date of the aforesaid constitutional provision, as amended, or appropriated under any other provision of this Act. If for any reason any of the sums herein provided under any other provision of this Act are insufficient to make the required payments in full, there shall be taken from other funds appropriated to the department, agency or institution involved, an amount sufficient to satisfy such deficiency in full and the lease payment constitutes a first charge on all such appropriations."

FY 2008 BUDGET STATUS - Revised

1. CURRENT BUDGET & EXPENSE PROJECTIONS

	BUDGET		ACTUAL
Appropriated State Funds	\$ 13,808,111		\$13,808,111
Other Funds	150,000	(50,000)	100,000
	\$ 13,958,111		\$ 13,908,111
		Expense	14,386,971
		Deficit (\$	478,860)
 PERSONAL SVCS			
Budget	\$ 12,640,644		NOTE: Other Funds
Projected Expenses	—12,838,502		Reduced By
	\$ (198,558)		\$50,000
 OPERATING EXPENSES			
Budget	\$ 1,318,067		
Projected Expenses	—1,545,104		
	\$ (227,037)		

STRATEGIES:

REQUEST ADDITIONAL FUNDS - FY 08 SUPPLEMENTAL BUDGET \$316,215

RESULTS BASED ON SCENARIOS:

1. **SCENARIO 1** - Receive Supplemental Appropriation and follow proposed budget reduction guidelines. **(Recommended)**

Result: Potential Surplus of \$3,673

2. **SCENARIO 2** - Receive Supplemental Appropriation and follow proposed budget reduction guidelines. Give only 2% COLA to staff effective January 1, 2008. NOTE: We could give the other 1% in May or June if budget funds are available.

Result: Potential Surplus of \$3,673 + \$42,351 savings from delay in 1% COLA.

3. **SCENARIO 3** - Receive Supplemental Appropriation No Budget Cuts

**Result: Projected Deficit (\$162,645)
Potential 4.4 days Furlough (Unpaid) for Staff**

4. **SCENARIO 4** - Projected Deficit w/cuts No Supplemental Funds

**Result: Projected Deficit (\$312,542)
Potential 8.4 days Furlough (Unpaid) for Staff**

5. **SCENARIO 5** - No Supplemental Appropriation and No Budget Reductions

**Result: Projected Deficit (\$478,860)
Potential 13 days Furlough (Unpaid) for Staff**

NOTE: The Court could delay purchasing all but necessary equipment items in FY 2008. If equipment expenses are delayed, it would give the appearance of reduced expenses. If the need for other funds is not readily apparent, we could potentially not receive them. The equipment budget is \$158,700.

PROPOSED BUDGET STRATEGY FOR FY 2008.

1. Request Supplemental Funds in the amount of \$316,215.
2. Spend budget as projected with the following exceptions:

A. PROPOSED BUDGET REDUCTIONS -

1. No paid summer interns from July 1, 2007 - June 30, 2008.
2. Vacancies not filled until ~~annual leave payout consumed through vacancy.~~ *near of end of fiscal year -*
3. New positions not filled until January, 2008. Positions must be filled at the level that they were appropriated or there will need to be an additional delay in hiring.
4. Disaster Recovery Project not started until January, 2008.
5. Minor reductions in printing, equipment, and freight expenses.

- NO NEW Equipment until we know what budget situation -*
- B. Equipment - One-quarter of the equipment budget should be purchased each Quarter. One-quarter of the equipment budget should be reserved until we know the outcome of our Supplemental Budget Request. We can use it if necessary to help make up any existing shortfall. (\$39,675/ea qtr)

NO COLA Jan 1st

FY 2007 BUDGET STATUS

1. **\$40,000 EQUIPMENT BUDGET TO BE USED TO PAY SUMMER INTERNS.**
Based on the information received from the various Judges Offices, will spend only \$10,000 on summer interns by June 30, 2007.
2. **OTHER FUNDS - Over projected budget**
Copy fee monies are currently projected in excess of our budgeted amount by \$33,559.
3. **SURPLUS -** Based on items #1 and #2. We are now projected to have approximately \$53,927 available for other court expenses.

PROPOSED EXPENDITURES:

- ① Needed equipment for Technical Services.
- ② \$15,000 was budgeted for window treatments for the three Judges Suites on the 3rd floor. This expenditure was delayed due to lack of funding in the current year budget.
3. Two glass etched Court Seals (similar to the one in the Supreme Court's library) to be placed on the each lobby area facing the elevators in the Health Bldg. (Est Cost \$3,000 each)
- ④ Reimbursement of travel funds for Judges who have exceeded their travel. Unless another judge forfeits some of his/her funds, the Banc must approve the use of other funds before reimbursement can be made for travel/dues expenses in excess of the allotment.
- ⑤ Membership in the Council of Chief Judges of the State Courts of Appeals \$8,739 - (Membership-July 1, 2007 - June 30, 2008)

BUDGET PROCESS

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III. **BUDGET REPORT:**

Chief Judge Barnes called upon Jan Kelley, Fiscal Officer, for a budget report. Ms. Kelley presented the status of the 2007 budget which ends on June 30. There was a general discussion regarding the budget. Ms. Kelley stated the Court had sufficient funds to finish our the 2007 budget year and to pay the interns through June 30.

Ms. Kelley presented in her budget materials some proposed expenditures for the surplus funds which are made available by cost cutting measures. Judge Phipps stated he felt the Court should purchase a battery for the Court's computer backup. After a general discussion of the matter Presiding Judge Andrews made a motion that the Court spend any funds remaining in the budget on items 1, 2, 4 and 5 on the proposed expenditures in Ms. Kelley's budget report for FY2007.

IV. **POLICIES ON DISQUALIFICATIONS/RECUSALS:**

V. **NEW BUSINESS:**

VI. **ADJOURNMENT:**

From: Lola Diamond
Date: 5/23/2007
Time: 8:30:00 AM - 9:00:00 AM
Subject: Bill will need to check A07A1240 to see if a Motion for Permission to Withdraw has been filed. The appeal has been settled.

Bill will need to check A07A1240 to see if a Motion for Permission to Withdraw has been filed. The appeal has been settled.

**Court of Appeals
FY 08 Budget Request**

FY 2007 Supplemental Budget:

	H.B. 1027	Requested FY 2007 Enhancements	Requested Amended FY 2007 Budget	FY 2007 Suppl. Budget
Personal Services	\$11,179,599	\$506,383	\$11,685,982	\$11,534,889
Operating Expense	<u>1,661,613</u>	<u>148,060</u>	<u>1,809,673</u>	<u>1,661,613</u>
	\$12,841,212	\$653,443	\$13,495,655	\$13,196,502
Less: Other Funds	<u>90,000</u>	<u>0</u>	<u>90,000</u>	<u>90,000</u>
	\$12,751,212	\$654,443	<u>\$13,405,655</u>	\$13,106,502
Total Additional State Funds Requested/Appropriated			\$653,443	355,290
			Variance	(298,153)

ENHANCEMENT ITEMS:

PERSONAL SERVICES \$506,383

- 1. Increase in personal services variance in required funding of current staffing requirements & appropriation \$98,400**

Explanation: This is the cost of two positions which were filled in FY 2006. We did not receive full funding for all personal services expenses due to the FY 05 payroll shift recommendation by the Governor & Legislature in the original FY 05 Budget (funding for last pay period of the year was not funded until the FY 05 Supplemental Budget). When the Legislature actually funded the last payroll they reduced the budget request to what was absolutely necessary in order to make the last payroll in the year. Because we had two positions which had been vacant most of the year, our full personnel services expenses were not picked up in the Original FY 06 Budget. Because we could do without filling these positions for most of FY 06, does not mean that we do not need these funds nor deserve to have our full funding reinstated when it became critical for us to fill them. We did request these positions be reinstated in the original FY Budget but it was cut by the Senate and Conference Committee. Because our personnel costs are approximately 90% of our budget, and this court handles 2.5 times the recommended caseload, it is important that every position be fully funded.

In the FY 07 Supplement these funds were not reinstated by either the House or Senate. (\$98,400)
We did not receive funds for these filled positions. Operating funds will have to make up the deficit.

2. Increase in personal services cover FY 2007 COLA \$ 195,817

Explanation: In accordance with HB 1027 which allowed up to a 4% increase for FY 07 COLA, the Court submitted a budget request and awarded 4% to staff with exception to the judges and the Clerk of the Court who received a 2.89% increase. COLA funds were not awarded in the original FY 07 Budget for any judicial agency, because OPB had requested on behalf of the Governor (not first year of request) that the judicial agencies not add the COLA but they he would add the appropriate amount to each budget once the recommended COLA was determined. Judicial Branch agencies had endured a lot of criticism in the press for adding our own COLA funds and for not taking recommended budget cuts. **The Governor did not "remember" or fulfill his promise and judicial agencies were not awarded any COLA funds in the original FY 07 Appropriation.** Instead we were told to request the COLA funds in the FY 07 Supplemental Budget.

We received a phone call from the House Budget Office in the summer, saying that the Legislature were recommending appropriating only a 3% COLA.. We were also informed by the Senate Budget Office of the 3% COLA figure. Prior to budget submission, Jan Kelley went to the Banc several times and informed them that if we submitted a budget request or awarded a COLA of 4% that we would have to be prepared to absorb the 1% difference from our current budgeted funds. Prior to the budget submission, I wrote a memo explaining that we had been informed that the Legislature was only planning to award a 3% COLA not a 4% COLA and asked each judge to submit his vote in writing as to what COLA % they wanted to ask for in the Supplemental Budget Request The judges voted to request a 4% COLA. The Executive Council also met on this and also voted in favor of a 4% COLA. Prior to the actual award of the 4% COLA, Jan Kelley had the judges vote one more time about how to give the COLA and mentioned again that we had been told that theyplanned only to fund a 3% COLA. Jan Kelley recommended the possibility of giving staff who had not received a full COLA in prior years due to a CAP be given a 4% increase and others who were not affected a lesser amount. The Judges voted overwhelmingly to give a 4% across the board COLA. NOTE: Several employees did not receive a 4% COLA due to other circumstances.

The House and the Senate reduced our appropriation the 1% difference between a 4% and 3% COLA. (\$52,653). Appropriation received was \$143,164 which was \$52,653 less than we needed. Operating funds will have to make up the \$52,653 plus an additional \$22,290 needed to fund the Administrative Assistant salary scale change effective January 1, 2007.

3. Increase in personal services expense to cover increase in Employer Health Insurance due to rate change. \$ 207,855

Explanation: The Governor recommended increasing the employer's cost for health insurance from 14.3% to 16.713% in his budget proposal for FY 07. When we received the Governor's Budget Report was the first time non-executive branch agencies knew of this increase. Because we had not been informed of this request prior to budget submission, it was not incorporated into judicial, legislative, or the audit department's budget requests. We informed the Legislators of the increased requirement for funding once this rate increase was known. Funds were not appropriated in the original FY 07 Budget. We were told to submit the increase in FY 07 Supplement Request.

Funds were appropriated for this expense in the Supplemental

Budget.

FY 07 Supplemental Budget
Court of Appeals

4. Increase in personal services to cover Worker's Compensation Expense (Unbilled in prior FY) \$4,271

Explanation: Worker's Compensation Expense had not been billed for several fiscal years.

Funds were appropriated for this expense in the Supplemental Budget.

OPERATING EXPENSES \$ 148,060

5. Increase in repairs and maintenance for additional renovation costs for Health Building/Judicial Buildings \$51,761

Explanation: Increase in repairs and maintenance to cover gap in funding for expenses over budget. We had requested \$51,761 even though actual costs above budgeted funds were \$152,516.16. The additional costs were not available at the time of budget submission or they would have been requested. Other than some moving related costs to GTA and other vendors, all of the above expenses were paid to GBA for the GBA/GSFIC coordinated renovation of the above-mentioned space. Expenses continued to be incurred during the year for these projects. Once actual expenses were known, we informed the Subcommittee Chairman of both the House and the Senate of the actual costs and asked for reimbursement of those costs.

The funding for the requested increase was recommended by the House, cut by the Senate and Conference Committee. (\$51,761). We not receive any funds for this expense in the FY 2007 Supplemental Appropriation.

6. Increase in Real Estate Rent due to rental rate \$96,299

Explanation: GBA proposed an increase to real estate rent for all agencies in H.B. 1027. This information was not divulged to non-executive branch agencies prior to budget submission. Just like the Health Insurance increase, we only received knowledge of this increase by reading the Governor's Budget Report. We informed the Legislators of the increased requirement for funding once this rate increase was known. Funds were not appropriated in the original FY 07 Budget. We were told to submit the increase in FY 07 Supplement Request.

In the last budget hearing, Senator Preston Smith hinted at not wanting to fund the rental rate increase saying that we would have already paid the bill by the time the appropriation was received (1st of June). I told him that even though you GBA billed each agency quarterly, we could pay the bill late (wait to pay it until the appropriation was received). The expense for this must be posted in the FY 07 and cannot be carried over to FY 08 budget in accordance with Generally Accepted Accounting Principles (GAAP) under which all accountants operate. Programs cannot overspend their budget so not getting this funding means cutting other expenses within an already meager budget.

The funding for the requested increase was recommended by the House, cut by the Senate

and Conference Committee. (\$96,299) We not receive any funds for this expense in the FY 2007 Supplemental Appropriation.

FY 07 Supplemental Budget
Court of Appeals

Listed below are the budget cuts which the other Judicial Agencies experienced in the FY 2007 Supplemental Budget.

All Judicial Agencies who took a 4% COLA received only funds for a 3% COLA.

Judicial Council's total budget request was reduced by (\$559,466)

Judicial Council request for increased funding to cover Westlaw was cut to \$0 - (\$40,000)

Funding for Georgia Automation Commission Software (cut by \$55,977)

Funding for County and Municipal Probation Advisory Council was cut to \$0.

Funds for Child Placement Project was cut to \$0

All enhancements for District Attorneys and Prosecuting Attorneys Council were cut to \$0. They did not even receive funding for a 3% COLA. This was a total budget cut of (\$3,927,608).

Public Defender Standards Council's enhancement request was cut by (\$3,390,163).

Superior Court Judges & Council of Superior Court Judges received cuts total cuts from their budget request in the amount of (\$1,424,243).

Council of Superior Court Clerks request for rental increase funding was cut from \$11,488 to \$2,872.

Superior Court Judges request for a step increase for secretaries was cut to \$0.

Superior Court Judges request to restore reduction from FY 2005 was cut to \$0.

Superior Court Judges request to add two new judgeships was cut to \$0.

Supreme Court's request for rental increase funding was cut from \$80,477 to \$20,119 (\$60,358).

Court of Appeals
 FY 08 Budget Request

The FY 2008 Budget Status is as follows:

	H.B. 1027	Revised FY 2008 Enhancements	Total Requested FY 2008 Budget	FY 2008 Appropriation
Personal Services	\$ 11,179,599	\$ 1,650,280	\$ 12,255,515	\$ 12,640,044
Operating Expense	<u>1,661,613</u>	<u>51,487</u>	<u>1,713,100</u>	<u>1,319,067</u>
	\$ 12,841,212	\$ 1,701,767	\$ 13,968,615	\$ 13,958,111
Less: Other Funds	90,000	0	90,000	150,000
	<u>\$12,751,212</u>	<u>\$ 1,701,767</u>	<u>\$ 13,878,615</u>	<u>\$ 13,808,111</u>
Enhancement Items Funded		\$ 1,556,899		
Less: Reduction in Funds		<u>(506,794)</u>		
Additional Funds Appropriated		\$ 1,056,899		

ENHANCEMENT ITEMS:

PERSONAL SERVICES \$1,075,916 + \$ 547,138 = \$1,623,054

1. **Increase in full year of FY 2007 COLA (2.89%-Judges 4%-Staff) \$377,721**

Explanation: This is the annualized cost for a full year of the 4% COLA for FY 2007. A full year of this COLA must be requested since it was not in the original FY 2007 Appropriation.

The House & the Senate cut our appropriation by the 1% difference between a 4% and 3% COLA. (\$91,396) We also will incur an additional cost for the Administrative Assistant Salary Scale Change effective January 1, 2007 in the amount of \$50,303 over operating funds. Operating funds will have to make up the deficit.

2. **Reinstatement of funding for former vacant positions \$98,440**

Explanation: This is the cost of two previously vacant positions which were filled in FY 2006. We did not receive funding for these positions in FY 2007.

The House recommended funding these positions for FY 2008. The Senate and the Conference Committee cut the funding. **We did not receive funds for these filled positions. Operating funds will have to make up the deficit.**

3. **Increase in personal services expense for FY 08 Health Insurance increases for FY 2007 & FY 2008 \$790,395**

Health Insurance Costs - FY 07 Increase (14.3% to 16.73%) \$273,257

Health Insurance Costs - FY 08 Increase (16.713% to 22.843%) \$547,138

Explanation: The Governor recommended increasing the employer's cost for health insurance from 16.713% to 22.843% in his budget proposal for FY 08. Health insurance costs were also increased in FY 2007. We did not receive funding for the FY 07 increase until the Supplemental Budget. Because the Legislature always uses the Original Budget as its starting point, if funding is not received until a Supplemental Budget it must be requested both in the Supplemental Budget and then again in the next year's budget. When the Governor makes a recommendation as to an increase in rental rates, health insurance costs, etc., he incorporates those changes into his budget request for Executive Branch agencies but no information has been sent to Non-Executive Branch agencies of impending changes (Judicial, Legislative, and Audit Department). The first time Non-Executive Branch agencies knew of the health insurance increase was when the Governor's Budget Request was released (January). Because we had not been informed of this change prior to budget submission, it was not incorporated into judicial, legislative, or the audit department's budget requests. We informed the legislators of the increased requirement for funding once this rate increase was known and revised our request to include these costs.

We received appropriated funds for the health insurance costs.

4. **Increase in personal services to cover Worker's Compensation Expense \$4,271**

Explanation: Worker's Compensation Expense had not been billed for several fiscal years.

We receive appropriated funds for this amount plus an additional \$21,226 due to an undisclosed increase in Worker's Compensation expenses.

5. **Increase in personal services to cover two new positions \$162,657**

New position - Administrative Assistant \$60,990

Explanation: Request an additional floating administrative assistant position. This is the total fringe benefit package costs at a mid-level hiring salary (\$45,000 salary).

New position - Staff Attorney \$101,667

Explanation: Request an additional floating staff attorney position. This is the total fringe benefit package costs at a mid-level hiring salary (\$75,000 salary).

We received appropriated funds for both of these positions. Please note if we do not hire at this salary level we will need to delay the hiring to make sure we do not exceed this amount during FY 2008.

6. **Increase in personal services cover a 3% projected FY 2008 COLA \$ 159,571.**

Explanation: We received word from the House Budget Office prior to budget submission to request a 3% COLA for FY 2008.

We received appropriated funds for a 3% COLA for FY 2008. Please note if we do not hire at this salary level we will need to delay the hiring to make sure we do not exceed this amount during FY 2008.

7. **I.T. Rental - Disaster Recovery/Business Continuity \$30,000**

Explanation: Networking communication costs for a co-location disaster recovery site. Monthly recurring costs are \$2,500. This rents us rack space for equipment, 5 hours hands on help for data archiving, recovery.

We received \$30,000 to fund our disaster recovery project for one year. This money was shown as a one-time change. Therefore, we will have to request any funds needed for next year in our FY 2009 Budget submission.

OPERATING EXPENSE \$51,487

8. Increase in rent expense to cover GBA rental increase (FY 07 rate change). \$21,487

Explanation: This is the variance between the old rate and the new rate based on a full year of expense at the new rate. Please note that the actual increase from FY 07 Appropriated Funds for rent and FY 08 Requirement is **\$168,816**. *A reduction in equipment expense due to the renovation projects being completed were redirected to this expense. **Only the excess of expenses above any redirected expenses were requested.***

We received received \$21,487 for the portion of the rent increase which was not absorbed by a redirection of funds. However, our rent doubled due to an increase in space when we moved to the Health Bldg and the fact that the rental rate also increased. The additional unrequested funds had been redirected for the space rental from the \$500,000 received for the Judicial and Health Building projects. The Senate cut our budget by these redirected funds and the Conference Committee concurred. We now will have to go back and request the required funds in our FY 08 Supplemental Budget and FY 09 Budget Requests.

9. Reduction in funds for telecommunications. (\$6,794)

Explanation: The Senate reduced our current appropriation by \$6,794 for anticipated reduction of expense in telecommunications. The Conference Committee concurred.

10. Reduction in funds for operating funds. (\$500,000)

Explanation: The Senate reduced our current appropriation by the \$500,000 appropriated in FY 06 which had been redirected to other expenses.

As mentioned in #8, we will need to request funds to cover the shortage in rent and increases in postage (rental rate increase), motor vehicle expense (gasoline price increase), travel (mileage rate increase and judges travel allowance), and increase in legal subscription service (rate increase).

11. Increase in funds for renovation costs for Judicial and Health Building Projects. \$111,761

Explanation: This is to cover increased expenses over appropriated funds for the renovation projects. Our actual costs were \$152,516 over appropriated funds.

We were appropriated \$51,761 from state funds and the increased our other funds by \$60,000 which puts our expected other funds to \$150,000. The problem is that we can only guarantee \$90,000 in other funds. So we really only received \$51,761 for these expenses.

Court of Appeals
FY 08 Budget Request

Listed below are the budget cuts which the other Judicial Agencies experienced in the FY 2008

All Judicial Agencies who took a 4% COLA in FY 2007 received only funds for a 3% COLA (1% reduction in FY 2008 funds)

Judicial Council's total program budget request was reduced by (\$1,028,036)

Office of Dispute Resolution enhancement request for state funds was reduced by (\$292,658)

ICJE's total budget request was reduced by (\$393,564)

Judicial Council's budget request was reduced by (\$294,542)

Judicial Qualifications Commission's request was reduced by (\$37,432)

Prosecuting Attorney's Council budget request was reduced by (\$271,951)

Public Defender Standards Council's enhancement request was cut by (\$5,240,140) of which \$1,992,145 was a reduction in state funds.

Superior Court Judges & Council of Superior Court Judges received cuts total cuts from their budget request in the amount of (\$1,140,766)

Supreme Court's request was reduced only the 1% COLA and a reduction in telecommunications cost.

Judicial Council of Georgia
Court Emergency Management Committee
June 22, 2007
Supreme Court of Georgia
5th Floor Conference Room,
244 Washington Street, S.W., Atlanta, GA
10:00AM

Minutes

I. Members Present

a. Justice Harold Melton	Justice, Supreme Court, Chair
b. Tee Barnes	Clerk, Supreme Court
c. Judge Herbert Phipps	Judge, Court of Appeals
d. Tom Gunnels	10 th Circuit District Court Administrator
e. Tia Milton	Chief of Staff to the Chief Justice
f. Judge Samuel Ozburn	Judge, Superior Court, Alcovy Circuit
g. Judge Timothy Pape	Judge, Juvenile Court, Rome Circuit

II. Guests

h. Bob Bray	AOC
i. Kelly McQueen	AOC
j. Tara Adyanthaya	King and Spalding
k. Katie Bates	King and Spalding
l. Amy Feuss	DHR/DPH

III. Call to Order

Committee Chair, Justice Melton, welcomed the members and guests to the committee and called the meeting to order at approximately 10:05am.

IV. Extra-committee Planning Activities

Justice Melton gave the committee an update on Avian Flu in the news and updated the committee on his participation in a planning tabletop exercise. The exercise brought stakeholders from multiple disciplines together to discuss social distancing legal preparedness. The roundtable was sponsored by the Georgia Department of Human Services Division of Public Health.

Bob Bray reported to the committee about his participation in the 2007 National Summit on Public Health Legal Preparedness sponsored by Health and Human Services; the CDC; and the American Society of Law, Medicine and Ethics. At the summit Bob gained insight on how other states compiled their Public Health Law Bench Guides and also heard several presentations on planning efforts nationwide.

V. Legal Subcommittee Report

Tia Milton and Tee Barnes presented their research memo on the Judicial Emergency Act. Two recommendations were made to the Act's revision: (1) allow

for declaration override (it was pointed out that this may already be covered within the context of the existing act); (2) Remove the qualification in the Act that a state of emergency may only be declared for no more than two periods not exceeding 30 days each (this may be necessary as a public health emergency like Pandemic Influenza may last up to 18months).

Bob Bray presented the Bench Guide outline modeled after Pennsylvania's Public Health Law Bench Book. Tara Adyanthaya and Mike Terry will be helping to coordinate Georgia's Bench Guide research which will then be compiled by the AOC and presented to the committee.

VI. Operational Issues Subcommittee Report

Kelly McQueen presented the Operational Issues Subcommittee Pandemic Preparedness COOP Appendix. The Appendix is still in draft form and is currently being adapted to each class of court through the modification of mission essential functions. The Appendix was also sent to the National Center for State Courts for assessment by a principal consultant on COOP planning. Kelly also reported to the full committee about the possibility of grant funding from the State Justice Institute for training and planning summits related to Emergency Preparedness and Court Security.

VII. Next Meeting

- m. Full Committee – November 2007
- n. Sub-committees – As needed

VIII. Adjournment

Justice Melton closed the meeting at approximately 11:30 am.

Here are the general specifications.

> > Full color

> > 9" X 12" size

> >

> > Hardback binding

> > Paper Dustcover

> > Approximately 200 photos and images

> > Approximately 200 pages including table of contents; bibliography and possibly some endnotes.

> > Text will be divided into 5 Chapters

> > \$3000-5000 for permissions to use photos or scans

> > 2500 copies of book

> > Paper Type: Very Good Quality

> > Submission can be either: 1) Text in Microsoft Word & Scanned Photo Files .tif and .jpg format or 2) text with photos preliminarily laid out in Qua

Written Agreement

Copyright - who holds Justice Served? Court?

Mercer U. Press any copies for self to sell

Where books be shipped - mailing - postage - wrapping - payment

Responsibilities:

Proofreading

Cover Art

Title Page - Listing Authors - Justice Served, Inc.

Preface?

Table of Contents

Format for submission - wordperfect; microsoft word, quark

Formatting of pages - Spacing etc. of manuscript

Photos - permissions who gets these, is there a standard form they use.

File format for photos

Bibliography

Preface?

Detailed budget to give Brown Foundation for grant application addendum

Time line from point we deliver content to Mercer

In Hand

1. Carl E. Sanders
2. Judge Jerry Baxter
3. John Sognier
4. Judge Willis B. Hunt, Jr.
5. Charles D. Hunt, Jr.
6. Peter B. Glass
7. John A. Wallace
8. John L. Taylor, Jr.
9. Kirk M. McAlpin, Jr.
10. Thomas S. Gray, Jr.
11. C. Wilbur Warner, Jr.

Potentials

1. William L. Martin, III
2. David Botts
3. Gary Andrews
4. George T. Smith
5. John C. Mayoue
6. A. Felton Jenkins, Jr.
7. Richard A. Johnston
8. Robert P. Mallis
9. Robert A. Parker, Jr.
10. Kirk Quillin
11. John C. Sammons
12. Gary M. Sams
13. Fred B. Sheats
14. J. Madden Hatcher, Jr.
15. Joseph B. Haynes, Jr.
16. J. Ralph Beaird

Bill Martin - Thanks

From: "boyd"
To:
Date: 7/5/2007 6:08 PM
Subject: Thanks

Bill,

Just wanted to write to give you my updated contact information and thank you for recommending me for the Judicial. I know you are busy, and I really appreciate your recommendation. I'm sorry I could not join the club membership, but hopefully I will be able to do it next year once I have settled into my new law practice.

Take care,
Boyd

Boyd B. Newton, Esq.
Persons & Newton, LLC
5447 Roswell Road N.E.
Atlanta, Ga. 30342
Tel: (404) 592-2630
Direct Line: (404) 592-2632
Fax: (404) 264-1149

Court of Appeals of Georgia Technical Services

**E-File Update
07-17-07**



E-File Project Descriptions

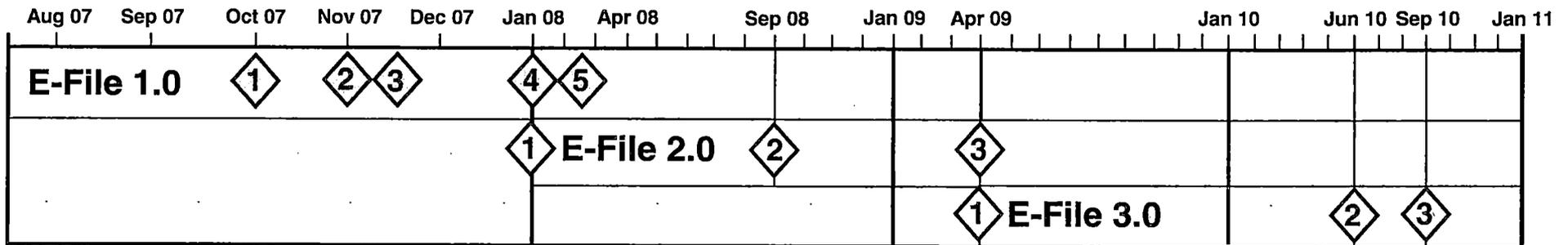
- ◇ **E-File 1.0:** E-File Direct Appeals and update Cobol Docket system

- ◇ **E-Filing 2.0 / Docket 1.0:** Joint Development with Supreme Court
Develop new Docket 1.0, add discretionary appeals for e-filing, redevelop e-filing 1.0 (directs) to work with new Docket. This development eliminates the old COBOL Docket system.

- ◇ **E-Filing 3.0 / Docket 2.0:** Judge e-Voting , Electronic Case Circulation and Case Origination from Counties



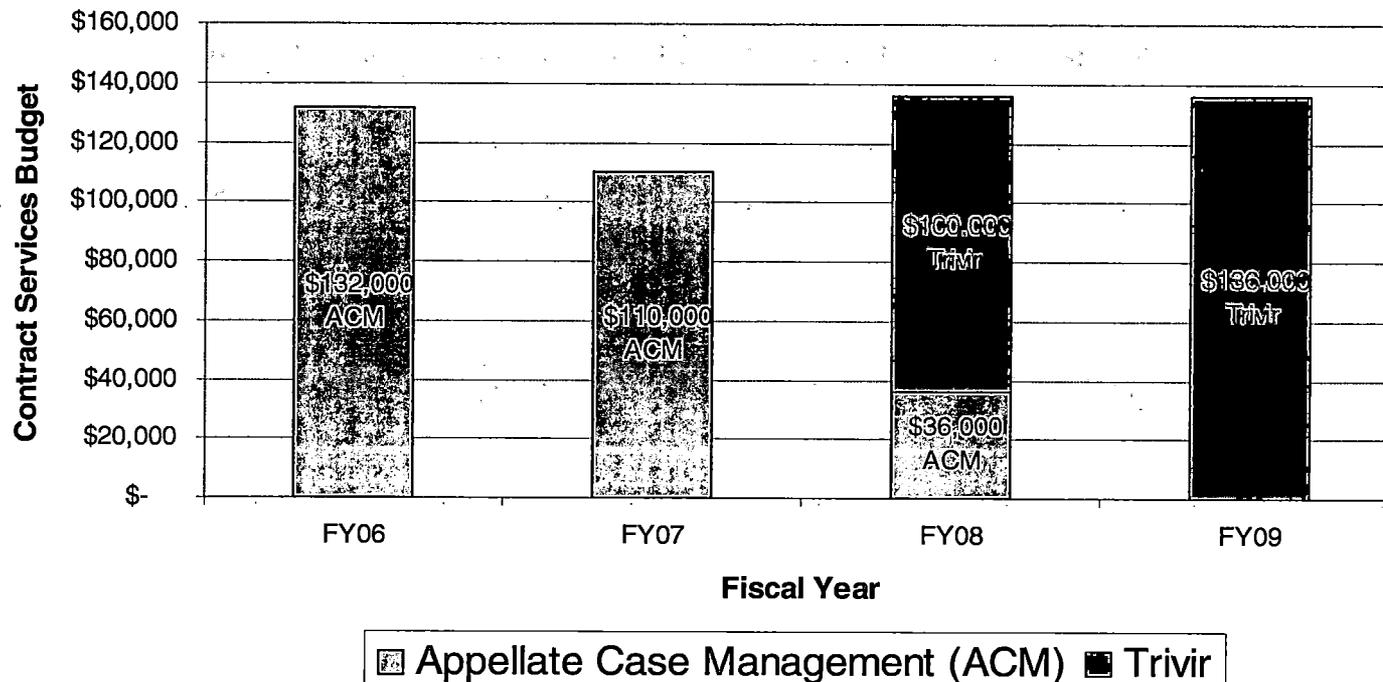
E-File Timeline



- 1 Development and Testing Complete - **October 2007**
- 2 Court Testing and Training - **November 2007- December 2007**
- 3 Finalize Court Policies, Procedures and Rules, Training for Attorney Registration to Local Bar Groups - **November 2007- December 2007**
- 4 Begin Attorney Registration - **January 2008**
- 5 Allow E-Filing - **January or April Term 2008**
- 1 Begin Work E-File 2.0 - **January 2008**
- 2 Begin Testing of New Docket 1.0 and e-Filing Process - **Fall 2008**
- 3 Convert to new Docket 1.0 and e-Filing Process 2.0 - **Spring 2009**
- 1 Begin Work E-File 3.0 - **Summer 2009**
- 2 Begin Testing - **Summer 2010**
- 3 Begin Accepting Trial Court Records - **Fall 2010**



Contractor Services in Continuation Budget

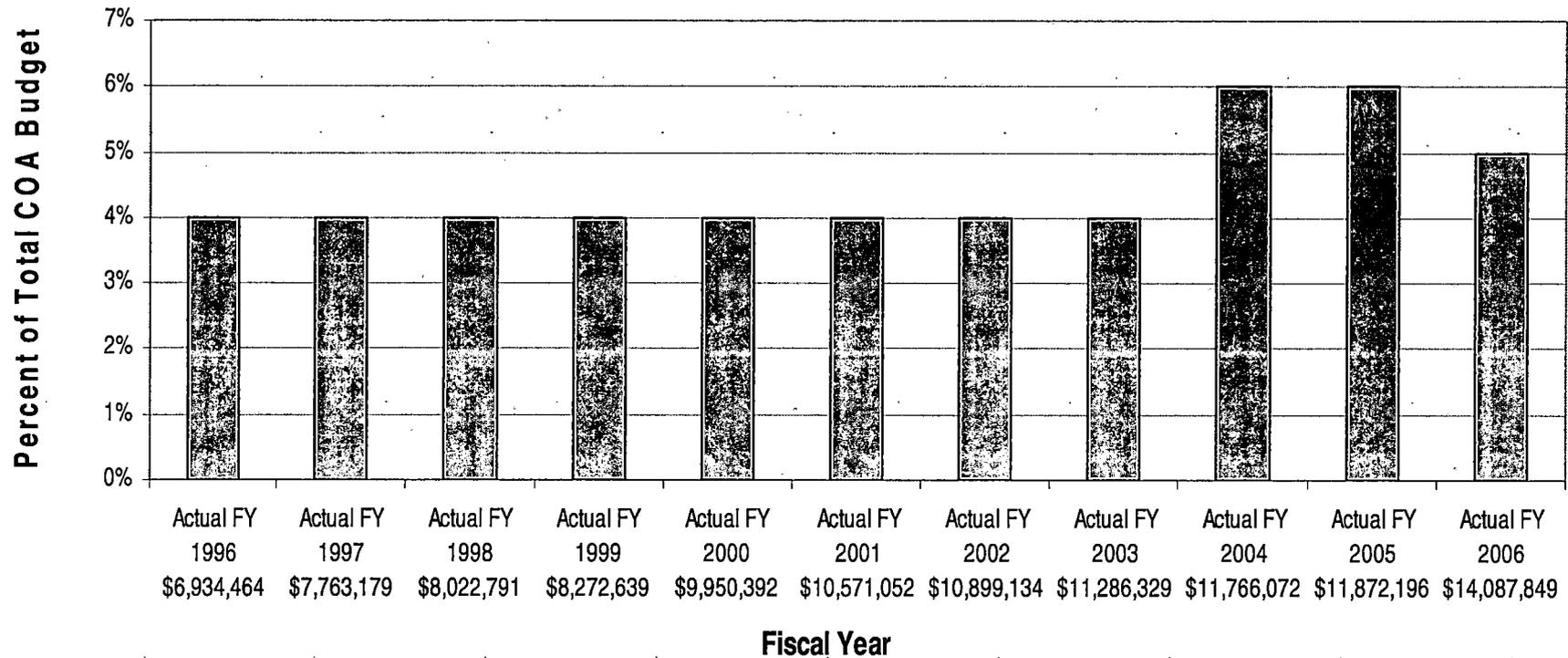


Use of Contractor Services in Continuation Budget

- **FY 97 to FY 06** - Appellate Case Management (ACM) 132K Historical
- **FY 07** - Appellate Case Management 110 K Full-time Until Feb. 07. Docket update Completed Oct. 06.
- **FY 08** - ACM 21K-36K , Trivir 100K Finish e-filing bridge program and support it, support calendar and panel changes.
- **FY 09 to FY 10** Trivir - Continue development and support e-filing 2.0-3.0, Docket
- **FY 11** - Trivir and Employee - Finish E-filing 3.0 - Train new Employee to support new systems



Technical Services Budget as a % of Total COA Budget



FY04 – Courtroom renovation and A/V project.

FY05 – Fund E-Filing 1.0

FY06 – Health Building Renovation



COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING

Tuesday, May 22, 2007

10:30 a.m.

Court Banc Room • 501 Trinity Avenue, S.W.

Atlanta, Georgia 30334

A G E N D A

- | | | |
|------|--|---|
| I. | Call Meeting to Order | Chief Judge Barnes |
| II. | Ascertain of Quorum | Chief Judge Barnes |
| II. | Approval of April 2007 Minutes | Chief Judge Barnes |
| III. | Budget Report | Jan Kelley, Fiscal Officer |
| IV. | Policies on Disqualifications/Recusals | Presiding Judge Johnson
Judge Phipps |
| V. | New Business | |
| VI. | Adjournment | |

COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING

Tuesday, May 22, 2007

10:30 a.m.

Court Banc Room • 501 Trinity Avenue, S.W.

Atlanta, Georgia 30334

A G E N D A

- | | | |
|-------|--|---|
| ✓ I. | Call Meeting to Order | Chief Judge Barnes |
| ✓ II. | Ascertain of Quorum | Chief Judge Barnes |
| ✓ II. | Approval of April 2007 Minutes | Chief Judge Barnes |
| III. | Budget Report | Jan Kelley, Fiscal Officer |
| IV. | Policies on Disqualifications/Recusals | Presiding Judge Johnson
Judge Phipps |
| V. | New Business | |
| VI. | Adjournment | |

COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING

Tuesday, July 17, 2007

10:30 a.m.

Court Banc Room • 47 Trinity Avenue, S.W.

Atlanta, Georgia 30334

A G E N D A

- | | | |
|-------|---|------------------------------|
| I. | Call Meeting to Order ✓ | Chief Judge Barnes |
| II. | Announcement of Quorum ✓ | Chief Judge Barnes |
| III. | Approval of May, 2007 Banc Meeting Minutes ✓ | Chief Judge Barnes |
| IV. | Report of Technical Services - E Filing Status Updating ✓ | Judge Phipps
John Ruggeri |
| V. | Budget Report ✓ | Jan Kelley |
| VI. | Washington Street Entrance - Security Concerns ✓ | Judge Ruffin |
| VII. | Sale of Briefs to LexisNexis - Thomson West ✓ | Bill Martin |
| VIII. | Rules Revision | Presiding Judge Smith |
| IX. | Old Business | |
| X. | New Business | |
| XI. | Other | |
| XII. | Adjournment | |

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, June 20, 2006

The June Banc Meeting of the Court of Appeals of Georgia was held in the Third Floor Conference Room at 10:30 a.m. on Tuesday, June 20, 2006. Those present were:

Chief Judge John H. Ruffin, Jr.
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge Anne Elizabeth Barnes
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge A. Harris Adams
Judge Debra H. Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Guests:

Ms. Jan Kelley, Court Fiscal Officer	(part of the meeting)
Ms. Holly Sparrow, Deputy Administrator	(part of the meeting)

Not Present:

Judge Charles B. Mikell, Jr.

I. CALL TO ORDER:

Chief Judge Ruffin called the meeting to order at 10:30 a.m.

II. MEETING ISSUES:

Chief Judge Ruffin announced a quorum was present and called for a motion to approve the Agenda. Presiding Judge Blackburn moved to approve the agenda. That motion was seconded by Presiding Judge Johnson and passed unanimously.

III. APPROVAL OF MINUTES:

Chief Judge Ruffin called for a motion to approve the Minutes of the April 19, 2006 Banc Meeting Minutes and the called Banc Meeting Minutes of May 23, 2006. Presiding Judge Johnson made a motion to approve the Minutes of the Banc Meeting Minutes, which motion was seconded by Judge Adams. The motion passed unanimously.

IV. **OLD BUSINESS:**

(1) ***COLA***

Chief Judge Ruffin called upon Jan Kelley, to update the members of the Banc on the status of a pay raise. Ms. Kelley stated the COLA would be between three and four percent. She said the Senate Budget Office is suggesting to all agencies that the COLA may only be three percent. She distributed charts showing the effect of three and four percent raises. She stated she would need to know before the budget was submitted what the pay raise would be for the Court's employees.

(2) ***Special Concerns for FY2007 Supplemental Budget Request and FY2008 Budget***

Ms. Kelley stated if the Court had any special budget needs she must know that prior to the submission of the budget. If the Court is interested in including a pay raise in its original budget or if the Court is planning to create any new salaried positions, she needs to know that fact. She said it is nearly impossible to amend the budget figures once they have been submitted to the Legislature.

Presiding Judge Smith stated he had seen where the Immediate Past Bar President Robert Ingram has established a Commission for Judicial Services and he had heard the Commission had recommended a twenty percent pay raise for appellate judges. Judge Phipps said he is on the commission and had been asked by the new State Bar President Jay Cook to continue to serve. He said he was unaware of any recommendation for a twenty percent pay increase.

Ms. Kelley asked if there were questions regarding the budget. Hearing none, Ms. Kelley left the Banc Meeting.

(3) ***Court's Strategic Plan***

Chief Judge Ruffin gave a brief report on the progress of the Court's Strategic Plan and handed out a report on the one - two year plan, a four year plan and the long term plan.

(4) ***Report on the Centennial Celebration***

Ms. Sparrow entered the Banc Meeting to report on the status of the Court's Centennial celebration. Ms. Sparrow stated the most recent off-site oral argument was held in Jackson County and other off-site oral arguments were scheduled for Morehouse College, Georgia Southern, Fort Valley and other venues in September. She also reported information on the Court's oratorical contest had been provided to all the public and private high schools in Georgia.

Ms. Sparrow said the committee was continuing to coordinate the Centennial dinner with the Aquarium officials and reported a memorandum had been sent to each judge regarding the invitation list. The Committee is also working on an invitation list.

Ms. Sparrow stated she and Ashley Stollar of the Administrative Office of the Courts had met with the Chief Judge to approve the event program and Ms. Stollar had been very instrumental in developing the artwork and graphics.

Ms. Sparrow said the Court's Centennial video was nearly complete. Chief Judge Ruffin said he hoped to have the judges view the video before the Committee or others see it. There were no questions of Ms. Sparrow and she left the meeting.

IV. NEW BUSINESS:

(1) *Centennial Robe Policy*

Chief Judge Ruffin recognized Presiding Judge Smith. Presiding Judge Smith said he had a question as to what the policy of the Court was regarding the use of the new robes. Chief Judge Ruffin said he had suggested the policy would be to wear the new robes this year with the honor cord and next year to wear the new robes only at appellate admission ceremonies and affairs of State. Chief Judge Ruffin said that was merely his suggestion and he was open to whatever policy the majority of the Court wished to adopt regarding the new robes.

Presiding Judge Smith made a motion to use the ceremonial robes with the honor cords for the Centennial year and beginning in 2007, to wear the ceremonial robes without the honor cords for various official functions such as Mass Swearing-In Ceremonies or attendance at the Capitol. Judge Ellington seconded the motion. Presiding Judge Andrews offered an amendment to the motion that the honor cords not be worn at all.

Chief Judge Ruffin called for a vote on the amendment to the motion. The amendment failed with those judges voting against the amendment being Chief Judge Ruffin, Judge Barnes, Judge Miller, Judge Ellington, Judge Phipps and Judge Bernes. Those voting for the amendment were Presiding Judge Andrews, Presiding Judge Johnson, Presiding Judge Blackburn, Presiding Judge Smith and Judge Adams.

Chief Judge Ruffin then called for a vote on the main motion which passed with all judges voting to wear the robes with honor cords for the Centennial year and then to wear the robes on special occasions in 2007 and thereafter without the honor cords. The motion passed with all judges voting in favor of the motion except Presiding Judge Andrews and Presiding Judge Johnson.

(2) *Judicial Disqualifications and Recusals*

Chief Judge Ruffin then recognized Judge Adams who asked the issue of judicial disqualifications and recusals be brought to the attention of the Banc. Judge Adams stated he

thought the Court should adopt the prior policy of preset disqualifications and the Court might want to look at the policy of assigning judges to vote and/or author on disqualifications. Presiding Judge Andrews suggested Central Staff could identify early on potential conflicts for the judges' offices with parties and/or attorneys. Judge Barnes stated as soon as the yellow sheets (Internal Docketing Notice) came in the judge's office she looked at them before assigning cases to her staff attorneys. Judge Barnes stated the Internal Docketing Notice named the parties and also the attorneys involved so the judge's office could identify early on potential conflicts.

After the matter was discussed further, Presiding Judge Blackburn suggested the clerk review and consider the situation and look for ways to improve it. Presiding Judge Blackburn said if a judge is disqualified or should be recused then that is the way it must be, however, he said it was unfair for one judge to get all of the assignments on recusals.

Chief Judge Ruffin asked the clerk to review the matter and look for ways to improve the system and report back to the Banc.

(3) *Adoption of Policies to Advertise for Vacancies*

Chief Judge Ruffin announced that Judge Mikell had suggested at an earlier Banc Meeting the Court adopt a policy to advertise vacancies on the Court. Such a policy has not yet been adopted and after a thorough discussion of the matter, Chief Judge Ruffin appointed a committee consisting of Judge Barnes, Judge Phipps and Judge Ellington to consider ways to advertise the vacancies on the Court.

(4) *IT Director's Position*

Presiding Judge Johnson made a motion to appoint John Ruggeri as the Head of Technical Services for the Court. The motion was seconded by Presiding Judge Andrews. There was a thorough discussion of the matter as it related to Mr. Ruggeri and whether the Court should look to Judge Mikell's suggestion of advertising for the position. The Court discussed the various aspects of the matter with some judges stressing the need for continuity in the Court's IT operations. All judges agreed the Court needed to adopt a policy of advertising for open positions, but differed as to whether this was a time to institute such a policy with the critical needs of the Court's technical services in the balance.

Chief Judge Ruffin called the question and the motion was passed with all judges voting in favor with the exception of Chief Judge Ruffin and Judge Phipps voting against.

Presiding Judge Johnson then turned to the issue of salary regarding Mr. Ruggeri as the Head of Technical Services. Presiding Judge Johnson showed a list of comparable salaries to other IT Heads in State Government. After a brief discussion of the matter, Presiding Judge Johnson made a motion the salary be set at \$101,176.80. The motion was seconded by Presiding Judge Smith and passed unanimously.

(5) *Georgia Courts Automation Committee Commission*

Chief Judge Ruffin reported Judge Mikell had resigned as a member of the Georgia Courts Automation Committee Commission and he has appointed Judge Bernes to serve in that position in his stead. Chief Judge Ruffin also stated Judge Mikell suggested it may improve the morale of staff attorneys for the Court to have a seminar they can all attend. There was some discussion as to whether a staff attorney from each judge's office should be authorized to attend the annual State Bar Meeting.

V. ADJOURNMENT:

There being no further business and upon hearing a motion to adjourn, Chief Judge Ruffin adjourned the meeting at 11:30 a.m.

After adjournment, the Banc went into Executive Session.

Respectfully submitted,


WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2006.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, September 19, 2006

The September Banc Meeting of the Court of Appeals of Georgia was held in the Third Floor Conference Room at 10:30 a.m. on Tuesday, September 19, 2006. Those present were:

Chief Judge John H. Ruffin, Jr.
Presiding Judge Edward H. Johnson
Presiding Judge J.D. Smith
Judge Anne Elizabeth Barnes
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell, Jr.
Judge Debra H. Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Guests:

Ms. Jan Kelley, Court Fiscal Officer	(part of the meeting)
Mr. John Ruggeri, Technical Services Director	(part of the meeting)
Ms. Holly Sparrow, Deputy Administrator	(part of the meeting)

Not Present:

Presiding Judge Gary B. Andrews
Presiding Judge G. Alan Blackburn
Judge M. Yvette Miller
Judge A. Harris Adams

I. **CALL TO ORDER:**

Chief Judge Ruffin called the meeting to order at 10:35 a.m.

II. **MEETING ISSUES:**

Chief Judge Ruffin determined a quorum was present. Chief Judge Ruffin asked for motion to adopt the Agenda but stated the Chair would not follow the Agenda's order but would follow the Agenda as outlined. Judge Barnes made a motion to adopt the Agenda which was seconded by Presiding Judge Johnson and passed unanimously.

III. OLD BUSINESS:

(1) *E-Filing*

Chief Judge Ruffin called upon John Ruggeri for a report on the Court's e-filing project. Mr. Ruggeri stated Technical Services was working to convert the present docket system to be compatible to receiving e-filings. He said this conversion was not going as quickly as he hoped. Mr. Ruggeri reported Technical Services has done an e-filing demo test and hopes to complete the docket system to conversion by the end of the month.

Mr. Ruggeri stated all but four judge's offices have had a walk through of Technical Services current space. He hopes to complete the tours in October.

Mr. Ruggeri said Technical Services had participated in a walk through of the new Court space in the Health Building and a few small code violations were noted. Technical Services will follow up to make sure those are corrected. Finally, Mr. Ruggeri said he would like to permission of the court to receive the email address of the state's judges and clerks so the opinions and remittiturs could issue from the clerk's office electronically once e-filing is in place. Chief Judge Ruffin said the Court was in agreement and for Mr. Ruggeri to go forward in that regard. Mr. Ruggeri left the meeting at 10:45 a.m.

(2) *Budget*

Chief Judge Ruffin called upon Jan Kelley, the Court's Fiscal Officer, for a report on the budget. Ms. Kelley handed out reports on the 2006, 2007, 2008 budgets. Ms. Kelley said the initial meeting with the Senate Budget Committee had not been that favorable. She said the Senate had questioned the salaries of the administrative assistants and the addition of two positions, a floating staff attorney and a floating administrative assistant. Also, Ms. Kelley said she was going to have to fight to have the \$506,000 COLA put back in the Court's budget. Judge Mikell suggested it may be helpful in the future to have one or more judges present at budget hearings.

Ms. Kelley presented to the Banc a salary schedule which was adopted by the Supreme Court which added an additional step increase for that Court's administrative assistants. After a thorough discussion of the matter, Judge Mikell made a motion to adopt the Supreme Court's pay schedule for administrative assistants effective January 1, 2007, on the condition it not adversely effect any present Court employee. Judge Barnes seconded the motion. After a thorough discussion, all judges present voted in favor of the motion except Judge Ellington who voted against the motion and Presiding Judge Smith and Judge Bernes who abstained. Chief Judge Ruffin directed the Minutes reflect the motion carried.

Chief Judge Ruffin mentioned to the Banc that Brett Muller had been working for the Court for nearly one year and would be eligible for a first year anniversary raise on October 15th. Presiding Judge Johnson suggested the Court determine what raise had been customary for those persons and to circulate the raise for vote by memo.

Ms. Kelley reported the Georgia Building Authority and Holder Construction Company are on schedule for the clerk's office move to the fifth floor of the Health Building the week of October 16 thru 22nd. The present clerk's office space should be cleared out by October 23 so the construction on the new judge's suites on the third floor of the Judicial Building can begin. Ms. Kelley handed out a blue print of the space in the fifth floor of the Health Building to be occupied by Clerk's Office, Central Staff, Technical Services and the Fiscal Office. Ms. Kelley left the meeting at 11:15 a.m.

(3) *Court Seal*

Chief Judge Ruffin called upon Presiding Judge Johnson for a discussion of the Court seal. Presiding Judge Johnson said the Court had adopted the Centennial seal last year and had made a decision to change the current seal. It had been discussed at the Banc Meeting to use for the new seal the Centennial seal, with the 1906 date. Presiding Judge Johnson made a motion to adopt the new seal which was seconded by Judge Barnes. Judge Mikell said he liked the original seal; it was unique and that he was a traditionalist. He liked the fact that it was different and unique. Presiding Judge Smith stated he thought the current seal was a little too busy and it was hard to see what was in the seal and it did not really reflect the business of the Court.

The question was called and all judges present voted in favor of adopting the new seal except Judge Mikell who voted against the motion.

(4) *Legislative Contacts*

Presiding Judge Johnson stated he had spoken with the Senate Majority Leader while the Second Division was conducting oral arguments in Jesup last week. At a dinner on Wednesday night, Senator Tommy Williams, Senate Majority Leader, said he wanted to help the Court of Appeals and he recognized and appreciated the hard work of the Court. Presiding Judge Johnson said Senator Williams invited the Court to come to the Senate Leadership Conference. Presiding Judge Johnson said that bodes well for the Court.

Judge Bernes said she and Judge Barnes had spoken with Senator Jeff Mullis when their Division was holding oral arguments in Chickamauga, Georgia at the first of the month. Judge Bernes told Senator Mullis, who was on the Senate Judiciary Committee, some superior court judges of the state earn more than a judge on the Court of Appeals, Senator Mullis commented that was not right. Senator Mullis invited the judges of the Court of Appeals of Georgia to come over to the Senate more often.

(5) *Judicial Disqualifications/Recusals*

Since this was an Agenda item brought up by Judge Adams, Chief Judge Ruffin tabled the matter for a future Banc Meeting when Judge Adams could be present.

(6) *Proposed Policy to Advertise Employee Vacancies on the Court*

Judge Barnes stated she and Judge Phipps had met about the Court adopting the policy to advertise all vacant positions except those for a judge's chambers. She said Judge Ellington had concurred in their findings and hoped the Court would adopt the policy to advertise all positions except in a judge's chambers. Judge Mikell asked what was meant by "advertising". Presiding Judge Johnson made a motion to adopt the policy to advertise all vacant positions in the Court except those in a judge's office. The motion was seconded by Presiding Judge Smith and passed unanimously. Chief Judge Ruffin said the matter would go back to committee for determining the criteria of advertising positions.

(7) *Status of Centennial Celebration*

Chief Judge Ruffin called upon Holly Sparrow to give an update on the status of the Court's Centennial Dinner. Ms. Sparrow said approximately 800 invitations had gone out. Justice Served, Inc. had sent out approximately 500 and the rest were from the Court, the Court's guests and employees. Ms. Sparrow asked the judges to tell her if they would like their guests tickets delivered by hand to the judge or mailed to the recipient.

There was some discussion about the arrangement of the room. Ms. Sparrow said at present the Court did not know what the final room arrangement would be but there would be ten people to a table. Ms. Sparrow said she would get a layout to the judges as soon as she receives it.

IV. NEW BUSINESS:

(1) *Non-published Opinions*

Judge Barnes brought to the Court's attention the fact that some cases which are physical precedent only are not being cited as physical precedent only. She suggested the Court adopt the practice of putting physical precedent only as a header for its published opinions as it is done by the Eleventh Circuit.

Chief Judge Ruffin said the matter would be voted on by email. Judge Barnes suggested there needs to be a change in the IOM to reflect this.

V. ADJOURNMENT:

a.m. There being no further business, Chief Judge Ruffin adjourned the meeting at 11:50

Respectfully submitted,


WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2006.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, February 20, 2007 10:30 a.m.

The February Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, February 20, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. William L. Martin, III, Clerk/Court Administrator

Absent:

Presiding Judge G. Alan Blackburn

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. John Ruggeri, Technical Services Director (part of the meeting)

I. **CALL TO ORDER:**

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. **APPROVAL OF NOVEMBER 2006 MINUTES:**

Chief Judge Barnes called for approval of the November 2006 Minutes. Presiding Judge Johnson made a motion to approve the Minutes which was seconded by Judge Adams. The Minutes were approved unanimously.

III. **OLD BUSINESS:**

A. **Fiscal Office Report**

1. *FY2007 Supplemental Budget*

Chief Judge Barnes called upon Judge Mikell and Jan Kelley, Fiscal Officer, for a report on the FY2007 Supplemental Budget and the FY2008 Budget. Judge Mikell stated the supplemental budget needed more money to offset the four percent cost of living allowance the Court had given to its employees and the increase in health care costs. He said the House and Senate had concerns that the Judicial Branch had collaborated to agree on a four percent cost of living rather than a three percent recommended by the Senate, notwithstanding the bill passed authorizing a four percent COLA. Judge Mikell told both the House and Senate the four percent was the action of the Court of Appeals en Banc and was not taken in conjunction with any other agency.

2. *FY2008 Budget*

Judge Mikell said the Court was asking for an additional administrative assistant and an additional staff attorney in the 2008 Budget. Ms. Kelley said she received notice there was going to be an increase in health insurance which would necessitate an additional \$450,000 increase in the Court of Appeals' budget. Judge Mikell suggested if any judge had a friend or an ally in the Senate, that judge may wish to contact the Senator on behalf of the Court and its budget.

3. *Judges' Elevator*

Jan Kelley reported the Georgia Building Authority (GBA) was aware that two judges had recently been trapped in the judges' elevator. GBA is taking steps to address that situation. GBA has contacted Otis Elevator Company which has the contract to service elevators and Otis is getting a newer version of the software which controls the elevator. It is hoped that this will correct the problems with the elevator.

Chief Judge Barnes stated she wanted to get the address of Otis Elevator so that Otis could be notified by the Court, in writing, as to the problems and deficiencies with the elevator so as to put Otis on notice for any injury or harm to any person using the elevator.

B. **Technical Services Update**

Chief Judge Barnes called upon John Ruggeri, Head of Technical Services, for his report. Mr. Ruggeri stated the concern the Court had about a case has been dropped from the Court's docket had been rectified. Mr. Ruggeri said there were several checks and balances in the

system which did in fact bring the error to the Court's attention. The problem was corrected within a day. Mr. Ruggeri said, however, the system is being adjusted so no case could be deleted from the docket system in the future.

1. *E-Filing Update*

Mr. Ruggeri stated the Court is continuing to advance with its e-filing project. Chief Judge Barnes thanked Mr. Ruggeri and Ms. Kelley for their reports; they then left the Banc Meeting.

C. Central Staff Attorneys Update

1. *New Hire*

Judge Mikell reported Ms. Diana Suber was hired as the new Central Staff attorney to fill the position vacated when Chuck Williams retired. Judge Mikell stated the judges had voted via memorandum for this personnel action. Judge Mikell reported Ms Suber is a member of the Atlanta Personnel Board and stated it is possible the Court may get an appeal from the Atlanta Personnel Board and Ms. Suber had offered to resign that position if the Court felt it were a conflict. Thereafter, there was a general discussion regarding the matter. Judge Bernes said she had an employee in a similar situation and that employee had resigned. Presiding Judge Smith stated it was not so much this individual but the Court may be setting a precedent which might cause a problem in the future. Judge Ruffin said he agreed entirely with Presiding Judge Smith.

Judge Phipps stated his concerns as well and Judge Mikell said he would communicate to Ms. Suber she should resign the position with the Atlanta Personnel Board.

2. *Katherine Durant*

Judge Mikell reported Katherine Durant was home from the hospital. He stated she had an operation to remove a benign tumor on her lung and was expected to be out for approximately three weeks.

Judge Phipps asked if the new staff attorney would be telecommuting. Judge Mikell stated that once she had demonstrated a thorough knowledge of her job she would be given the same opportunity to telecommunicate as the other staff attorneys. There was a short discussion about telecommuting. Judge Mikell said any judge on this Court could reach any Central Staff attorney who was telecommuting by telephone. If that staff attorney did not return the judge's call within ten minutes, to please advise Judge Mikell of that fact. Judge Mikell said all the staff attorneys know that as a condition of telecommuting they must be able to respond to any telephone inquiries and if they are not able to do that he could suspend or terminate their right to telecommute or the Court could terminate employment.

Judge Ruffin stated he had asked for a report from Chuck Williams about telecommuting but had never received it.

IV. New Business:

A. Legislation

1. House Bill 119 - Judicial Pay Raise

Chief Judge Barnes called upon Mr. Martin for a report on pending legislation. Mr. Martin said House Bill 119, a Judicial Pay Raise, had passed the House as a committee substitute authorizing a pay raise to \$169,500 for Court of Appeals Judges and \$170,500 for Supreme Court Justices.

2. House Bill 120 - Travel Reimbursement for Judges

Mr. Martin also reported that House Bill 120, a Travel Reimbursement for Judges also passed the House. This would reimburse judges who live more than 50 miles from the Court one round trip per week, much like the Legislators now receive.

3. House Bill 309 - Retirement for Judges at Age 60/10 Years Service

Mr. Martin stated House Bill 309, a retirement for appellate court judges at age 60 with ten years service had been introduced by Representative Barry Fleming.

4. Senate Bill 112- Retirement for Judges at Age 60/12 Years Service or Age 65/10 Years Service

Senate Bill 112 provided for retirement at age 60 with twelve years service or age 65 with ten years service had been introduced by Senator Seth Hart. Since these are retirement bills, they cannot pass until the next session after a favorable report from the actuarial study.

5. House Bill 369 - Direct Appeal of Domestic Relation Cases

House Bill 369 would provide for direct appeals of domestic relation cases. Mr. Martin said this is a 25-page bill that covers many subjects. He stated Holly Sparrow was attending a Sub-Committee Meeting on the bill while the Banc Meeting was in progress. Chief Judge Barnes asked Mr. Martin to relate to the judges the visit she and he had from Judge Jim Morris regarding the expedition of termination cases. Mr. Martin said he had suggested to Judge Morris to expedite termination of parental right cases they could be appealed directly to the Supreme Court which had a lesser case load than the Court of Appeals, could address all cases en Banc and the Supreme Court's decisions would be final. Chief Judge Barnes also suggested since the vast majority of those cases are being affirmed, termination cases could be filed by application to the Supreme Court which means most of the cases would be final within 60 days.

6. *House Bill 115 - Permission to Take the Bar Exam*

Judge Ruffin called to the Court's attention House Bill 115 which is an attempt by the Legislature to infringe upon the power of the Supreme Court to regulate the practice of law in Georgia. He said the Supreme Court was concerned about the infringement of the Legislative Branch on a judicial function. Thereafter, there was a brief discussion regarding the pending bill.

B. Exception Report

Chief Judge Barnes called upon Mr. Martin to discuss the Exception Report. Mr. Martin said that was a report that was previously done by Mary Jo Stephens which resulted in memoranda going to the judges' offices regarding appeals in which briefs were late. The process had been dropped from the conversion docket but Mr. Martin said Mr. Ruggeri assured him it could be put back in. Mr. Martin said once the ability to run that report is reinstated in the conversion docket system the reports will begin to issue again.

C. Central Staff - Jurisdictional Reviews

Judge Mikell reported Central Staff reviewed each and every case that came into the Court, direct appeals and applications. The Jurisdictional Review sheets for the direct appeals are put in the file folders but no longer were sent to the judge's office, in an attempt to save time and paper. Judge Mikell stated any judge who wished to see the Jurisdictional Review sheet could find it in the file folder in the file room in the clerk's office. Also, any case in which Central Staff determines that dismissal or transfer is appropriate would have an order or memorandum to that effect going to the judge's office shortly after docketing.

After a general discussion it was decided no change to this procedure would be made and Central Staff would continue to act as it has.

D. Other

Chief Judge Barnes called upon Mr. Martin to discuss the matter of raising the ceiling for flower fund gifts. Mr. Martin stated it has become difficult to purchase a respectable cut flower arrangement in the Atlanta area for less than \$100.00. After a short discussion, Judge Barnes made a motion to raise the limit to \$100.00. The motion was seconded by Judge Ellington and passed unanimously.

Chief Judge Barnes again thanked Judge Ruffin for his services as Chief Judge. Judge Ruffin thanked the judges for the beautiful gift he had received.

V. **ADJOURNMENT:**

There being no further business, Judge Phipps made a motion to adjourn, which was seconded by Judge Ellington, and passed unanimously. The meeting was adjourned at 11:30 a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the ____ day of
_____, 2007.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, April 17, 2007, 10:30 a.m.

The April Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, Atlanta, Georgia at 10:30 a.m. on Tuesday, April 17, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes
Mr. John Ruggeri, Technical Services
Ms. Jan Kelley, Fiscal Officer
Mr. William L. Martin III, Clerk/Court Administrator

I. *Call to Order.*

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. *Approval of February 2007 Minutes.*

Chief Judge Barnes called for approval of the February 2007 banc meeting minutes. Judge Miller made a motion to approve the minutes which was seconded by Presiding Judge Smith. The minutes were approved unanimously.

III. *Report of Technical Services.*

Chief Judge Barnes called upon Mr. Ruggeri for a report from Technical Services. Mr. Ruggeri reported on the docket failure which occurred last month. Mr. Ruggeri stated the backup batteries were not sufficient to cover the additions to the Court's computers that have occurred over the years. Mr. Ruggeri said the batteries would be upgraded to prevent a reoccurrence of the failure to backup the system.

Mr. Ruggeri stated the first e-filing meeting had taken place with the Third Division. Mr. Ruggeri reported that he thought it was very productive.

Mr. Ruggeri said if any person had any questions about the move to e-filing or any other questions about the Court's computerized docket system to call him and he would be happy to meet with them individually.

Judge Phipps inquired if the batteries backing up the system could go bad. Mr. Ruggeri reported that is possible and the life of the batteries is three to five years. However, the failure to back up was occasioned by the fact the battery configuration was not powerful enough and therefore the system simply shutdown.

Mr. Ruggeri said while the Court was closed on Monday, April 23, he would be updating the Court's email system.

IV. *Budget Report.*

Chief Judge Barnes called upon Jan Kelley for a budget report. Ms. Kelley first reported on the FY 2007 supplemental budget. She stated the Court did not get all of the 4% COLA which the Court awarded to most of the employees. One percent of the COLA was not included in the supplemental budget. Additionally, the Court's budget did not receive reimbursement for rental increases and renovation expenses. Finally, the two unfilled positions which were filled in this budget year were not funded in the supplemental budget.

Thereafter, there was general discussion of the 2007 Budget and the Court's inability to pay interns that had already been extended job offers. Ms. Kelley said a judge's travel fund could be utilized to pay for interns. Judge Miller inquired if the money that was to be spent on batteries for backing up the system could be used to pay interns. Ms. Kelley responded if that was the will of the Court it could be done.

Mr. Ruggeri stated the Supreme Court or another agency, such as Bar Admissions, could pick up the costs of buying the batteries. Judge Miller made a motion that the Court permit the Supreme Court or some other agency to pay for the batteries to backup the Court's docket system and for the Court to use the money to fund the summer interns or otherwise as the Court would deem appropriate. Judge Adams seconded the motion. After a general discussion of the matter, the motion passed unanimously.

Ms. Kelley then turned to the FY 2008 budget. The House had taken out the 3% COLA for all judicial branch agencies. She reported the Senate added the 3% COLA back to the judiciary and had added funds for the healthcare increase. At the same time, the Senate had taken out funds for renovated space which were redirected funds. Ms. Kelley reported the FY 2008 budget was still short by approximately \$333,000. Ms. Kelley stated while the Court had always been austere in the budget it presented, she said it may be necessary to enhance the budget to give it more flexibility in dealing with cuts imposed by the Legislature. Thereafter, there was a general discussion about the impacts of the cuts of the FY 2008 budget and the course of action which should be taken by the Court. Presiding Judge Johnson warned the judges not to count on anything in the budget until the budget was final which meant passage and signature by the Governor. Presiding Judge Johnson reminded the judges the Governor had the power to invoke a line item veto.

Judge Phipps suggested the judges reconvene a banc meeting after the session when the budget was final.

Judge Mikell asked what money could be saved or realized if the Court were to defer the e-filing projects for one year. Mr. Ruggeri reported that the contractors were paid from FY2005 money so that money was dedicated for that purpose and if not expended would lapse to the State Treasury. Upon further questioning, Mr. Ruggeri admitted there was \$130,000 in the Technical Services Budget which has been set aside for per diem payments in lieu of filling his fourth authorized position, at this time. This is money set aside to pay Bud Tirey for services he would provide in the conversion process of the existing docket to the e-filing compatible docket.

Judge Bernes asked if the budget was final or if there was action the judges might take individually to affect the final version of the budget. Ms. Kelley and Chief Judge Barnes stated today was probably the last day and that the Green Door Committee comprised of Senators Jack Hill, Eric Johnson and Tommie Williams and House Members Jerry Keen, Mark Burkhalter and Ben Harbin would be the ones to make the final decision on the budget. After more discussion, it was decided that the judges would have a tentative banc meeting for May 15 or 22 to resolve the budget issues after the budget was final and signed by the Governor.

Ms. Kelley and Mr. Ruggeri left the meeting at 11:05 a.m.

V. *New Business.*

Judge Phipps asked Mr. Martin if the IOM could be placed on the S:/ drive in a read only fashion so Court personnel would have access to it. Mr. Martin stated it could be done and, in fact, he and Ms. Sparrow had previously spoken to Mr. Ruggeri about it. Mr. Martin said he felt it was a good idea and it would enable all court personnel to have access to the most recent version of the IOM and it would save time and money in recopying the IOM after changes.

Judge Phipps made a motion to put the IOM on the S:/ drive in a read only fashion. The motion was passed by acclamation.

Judge Ruffin inquired of Mr. Martin as to the status of the new Court seal. Mr. Martin said the seal was on the Court stationary but he did not know about the brown plaster seals which hang on the walls of the judges' offices, banc room and public area. Mr. Martin said he would check with the fiscal office on the matter and advise the Court.

Presiding Judge Blackburn as Chair of the Legislative Committee passed out two bills to the judges which might be of interest: Senate Bill 326 and Senate Bill 330.

VI. *Adjournment.*

There being no further business, Judge Miller made a motion to adjourn which was seconded by Judge Ruffin. Chief Judge Barnes adjourned the meeting at 11:30 a.m.

Respectfully submitted,



WILLIAM L. MARTIN III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
en Banc on the ___ day of
April, 2007.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, May 22, 2007 10:30 a.m.

The May Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, S.W., Atlanta, Georgia at 10:30 a.m. on Tuesday, May 22, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes

Guests:

Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. William L. Martin, III, Clerk/Court Administrator

I. CALL TO ORDER:

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. APPROVAL OF APRIL 2007 MINUTES:

Chief Judge Barnes called for approval of the April 2007 Banc Meeting Minutes. Presiding Judge Johnson made a motion to approve the Minutes as presented, which motion was seconded by Judge Phipps. The motion carried unanimously and the Minutes were approved.

III. BUDGET REPORT:

Chief Judge Barnes called upon Jan Kelley, Fiscal Officer, for a budget report. Ms. Kelley presented the status of the 2007 fiscal budget which ends on June 30. There was a general discussion regarding the budget. Ms. Kelley stated the Court had sufficient funds to finish our the 2007 budget year and to pay the interns through June 30.

Ms. Kelley presented in her budget materials some proposed expenditures for the available funds in the 2007 budget which were made possible by cost cutting measures and utilizing some of Technical Services' budget. Judge Phipps stated he felt the Court should purchase the batteries necessary to backup the Court's computerized docketing system. After a general discussion of the matter, Presiding Judge Andrews made a motion that the Court spend any funds remaining in the budget on, in order of priority, so long as funds are available: (1) needed equipment for Technical Services (batteries for the backup system); (2) \$15,000 budgeted for window treatments for the three judges' suites on the third floor; (3) reimbursement of travel funds for judges that exceeded their travel pursuant to the Court's policy set out in the IOM and (4) membership in the council of Chief Judges of the State's Courts of Appeal. The motion was seconded by Judge Mikell and passed with all the judges voting in favor.

Ms. Kelley presented the budget for Fiscal Year 2008 and suggested some strategies regarding the operation of Court depending upon the various levels of funding through the supplemental budget process. There was a general discussion about the budgetary shortfall and the impact it would have on the Court and how best for the Court to deal with that impact. Ms. Kelley said there were no funds for interns beginning in Fiscal Year 2008 (July 1, 2008). Presiding Judge Blackburn asked if a judge could use his/her travel funds to pay interns and Ms. Kelley responded in the affirmative.

Chief Judge Barnes asked if there were any other specific questions of Ms. Kelley about the budget. There being none, Chief Judge Barnes excused Ms. Kelley from the Banc Meeting at 11:15 a.m.

There was further discussion on the budget as how best for the Court to deal with the Legislature. There were discussions as to whether the Court should carry on its business as usual and deal with any shortfall at the end of the Fiscal Year if that comes about, or if the Court should try to reduce its expenditures during the year. There was a concern that if the Court continues to cutback in its operational budget the Legislature would continue to cut that budget.

Presiding Judge Blackburn said it may be a better approach to have the chief judge's service run on the fiscal year rather than the calendar year. Also, he suggested the chief judge's term should coincide with the chief justice's term. He felt this would give the chief judge a better understanding of the budget and the budget process. Judge Ruffin concurred in this view.

Judge Ruffin made a motion to have a Budget Committee as a standing committee of the Court with the judge next in line to be chief judge as a member of that committee. Presiding Judge Johnson seconded the motion and the motion passed with all judges voting in favor except Presiding Judge Blackburn who abstained. Chief Judge Barnes then appointed a Budget Committee to consist of: Judge Mikell as Chair; Presiding Judge Blackburn, Presiding Judge Smith; Judge Miller as judge next in line to be Chief, and Judge Bernes.

Thereafter, the Court decided it would take no vote on the 2008 Budget and the plans of operation at this time, but the Court would study the materials available and other budget information and readdress the issue at a subsequent Banc Meeting.

IV. POLICIES ON DISQUALIFICATIONS/RECUSALS:

Chief Judge Barnes called upon Presiding Judge Johnson to address the issue of Policies on Disqualifications and Recusals. Presiding Judge Johnson said the issue of recusals has been a topic of discussion for the past two years or so. Presiding Judge Johnson stated he had circulated to all of the members of the Banc a memorandum from Judge Phipps and him setting out the current protocol used for assigning a case when a judge has recused and the proposed protocol to make the workload of persons receiving assigned cases more equitable.

After a brief discussion, Judge Bernes made a motion to adopt the protocol as set out in the memorandum of Presiding Judge Johnson and Judge Phipps (a copy of which is attached). The motion was seconded by Judge Mikell. After a brief discussion the Chair called the question and the motion passed unanimously.

Presiding Judge Johnson said there is a second issue dealing with the development of the guidelines to use as a reference in dealing with disqualifications/recusals. Chief Judge Barnes appointed a committee consisting of: Presiding Judge Johnson, Presiding Judge Blackburn, Judge Ruffin and Judge Phipps to develop a protocol to serve as guidelines to help judges deal with the issues of recusal and disqualification.

V. NEW BUSINESS:

No new business was brought before the Banc.

VI. **ADJOURNMENT:**

Judge Ellington made a motion to adjourn, which was seconded by Judge Miller, and passed unanimously. Chief Judge Barnes adjourned the meeting at 11:45 a.m.

Respectfully submitted,



WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, July 17, 2007 10:30 a.m.

The Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, S.W., Atlanta, Georgia at 10:30 a.m. on Tuesday, July 17, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Gary B. Andrews
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes

Not Present:

Judge Herbert E. Phipps

Guests:

Mr. John Ruggeri, Technical Services (part of the meeting)
Ms. Jan Kelley, Court Fiscal Officer (part of the meeting)
Mr. William L. Martin, III, Clerk/Court Administrator

I. CALL TO ORDER:

Chief Judge Barnes called the meeting to order at 10:35 a.m. Chief Judge Barnes announced a quorum was present.

II. APPROVAL OF MAY 2007 MINUTES:

Chief Judge Barnes called for approval of the May 2007 Banc Meeting Minutes. Presiding Judge Johnson made a motion to approve the Minutes as presented. The motion was seconded by Judge Adams and passed unanimously and the Minutes were approved.

III. REPORT OF TECHNICAL SERVICES - E FILING STATUS UPDATE:

Mr. John Ruggeri handed out to the Court a presentation of a slide show he presented to the Court updating the judges on the e-filing project. Mr. Ruggeri stated there were three phases to the e-filing project: E-Filing 1.0 which entails e-filing direct appeals and updating the Cobol Docket System; E-Filing 2.0/Docket 1.0: a joint development with the Supreme Court to develop a new docket and to add applications for e-filing and to eliminate the old Cobol Docket System; and E-Filing 3.0/Docket 2.0: judge e-voting, electronic case circulation and case origination from the trial courts.

Mr. Ruggeri then presented a Timeline for development and testing, Court testing and training; finalizing the Court policies, procedures, rules and training for attorneys; attorney registration and beginning e-filing. Mr. Ruggeri also touched on other deadline dates in his handout.

Due to time constraints, Chief Judge Barnes asked if Mr. Ruggeri would present the balance of the report at the next Banc Meeting.

IV. BUDGET REPORT:

Chief Judge Barnes called upon Jan Kelley for a budget status update. Ms. Kelley stated to add to the 2008 Supplemental Budget, the Court would have to demonstrate an emergency. She said this is a substantive change from prior years when the supplemental budget could be used to recapture funds for any reason. Ms. Kelley stated the Court is still short on its appropriation for FY08.

Ms. Kelley said the Governor has directed a change in the State budgeting process. It is more result oriented and consumer focused. The State will adopt a program budgeting process to incorporate strategic planning and performance measures. The budget request should be supported by performance measures and indicate how well customers are served and whether the program achieved its intended outcome.

There are two major components of the FY09 planning requirements: a four-year strategic plan and annual business plan with associated performance measurements.

Ms. Kelley reported the 2009 Budget Guidelines ask agencies to identify a minimum of two percent of their State general funds for reduction and limit requests for enhancement items to two percent.

Ms. Kelley stated while the Judicial Branch Agencies do not have to follow the Governor's Budget mandate, the Court of Appeals will be requested to justify any exceptions.

Justifiable exceptions for enhancements are as follows: increased access to services; increased cost or price of goods; eligibility for services change; frequency of use change; increase in clients; Legislative mandate; scope of service change and administrative change.

Ms. Kelley indicated the Court had identified areas for budget enhancement to include a Court Security Officer/Courtroom Bailiff; Public Information Officer; a Judicial Receptionist for the fourth floor to act as a buffer between the public and the judges' offices and updates and enhancements for Technical Services to carry on and complete the Court's e-filing project.

After Ms. Kelley's report, she and Mr. Ruggeri left the meeting at 10:50 a.m.

V. WASHINGTON STREET ENTRANCE - SECURITY CONCERNS:

Chief Judge Barnes called upon Judge Ruffin to discuss problems with security at the Washington Street entrance of the parking garage. Judge Ruffin said he had suggested inviting the head of GBA Security to discuss the procedures for the security for the Washington Street entrance guard and to express the concerns the Court had regarding the treatment of Court personnel by the security officers. Judge Ruffin said he felt a sense of frustration in dealing with these persons and emphasized the judges should not be subjected to the problems caused by the security personnel and their mistreatment of the judges.

Chief Judge Barnes said she has the telephone numbers of Captain Les Robinson of the Capitol Police and she would make his personal cell number available to all the judges. Chief Judge Barnes reported Captain Robinson would take calls from the judges if there are problems. Presiding Judge Blackburn said there are extra parking passes for the Court of Appeals employees and any person who knows they will not have their regular car or need an extra pass for a spouse's car or second car should be able to get one. Presiding Judge Blackburn further suggested the Court get a list of specific recommendation for the security officers in dealing with the judges, their families and their staffs and present that to the head of security.

Chief Judge Barnes said the Court needs to explain to the head of security that the judges are Constitutional officers and should not be subjected to rude behavior and should not be denied access in the building when they need entry to do their jobs.

Chief Judge Barnes appointed Judge Ruffin to speak with GBA Security about these problems. Judge Barnes said on the other side of the coin, when there was a demonstration last week with many people on the Capitol Square, she entered the building at the Washington Street entrance with no security officer at all in sight.

VI. SALE OF BRIEFS TO LEXISNEXIS - THOMSON WEST:

Chief Judge Barnes called on Mr. Martin for a report of the sale of the briefs to LexisNexis and Thomson West. Mr. Martin said the first consideration is does the Court want to do this. He said he and Chief Judge Barnes had spoken with Tom Leighton, Vice President with Thomson West, who is responsible for getting the briefs from the appellate courts of the United States on the Thomson West brief server.

Mr. Martin described various options the Court may have in selling the briefs and suggested it might be a way to recoup some revenue for the Court. Presiding Judge Blackburn said it might be advisable to secure an opinion from the Attorney General's office before actually contracting with any group for the sale of the briefs. After a general discussion of the various options and the advisability of selling the Court's briefs, Presiding Judge Johnson made a motion Chief Judge Barnes, Mr. Martin and Holly Sparrow contact LexisNexis and Thomson West regarding selling the Court's briefs. The motion was seconded by Judge Miller and passed with all judges voting in favor except Presiding Judge Blackburn and Judge Ellington who voted no.

Mr. Martin said he would report any developments to the Banc for Court approval.

VII. RULES REVISION:

Presiding Judge Smith stated he, Judge Miller and Judge Bernes, with the assistance of Bill Martin and Holly Sparrow, had prepared an update of the rules. Presiding Judge Smith said there were some policy considerations he would like the Court to vote on, either at this meeting or at a future meeting. Those considerations are increasing the fine for contempt and frivolous appeals from \$1,000 to \$2,500 as the Supreme Court did a few years ago, and charging \$30.00 for courtesy appearance for lawyers who are not members of this Court, mostly out-of-state lawyers. Presiding Judge Smith said this is the same amount we charge lawyers to practice in the Court.

After a brief discussion, Judge Mikell made a motion to adopt these changes. The motion was seconded by Presiding Judge Johnson and passed unanimously.

Presiding Judge Smith said he could circulate the other rules for a vote by memorandum. Mr. Martin said most of the other rules are merely updates, housekeeping or ordinal changes but did ask the judges to look at Rule 33 dealing with changes suggested by Judge Miller and Judge Bernes.

VIII. **OLD BUSINESS:**

Chief Judge Barnes recognized Judge Bernes for Old Business. Judge Bernes said if anyone knew of any changes that needed to be made in the IOM to please email them to her since she is the Chair of the IOM Committee.

IX. **ADJOURNMENT:**

There being no further business, Chief Judge Barnes adjourned the meeting at 11:28 a.m.

Respectfully submitted,


WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day of
_____, 2007.

**MINUTES OF THE BANC MEETING
OF THE COURT OF APPEALS OF GEORGIA**

Tuesday, September 18, 2007 10:30 a.m.

The Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, S.W., Atlanta, Georgia at 10:30 a.m. on Tuesday, September 18, 2007. Those present were:

Chief Judge Anne Elizabeth Barnes
Presiding Judge Edward H. Johnson
Presiding Judge G. Alan Blackburn
Presiding Judge J. D. Smith
Judge John H. Ruffin, Jr.
Judge M. Yvette Miller
Judge John J. Ellington
Judge Herbert E. Phipps
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Debra Bernes

Not Present:

Presiding Judge Gary B. Andrews

Guests:

Mr. William L. Martin, III, Clerk/Court Administrator

I. CALL TO ORDER:

Chief Judge Barnes called the meeting to order at 10:40 a.m. Chief Judge Barnes announced a quorum was present.

II. APPROVAL OF JULY 17, 2007 BANC MEETING MINUTES:

Chief Judge Barnes called for approval of the July 17, 2007 Banc Meeting Minutes.

Judge Phipps moved for the approval of the Minutes which motion was seconded by Judge Ruffin.

Chief Judge Barnes called for a vote and the Minutes were approved unanimously.

III. REPORT OF TECHNICAL SERVICES:

Chief Judge Barnes called upon Judge Phipps, the judge in charge of Technical Services, for a report. Judge Phipps said that since Bob McAteer had left for the Supreme Court there was a vacancy that needed to be filled in Technical Services. Judge Phipps reported that copies of the job description and position announcement had been sent out to IT departments in state government and to other interested parties in and around the Atlanta area. In fact, Judge Phipps reported there had been one application from Warsaw, Poland.

Judge Phipps announced to date he had received 15 to 20 resumes. He said the deadline for applying was October 1st, and he felt certain there would be many qualified resumes from which to choose.

There was a brief discussion regarding the fourth position in Technical Services. There was a brief discussion about the revenue for that unfilled position, and it was reported that money was used to pay the contract fees for Bud Tirey to continue to maintain the docket. When the Supreme Court and the Court of Appeals convert to the new docket, the one that will be e-filing compatible, the need for the contract services from Bud Tirey will cease to exist.

Judge Ruffin stated the person to be hired by Technical Services should understand that ~~that~~ *is working for* person in ~~Technical Services should be responsible~~ to the Court and not to the head of Technical Services.

Judge Miller asked how soon the new docket system would be in operation. Mr. Martin

replied that the Supreme Court says they will have their new docket in operation in January 2008, but he questioned if the Supreme Court could have the docket in operation that fast. He said the Court of the Appeals new docket should be operational on the heels of the Supreme Court docket.

IV. REPORT ON NEW RULES:

Chief Judge Barnes called upon Presiding Judge Smith for a report on the new rules. Presiding Judge Smith said he had sent out a report of the Committee which had encompassed most of the suggestions he had received from Chief Judge Barnes and Judge Miller. After a brief discussion regarding the Rules and after a further change ~~that~~ Chief Judge Barnes made ~~that~~ ^{to which} Presiding Judge Smith agreed ^{was a good change,} the matter was called for a vote. Judge Miller made a motion to adopt the Rules as submitted with the changes suggested by Chief Judge Barnes and agreed to by the Committee. The motion was seconded by Judge Phipps and passed unanimously. Mr. Martin asked that the Court permit he the flexibility of coordinating an effective date for the Rules with the Reporter's Office since the Reporter's Office likes to print the new Rules

in the advance sheets.

V. WASHINGTON STREET ENTRANCE - SECURITY CONCERNS:

Chief Judge Barnes asked Judge Ruffin to give the report on the Washington Street Security, particularly the situation as it dealt with a certain security guard. Judge Ruffin said he had met with

Captain Robinson of the Capitol Police and that the problem had been resolved. Judge Ruffin ^{reported} ~~stated~~

~~that~~ Captain Robinson agreed ^{the} ~~that that~~ particular individual who was working that security post was not suitable for ^{the} ~~that~~ position, and ~~that~~ a personnel change had been made.

Chief Judge Barnes thanked Judge Ruffin for his good work in resolving ^{the} ~~that~~ problem.

VI. SALE OF BRIEFS TO THOMSON-WEST AND LEXIS NEXIS:

Chief Judge Barnes turned to Mr. Martin for a report on the sale of briefs to Thomson West and Lexis Nexis. Mr. Martin reported ~~that~~ the banc had directed him to contact Thomson West and

Lexis Nexis regarding their interest in purchasing the briefs of the Court of Appeals of Georgia for their national brief service. Mr. Martin stated the response from Thomson West was basically the same proposal they offered in 2004 when Presiding Judge Smith was Chief Judge. Thomson-West would pay \$15,000 for civil briefs and records dating back to 1997 and \$2,500 per year for prospective civil briefs and records. Thomson-West would also provide complimentary access to the Georgia state appellate briefs on Westlaw. Lexis Nexis has offered \$.25 a page for civil briefs from 2006 and 2007 with LEXIS NEXIS supplying copy paper.

Mr. Martin said ~~that~~ he did not think that either one of these offers was worth the time and effort from clerk's office personnel and the wear and tear on the court's copy machines to provide the briefs as requested. Additionally, Mr. Martin said he had a concern about selling briefs to these publishers at a cost less than what the general public has to pay. Presiding Judge Blackburn said ~~that~~ before the Court enters into any arrangement or contract with either publisher the matter should be submitted to the Attorney General's Office for ^{review} ~~their counsel~~. Chief Judge Barnes asked the banc's pleasure as to whether a motion should be made on this offer or whether she should make a counter offer and continue the negotiations. There was a ^{short} ~~general~~ discussion, but there was no

direction from the banc to pursue the matter further.

VII. OLD BUSINESS:

Judge Ruffin reminded the judges ^g that the Council of Chief Judges would be meeting in October. Chief Judge Barnes said she had ^{gather} received a round trip air fare for \$198. There was a discussion about whether the Court had paid its assessment for membership. Chief Judge Barnes ^g stated that the Court had paid its assessment for this year.

VIII. NEW BUSINESS:

Chief Judge Barnes asked ^g that the judges ^{to} if ~~would~~ give her known conflict dates, religious holidays and the like ^{so/ could coordinate the} she would appreciate ~~it in terms of~~ scheduling future Court events. She asked ^g that the judges give that information to her as soon as possible since it soon would be time to plan the Court holiday party.

Presiding Judge Smith asked if Chief Judge Barnes would be writing a thank you letter on behalf of the Court to the Governor for the dinner at the Governor's mansion on September 12th.

Chief Judge Barnes said ~~that~~ she would write a letter of thanks to the Governor.

Judge Mikell stated ~~that~~ the hiring of the new central staff attorney would probably be done at the end of January. In the meantime, on January 1, 2008, Diana Suber, who is now working in Central Staff, will become a floating central staff attorney, ~~so that~~ ^{then} each panel will have one floating staff attorney, ~~beginning January 1, 2008.~~

Judge Mikell reminded the judges that all the assignment of a floating central staff attorney to an office are tentative assignments and that staff attorney may be called away in the event of injury, illness or maternity leave of another staff attorney.

IX. ADJOURNMENT:

There being no further business and upon hearing of a motion to adjourn made by Presiding

Judge Johnson and seconded by Judge Ellington, Chief Judge Barnes adjourned the meeting at 11:40

a.m.

Respectfully submitted,

WILLIAM L. MARTIN, III
Clerk/Court Administrator
Court of Appeals of Georgia

Minutes approved by the Court
En Banc on the _____ day
of _____, 2007.

COURT OF APPEALS OF GEORGIA
SEPTEMBER ADMINISTRATIVE BANC MEETING

Tuesday, September 18, 2007
10:30 a.m.
Fifth Floor Conference Room, Health Building

AGENDA

- I. CALL TO ORDER
- II. ASCERTAINMENT OF QUORUM
- III. APPROVAL OF MINUTES
- IV. REPORT ON TECHNICAL SERVICESJudge Phipps
- V. REPORT ON NEW RULESPresiding Judge Smith
- VI. REPORT ON WASHINGTON STREET ENTRANCE SECURITYJudge Ruffin
- VII. SALE OF BRIEFS TO LEXIS-NEXIS AND THOMSON-WESTBill Martin
- VIII. OLD BUSINESS
- IX. NEW BUSINESS
- X. ANNOUNCEMENTS
- XI. ADJOURNMENT

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- V. REPORT ON NEW RULES *effective date* Presiding Judge Smith ✓
- VI. REPORT ON WASHINGTON STREET ENTRANCE SECURITY Judge Ruffin ✓
- VII. SALE OF BRIEFS TO LEXIS-NEXIS AND THOMSON-WEST Bill Martin ✓
- VIII. OLD BUSINESS ✓
- IX. NEW BUSINESS ✓
- X. ANNOUNCEMENTS ✓
- XI. ADJOURNMENT ✓



Court of Appeals

Memorandum

To: All Judges
From: Presiding Judge Smith
Subject: Court Rule Amendments
Date: September 17, 2007

Attached you will find the Report of the Rules Committee responding to Chief Judge Barnes additional suggestions for revisions September 4th.

The Rules will be on the agenda for the banc meeting tomorrow and I would like to vote on their approval. If you need another copy of the full set of the proposed rules that were distributed earlier, please let me and I will have another copy prepared for you. Also, I shall have a copy at the banc meeting.

Rules Committee Report September 17, 2007

Response of Committee to Chief Judge Barnes' Memorandum

of September 4, 2007

a. The memorandum suggests that the words "staff attorney" be added to Rule 1 (b).

The Committee opposes this change since staff attorneys are already included in the Rule as members of a judge's staff .

b. The purposes of the Committee changes to Rule 4 (c) and (d) was to eliminate the certified mail rule and commercial delivery rule so as to reduce the time the clerk's office spends verifying the appropriate date to give to a filing and to reduce the number of filing date changes. Rarely has the Court had problems with parties using an office or private postage meter to claim a false date of the mailing. Parties can always contest the date with a motion to the Court if they believe the date was falsified. Although the Committee endorsed these changes to Rule 4 (c) and (d), the Committee believes that the Banc should make the final decision.

c. The Committee does not oppose changing the order of the series in Rule 10 to "any judge, opposing counsel, or any Court."

d . The Committee responds to Chief Judge Barnes proposal to change the word "may" to "will" in Rule 13, 22, and 23. The Court should retain the discretion to

dismiss an appeal when a brief is untimely rather than make the dismissal a requirement. In an effort to clarify the language, it is suggested that the words “may subject the appeal to dismissal” in Rule 13 be changed to “may result in the dismissal of the appeal” and the same change be made to Rule 23 (a).

e. The Committee does not oppose adding language that the Court Reporter should place the page numbers of depositions and trial transcripts “on the bottom of the page.”

f. See d. above.

g. See d. above.

h. See d. above.

i. and j. These add the word “any” before petition. The Committee agrees with this change to Rule 30 and Rule 31 since it provides for situations in which applications arise from a sua sponte ruling of the Court rather than a written motion or petition.

k. The memorandum changes the wording in Rule 31 (e) requiring a stamped “filed” copy of the order to stamped “filed” copy of the order or judgment. The Committee does not oppose this change.

l. The Committee and the Chief Judge are in agreement with the change to Rule 33 recommended by Judge Miller and the Clerk which appeared in the Committee’s original recommendation to the Banc.

*Committee
deliberating 5/16/16*

- m. The Committee agrees with the deletion of the word “as” in Rule 37 (e).
- n. The Committee opposes the suggested change to revised Rule 41 to make the first two sentences of paragraph (b) of Rule 41 a new section (a). The Committee prefers the current Rule’s order which proceeds from general information about motions to the more specific information about motion form. Also, creating a new paragraph from the first two sentences of (b) will create confusion concerning the meaning and application of the last sentence in the current paragraph (b).
- o. Of course, the Committee agrees with correction of the typo on the word “party” in the second sentence of Rule 42 (a).
- p. The Committee agrees with the replacement of the words “gone out” to “issued” in Rule 42 (b)
- q. The Committee opposes addition of Rules relating to the media. First, the Rules are directed to practice in the court by parties and their counsel not to outsiders to the cases such as the media. Secondly, the Court already has an administrative order which governs media coverage in the courtroom. The Clerk is currently working with the IT staff and expects to have that administrative order and the media coverage request form on the Court’s web page shortly.
- r. The Committee agrees to amend the proposed rules to include the comma before the last word in a series.



Court of Appeals

Memorandum

To: All Judges
From: William L. Martin, III
Subject: Summary of Proposals to Purchase Court of Appeals Briefs
Date: September 17, 2007

The Court of Appeals has received proposals from both Thomson West and Lexis Nexis to purchase civil case briefs.

Thomson West began scanning briefs to their database in 2003. Thomson West initially made an offer to our Court in July, 2005, and again sent a formal offer in April, 2007. The 2007 offer is essentially the same as the 2005 offer, that is, no charge access to their brief database, \$15,000 for briefs dating back from the current year to 1997, and then \$2,500 per year prospectively and shipping costs.

Lexis Nexis more recently created a briefs database first contacting us in April 2007 and then again sending a new offer last week. Lexis's initial proposal only offered access to their brief database at no charge. The more recent offer proposes a fee of \$.25 per page copied and the copier paper consumed in the process, and postage necessary to mail the copies. Lexis-Nexis seeks briefs from 2006 forward.

COURT OF APPEALS OF GEORGIA
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Tuesday, September 18, 2007

10:30 a.m.

Fifth Floor Conference Room, Health Building

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