

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

Wednesday, October 15, 2008

10:30 a.m.  
Court of Appeals Banc Room • Suite 501 • 47 Trinity Avenue, S.W.  
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 August 27, 2008 Banc Meeting Minutes (Pink) | Chief Judge Barnes                          |
| ✓ IV.   | IT Memo (Orange)  | Presiding Judge Ruffin                      |
| ✓ V.    | Budget Matters (Green)                                  | Chief Judge Barnes<br>Presiding Judge Smith |
| ✓ VI.   | Judges' Cost of Living Adjustment (Yellow)              | Chief Judge Barnes                          |
| ✓ VII.  | Central Staff/Floating Staff Attorneys (Blue)           | Judge Phipps                                |
| ✓ VIII. | Changing Administrative Banc Meeting Date               | Chief Judge Barnes                          |
| ✓ IX.   | Coffee for Banc Meetings and Robing Room                | Chief Judge Barnes                          |
| ✓ X.    | Clerk's Office Organization (Purple)                    | Mr. Bill Martin                             |
| ✓ XI.   | Old Business  | Chief Judge Barnes                          |
| XII.    | New Business  | Chief Judge Barnes                          |
| XIII.   | Announcements   | Chief Judge Barnes                          |
| XIV.    | Adjournment   | Chief Judge Barnes                          |

# **Committee Appointments for the Court of Appeals**

**January 2009**

## **Executive Council**

Chief Judge M. Yvette Miller, Chair  
Presiding Judge Gary B. Andrews  
Presiding Judge Edward H. Johnson  
Presiding Judge G. Alan Blackburn  
Presiding Judge J.D. Smith

## **Successor Judge • Judicial Council Representative • Judge-In-Charge of Clerk's Office**

Judge John J. Ellington

## **Budget Committee**

Chief Judge M. Yvette Miller, Chair  
Judge Anne Elizabeth Barnes  
Judge John J. Ellington  
William L. Martin, III, Ex Officio Member  
Jan Kelley, Fiscal Director, Ex Officio Member

## **Court Information Technology**

Judge Herbert E. Phipps, Chair  
Judge Anne Elizabeth Barnes  
Judge John J. Ellington  
Chief Judge M. Yvette Miller, Ex Officio Member  
John Ruggeri, Ex Officio Member

## **Emergency Motions**

This function rotates monthly by seniority.  
Presiding Judge G. Alan Blackburn, Coordinator

## **Chief Justice's Commission on Professionalism**

Judge John J. Ellington

## **Legal History and Georgia Legal History Foundation Committee**

Presiding Judge Gary B. Andrews, Chair \*  
Judge Charles B. Mikell  
Judge A. Harris Adams  
Chief Judge M. Yvette Miller, Ex Officio Member

\*The Chair is also designated as the Court's representative to the Georgia Legal History Foundation.

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**Legislation**

Judge John J. Ellington, Chair  
Presiding Judge Edward H. Johnson  
Judge Anne Elizabeth Barnes  
Chief Judge M. Yvette Miller, Ex Officio Member

**Manual for Internal Operations**

Presiding Judge J.D. Smith, Chair  
Judge Herbert E. Phipps  
Judge Debra Bernes  
Chief Judge M. Yvette Miller, Ex Officio Member  
William L. Martin, III, Ex Officio Member

**Planning, Facilities Management, Security and Court Security Committee**

Judge Sara L. Doyle, Chair  
Presiding Judge G. Alan Blackburn  
Presiding Judge J.D. Smith  
Chief Judge M. Yvette Miller, Ex Officio Member  
William L. Martin, III, Ex Officio Member

**Portrait**

Judge Charles B. Mikell, Chair  
Presiding Judge Gary B. Andrews  
Judge Anne Elizabeth Barnes  
Chief Judge M. Yvette Miller, Ex Officio Member  
William L. Martin, III, Ex Officio Member

**Court Rules**

Presiding Judge J.D. Smith, Chair  
Judge Anne Elizabeth Barnes  
Chief Judge M. Yvette Miller, Ex Officio Member  
William L. Martin, III, Ex Officio Member

**Central Staff and Floating Staff Attorney Committee**

Judge Herbert E. Phipps, Chair  
Presiding Judge J.D. Smith  
Judge Debra Bernes  
Chief Judge M. Yvette Miller, Ex Officio Member

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**Parliamentarian**

Presiding Judge Gary B. Andrews

**Strategic Planning/Court Futures Committee**

Presiding Judge Edward H. Johnson, Chair  
Judge John J. Ellington  
Judge Herbert E. Phipps  
Chief Judge M. Yvette Miller, Ex Officio Member  
Jan Kelley, Fiscal Officer, Ex Officio Member  
William L. Martin, III, Ex Officio Member

**Institution of Continuing Judicial Education, Board of Trustees**

Presiding Judge J.D. Smith

**Continuing Judicial Education, Court of Appeals**

Judge Debra Bernes, Chair  
Presiding Judge Gary B. Andrews  
Presiding Judge J.D. Smith  
Chief Judge M. Yvette Miller, Ex Officio Member  
Jan Kelley, Fiscal Officer, Ex Officio Member

**Committee on Disqualifications and Recusals**

Presiding Judge Edward H. Johnson, Chair  
Presiding Judge J.D. Smith  
Chief Judge M. Yvette Miller, Ex Officio Member

**In-House Continuing Legal Education Committee (for staff attorneys)**

Presiding Judge Edward H. Johnson, Chair  
Chief Judge M. Yvette Miller, Ex Officio Member  
Paul Robblee - Staff Attorney  
John Earles - Staff Attorney

**Personnel Procedures and Policies**

Presiding Judge Edward H. Johnson, Chair  
Judge John J. Ellington  
Judge Debra Bernes  
Judge Sara L. Doyle  
Chief Judge M. Yvette Miller, Ex Officio Member  
William L. Martin, Ex Officio Member  
Jan Kelley, Fiscal Officer, Ex Officio Member

**Orientation**

Presiding Judge J.D. Smith, Chair  
Presiding Judge G. Alan Blackburn  
Judge Sara L. Doyle  
Chief Judge M. Yvette Miller, Ex Officio Member  
William L. Martin, Ex Officio Member

**Collegiality**

Judge Sara L. Doyle, Chair  
Presiding Judge Edward H. Johnson  
Judge Debra Bernes  
Chief Judge M. Yvette Miller, Ex Officio Member

The Chief Judge is a member of and sits on all the committees.

**Additional committees may be designated with members to be assigned on an ad hoc basis.**

AKB

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

**Wednesday, August 27, 2008**

A special Banc Meeting of the Court of Appeals was called and held in the Court of Appeals Banc Room, Suite 501, 47 Trinity Avenue, S. W., Atlanta, Georgia at 10:30 a.m. on Wednesday, August 27, 2008. Those present were:

Chief Judge Anne Elizabeth Barnes  
Presiding Judge John H. Ruffin, Jr.  
Presiding Judge Edward H. Johnson  
Presiding Judge J.D. Smith  
Judge Gary B. Andrews  
Judge M. Yvette Miller\*  
Judge John J. Ellington  
Judge Herbert E. Phipps  
Judge A. Harris Adams  
Judge Debra Bernes  
Ms. Jan Kelley, Fiscal Officer  
Mr. William L. Martin, III, Clerk/Court Administrator  
Ms. Holly Sparrow, Deputy Administrator

\* Judge M. Yvette Miller participated by conference telephone.

Not in attendance was:  
Presiding Judge G. Alan Blackburn  
Judge Charles B. Mikell

I. CALL MEETING TO ORDER:

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

II. ASCERTAINMENT OF QUORUM:

Chief Judge Barnes announced a quorum was present.

III. APPROVAL OF JULY 23, 2008 BANC MEETING MINUTES

Chief Judge Barnes called for the approval of the July 23, 2008 Banc Meeting Minutes.

Presiding Judge Johnson moved for the approval of the Minutes and the motion was seconded by

Presiding Judge Smith. The minutes were approved unanimously.

IV. EXEMPT EMPLOYEES:

Chief Judge Barnes asked Mr. Martin to explain the need to clarify which job positions the Court considers exempt under the federal Fair Labor Standards Act. Exempt employees are not entitled to hourly wage minimums and overtime pay. Mr. Martin stated he felt the Court had always considered the clerk/court administrator, deputy court administrator, deputy clerk, fiscal officer, all technical services staff, all the staff attorneys, central staff attorneys, floating staff attorneys, judicial administrative assistants and floating administrative assistants fit the definition of exempt employees under the Fair Labor Standards Act. He suggested that the Court formally designate those employees as exempt. Judge Miller offered a motion designating those employees as exempt. The motion was seconded and passed unanimously. Chief Judge Barnes asked that the job descriptions of these persons include their exempt status.

V. BUDGET ISSUES:

Chief Judge Barnes outlined the current budget issues including the reduction in the budget called by the Governor of between six and 10 percent for FY2009 and FY2010, and the reduction the Court will likely receive in the budget draws each quarter.

She said Presiding Judge Blackburn was opposed to any budget cuts prior to the FY2009 legislative session and the determination of the supplemental budget. She stated each judge had received a memorandum from him explaining his views. Chief Judge Barnes said that she disagreed because of her discussions with Representative Chuck Martin, Vice-Chairman of the Appropriations

Committee - Public Safety, and the information she had received from other judicial agencies at the Judicial Council meeting. She said the Court cannot afford to disregard the Governor's request in light of the decreased state revenue stream and the intentions of the other judicial entities to comply. She also thought the judiciary needs to comply in order to maintain a good relationship with the office of the Governor and the General Assembly. Chief Judge Barnes asked Mr. Martin to describe the budget situation and the various options for reduction of the Court's expenses.

Mr. Martin first described the 1.7 billion state revenue shortfall. He stated the amount of the Court's FY2009 budget and the amount of the cuts the Governor had proposed of 6%, 8% and 10%. He explained that if the Court waited until the final FY2009 budget was known to make expenditure reductions, the Court would be unable to accommodate a cut of 6% to 10%. The Court might be unable to operate at all for the last few months of the budget year. He explained that the Chief Judge in conjunction with the fiscal officer, the clerk, and deputy court administrator had worked on several different scenarios to cover the potential revenue shortfall. Mr. Martin stated the judges' salaries, the judges' commuting travel funds and the office rent cannot be reduced. Also, the 2.5% COLA for the judges' will have to be paid if it is not withdrawn prior to its effective date January 1, 2009. Since 82% of Court expenditures are necessary for the Court's core function, there is little left to be reduced.

Next, Mr. Martin noted the committee appointed to review planned expenditures for FY2009 at the July banc meeting had met and adopted a recommendation to reduce expenditures. At that time, the committee expected the state deficit to require a smaller budget reduction of 2.5% to 4%. He explained this committee composed of Judge Miller as Chair, Judge Phipps, Judge Mikell and

Judge Adams had recommended reduction of operational expenses by \$480,937. In addition, Chuck Martin has advised that contracts expected to be funded from new money in the FY2009 budget should not be finalized at this time. The e-filing/new docket project is in that category, and it is proposed signing this contract be delayed. Chief Judge Barnes said she understood that the Supreme Court of Georgia would not be continuing its e-filing project either. A motion was made to approve these operations budget reductions at this time. The motion was seconded and approved unanimously.

Mr. Martin then distributed three charts and proceeded to discuss each of three options to reduce personnel expenditures. He explained the three separate scenarios and how much money they could save the Court from October 1, 2009 until the end of the year: (1) a furlough of one hour per day for each employee; (2) a furlough of two days per month for each employee; and (3) a reduction in force. In explaining the furlough information, he noted that state administrative procedures permit a furlough of up to 30 days in one year. Mr. Martin explained that if a furlough was implemented it would probably have to be planned for both FY2009 and FY2010. If a reduction in force was elected, the savings in the second year from not having to pay out accumulated leave might provide the funds to refill one or more of the empty positions in FY2010. He also said if the savings under the reduction in force was insufficient to cover the reduction in the budget in either FY2009 and FY2010, the Court would still have the option of furloughing employees.

Mr. Martin was asked several questions about the reduction in force plan including the number of employees it would be necessary to include in the reduction in force. There was a short discussion about how the Court could continue to screen for jurisdiction and handle applications if

a reduction in force included central staff attorneys. Mr. Martin was asked when the details of a personnel plan would be required. He responded that there is a September 2, 2008 deadline for submitting the FY2010 budget. Also, he noted that under the state administrative procedures an employee is to be given 30 days notice of a furlough or reduction in force. Mr. Martin said that if 30 days notice was given, it would mean that the personnel reduction could not take effect until October 1, 2008.

The judges discussed the merits of reducing personnel and of each option. Concerns about fiscal year budget soundness in the future, protecting essential staff, employees' morale, the possibility of refilling a reduction-in-force position in the future, the potential actions of the legislature, and how to decide who would be included in a reduction in force were aired.

After the discussion, Presiding Judge Johnson moved to adopt a reduction in force. Presiding Judge Smith and Judge Miller seconded the motion. The vote approved a reduction in force with all attending in favor except Judge Ellington.

It was the judges' consensus to vote on which positions would be included in the reduction in force by department. Mr. Martin gave an explanation of how he chose the two positions in the clerk's office which would be affected by the reduction in force citing the amount of the salary, whether the person affected could qualify for retirement benefits, and whether that person's tasks could be assumed by others on staff. Ms. Kelley provided the same information concerning the fiscal office position. Presiding Judge Johnson moved to approve the recommendations of Jan Kelley and Bill Martin for the reduction in force in their offices. Presiding Judge Andrews seconded the motion.

The motion was approved unanimously. The floating administrative assistants were discussed next. Presiding Judge Johnson moved that Dianne Joy, a full-time floating administrative assistant, and Joanne Walker (whose position was temporary) be included in the reduction in force. Presiding Judge Smith seconded the motion. All judges approved the motion except Presiding Judge Andrews in the case of Dianne Joy.

In the discussion of the central staff and floating staff attorneys, it was noted that David Payne's position was vacant and could remain unfilled. The judges discussed the merits of each individual attorney's work one by one. Presiding Judge Johnson moved for a vote on this group. Presiding Judge Andrews added a second to the motion. Presiding Judge Johnson's motion provided that each judge would vote for five attorneys they wished to exclude from the reduction in force on a secret ballot, and the five attorneys with the highest sum on this ballot from all votes would not be included in the reduction in force. The persons receiving the greatest number of votes were: Jule Felton, Amy Doyle, Sara O'Dea, Kathryn Mattuch, Rachel Derrico and Cliff Head. There was a tie between Rachel Derrico and Cliff Head which was decided by a second secret ballot. Judge Bernes had to leave the meeting prior to the tie being discovered, and did not vote to dissolve the tie. Judge Miller abstained since she was participating by conference call from voting in the tie unless her vote was needed to resolve another tie vote. Rachel Derrico received the greater number of votes. As a result of this vote, it was determined that the following central staff attorneys would be included in the reduction in force: Katherine Durant, Cliff Head, Janice Ward, and Debra Wellborn.

VI. Old Business

None

VII. New Business

None

IX. ADJOURNMENT:

There being no further business and upon hearing a motion to adjourn, Chief Judge Barnes adjourned the meeting at 12:50 p.m.

Respectfully submitted,

Holly K. O. Sparrow

Deputy Court Administrator

Court of Appeals of Georgia

Minutes approved by the Court

En Banc on the \_\_\_\_\_ day of

\_\_\_\_\_, 2008



# Court of Appeals

## Memorandum

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To: All Judges and Bill Martin

From: Presiding Judge Ruffin 

Subject: IT Department

Date: September 23, 2008

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Oftentimes we marvel at the work of our IT Department, and rightfully so. The way that it assists us in getting out our cases is nothing short of phenomenal.

Recently, the IT Department has bungled two important events of my career at the Court - the Portrait Unveiling in Burke County and the similar event here. On each occasion I was simply given a cursory explanation and an apology.

At the risk of sounding overly important, each of those events is of historical significance as well as significant to me personally. Moreover, we have reached the point where we rely on the accuracy of such as a result of the successful video of the Centennial Celebration.

Sad to say, I have not viewed either of the "bungled" videos, but I think that each of us should if the Court is to rely on IT to video future events. It should know whether the current

IT Department has the capability to handling such, or whether outside assistance is either needed or desirable. Although I may not be here I am not unmindful of the investiture of the next chief judge, and its historical significance. (Of course I may be present as a visitor).

I assume that each of you has a copy of the recent Portrait Unveiling Ceremony that took place in our courtroom. I further assume that you do not have a copy of the ceremony in Burke County. If anyone is interested in viewing either video and does not have a copy, please contact my Administrative Assistant, Tracey.

**Bill Martin - Ruffin Video Memo**

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**From:** John Ruggeri  
**To:** Bill Martin  
**Date:** 9/24/2008 4:51 PM  
**Subject:** Ruffin Video Memo

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CJ Barnes called me this afternoon and instructed me to write a detail e-mail to her apologizing and explaining what happened when video taping Judge Ruffin's events. She wants me to make as detailed technical explanation as possible and plans on showing this e-mail to Judge Ruffin.

I told her that I was instructed by you to produce a memo about the incident. She told me to just copy you in on the e-mail.

I will work with Bob to come up the technical reasons for the failure of the camera hard drive to finish taping the event. She is a little upset that the "backup" failed and compared it to the Docket backup failure from a couple of years ago; suggesting that some Judges would be upset at repeated backup failures and people could lose their jobs for repeated failures. The mood was jovial but serious.

Frankly, equipment failures are not uncommon and we have learned from each how to add better redundancy to our operations.

I hope to have the e-mail completed before noon tomorrow.

-JR

Regards,

John Ruggeri  
Director of Technical Services  
Court of Appeals of Georgia  
404-651-6417

## Bill Martin - Concerns over Technical Services and Video Taping Court Events

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**From:** John Ruggeri  
**To:** Anne Barnes; Anne Barnes  
**Date:** 9/25/2008 1:30 PM  
**Subject:** Concerns over Technical Services and Video Taping Court Events  
**CC:** Bill Martin

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Over the last couple of days the Court has expressed concern over Technical Services ability to video tape Court events. It is with the deepest regrets that we have had issues capturing the 2 events that involved Presiding Judge Ruffin's retirement. As a lover of history, I consider it an honor to participate in recording the historical events that occur at the Court of Appeals. I and the whole IT staff are disappointed that we were unable to record and produce 100 percent of P.J. Ruffin's portrait unveilings.

We had a unique opportunity to have someone on staff that had a video/news background like Bob McAteer. When he became an employee of the Court, we leveraged his existing video production skills for the benefit of the Court. However, now that Bob is an employee of the Supreme Court, it has fallen upon the existing staff to record these events. None of us have been to film school or have any direct work experience in video production or news gathering. Sean and Brett studied computer and management information systems and I studied aerospace engineering. Since we acquired our video production equipment in 2005, we have all assisted Bob McAteer in recording events and producing videos for the Court in an effort to be cross trained. However, when the lead person is around you often do not get the opportunity to fly solo. Furthermore, as your IT Director, I have always stressed the importance of our responsibility to maintain and improve our IT infrastructure to support the daily constitutional work of the Court. Anything that we could do in the way of video production was useful to the judges and good PR for the IT staff, but not essential to the Court's two term constitutional requirements. Therefore, I did not direct funds for training or staff development time to becoming more proficient in the use of our video equipment. I also relied on Bob McAteer's continuing proximity and our ability to lean on him for assistance. In hindsight, I wish that we had more experience because we all regret our missed opportunity to record all of P.J. Ruffin's retirement events and realize that we do not have another chance at a do over.

I do want to take a minute to explain some of the technical issues that resulted in our "bungling" these events and discuss the lessons learned to mitigate them happening in the future. The event in Waynesboro, was the first event that we have ever shot solo. Sean was at training that week, Bob McAteer could not attend the event on our behalf so the duty fell to Brett. With less than a couple of days notice we assumed this responsibility. Bob gave Brett a quick tutorial on the use of the camera. They decided to keep his instruction simple. They were holding hearings that morning and P.J. Ruffin's event was to be held immediately afterwards. Brett coordinated with local members of county and did what he could to prepare before hand. But the local judge hearing court that morning did not want anything setup beforehand. Their court room is not like ours and did not have a central microphone outlet for us to gain audio from so Brett setup his own microphone to capture the event. The event had several speakers in multiple locations in the court room that did not use the central podium to address the crowd. Therefore, we had poor sound quality for some of the speakers. This was later corrected by us when it was discovered that the local court reporter had taped the event using her equipment. A copy was obtained by P.J. Ruffin and the new source of audio was spliced into ours and the audio problems were corrected. It is very difficult to just show up to an unknown location, setup for shooting and cover all contingencies especially on your first every video shoot. It was typical in the past for Bob McAteer to setup at an event a full day in advance.

However, this is not the only challenge that Brett had that day. He was informed at the conclusion of the first event about another event at another location immediately following the morning portrait unveiling. Brett and Ashley Stollar, of the AOC, rushed over to the reception to try to record P.J. Ruffin receiving the "Key" to the city. They literally ran into the event, quickly setup the camera and began filming. Unfortunately, we had an issue with the new tape that Brett used to record this event. When we tried to edit it, there are sections that have distorted video and audio. The distortions cover a section of the center of the tape. We tried to recover the distorted video, but all of our tape decks flash the message that the "heads need to be cleaned". According to Bob, some dust can land on the recording heads and cause this issue. It is common when recording in the field. There is no indication during taping that you are having the problem. And at times, the tape will clear itself. On very expensive professional equipment, \$50,000+, there are more safe guards in place to help prevent this type of technical difficulty. We do have a DVD which includes the distorted video. We are glad to give it to you to pass along to P.J. Ruffin. Under the circumstances I am proud of the work that Brett performed that morning especially considering the lack of preparation time and his overall inexperience. It was his first shoot. But we do very much regret not have a completely clean tape of the Key

ceremony.

The last incident happened during the P.J. Ruffin's portrait unveiling here in our courtroom. If you recall, you contacted me a couple of days before the date to inform me that you were going to ask us to record the event and seek the permission of C.J. Sears to use the Supreme Court's courtroom. Also that you were going to request Bob McAteer's assistance in setting up for the event. Before that call, the IT department had not even received a court wide invitation to the event. We began the next morning and had everything prepared and tested a day in advance. We had overflow to the Supreme Court courtroom and was setup to stream the event on the web. I was determined to use this event as another training exercise for our staff and that we would take the lead in running the camera. We spent time with Bob setting up the shot and learning how to record the event. We felt confident because he watched over our shoulder and remained at our side throughout. The camera has two recording mechanisms, the mini-DV tape drive and an add on hard drive recording system. The tape drive is the primary recording device and has a one hour capacity. The hard drive recording device is an add on to the camera and has an eight hour capacity. We use the hard drive for redundancy and to record anything that occurs over the one hour capacity of the mini-DV tape. By using this setup, we do not have to setup additional tape decks to loop the recordings through for redundancy and time overages. It keeps the setup simpler which is important to us while we are learning how to handle these video recording duties. The event ran a total of 76 minutes. As the mini-DV tape ran out, the hard drive unit continued to show that it was recording the event. At its conclusion, we pressed the stop record button, but the hard drive continued to report that it was recording. Bob said that this had happened one time before a couple of years ago while recording an oral argument in Savannah of Blackburn's panel. He suggested that we let the camera run overnight and see if the hard drive stopped recording.

The next morning, more than 18 hours later, the hard drive continued to report that it was recording. We made the decision to press stop again and unplug the unit. When we tried to read the recorded video files from the hard drive we found that only 53 minutes was recorded. The last file was 300 minutes long and could not be opened. The add on hard drive recording unit has a file repair feature. We tried running that utility without success. The way hard drive recording works, it writes 2 gigabyte (GB) files to the hard drive. Each 2 GB file represents 9 minutes and 13 seconds of tape/time. When the file is full, it writes a new time stamp and creates another 2 GB file to begin recording the next 9 minutes and 13 seconds. During the recording, after 53 minutes of recorded files, an error occurred in the equipment when creating the next 2 GB file. When we purchased this add on the camera back in 2006, this was the state of the art. We have used it many times without fail and it worked perfectly during our latest CLE training at the State Bar building. However, during P.J. Ruffin's event it had an error. After our conversation concerning this issue, I contacted the company's support line to get a better understanding of this error and how to prevent it in the future. The Focus Enhancement company told me that they have seen this type of error on very rare occasions and gave me the following list of possible reasons:

"1) Camera Tape: The tape in the camera can cause issues; the stream sent out the 1394 port is disrupted whenever the tape stops and starts recording.

2) Power-Surge: During recording--depending on the stability of both units--this can occur by which a port on either the unit, camera or connection (ie, wire, firewire, etc) can stop (freeze) the unit. In some cases the unit would freeze for a few seconds and start again.

3) Software Corruption: This can most like be done internally due to mother-board inside the unit has caused an issue either by the route I used to connect it to a camera or my external hard-drive I use that is inserted into the unit.

4) Damaged Port(s): This could be either of the units, cables or firewire."

They had the following suggestions:

"With any of the events, the best route to go at this time to help confirm where the problem is, would be to:

1) Re-do the DR-DV5000 software update or;

\*DR-DV5000 update: <http://www.focusinfo.com/support/downloads.asp#expand>  
(Version 1.3.1)

2) Try a different camera or;

3) Check the connection route. Meaning the cables, wires, firewire, etc."

We have upgraded the software and have tested the cables. We do not have another camera to test the unit with. Because the issue is so intermittent and can be caused by outside factors like power surges. We are taking other steps to assure more redundancy during future events. We will go through the extra steps to loop the recordings through multiple video recording decks. This may not always be practical when shooting in the field, but we will do our best under whatever circumstances we are

faced with.

I would like to reiterate our apology to the Court for our "bungling". We regret very much our inability to fix the errors that caused us to miss the opportunity to completely record the historic events that have occurred during P.J. Ruffin's retirement. The morale of the entire technical services staff has been affected by the Court's disappointment and questioning our competence.

I will continue to point out that you have a staff of highly motivated and dedicated IT professionals that make it their business to keep the Court up and running to do business 24/7. I believe that anyone can improve and we are constantly striving to increase our ability to recover from any technical disaster that could befall the Court and to increase our network's consistent availability. We do this without a full complement of staff. I also realize that video production is becoming a more important aspect of our duties. We will continue to strive to improve upon our limited skills and will continue to pursue opportunities for more experience as well as training when funds become available.

Regards,

John Ruggeri  
Director of Technical Services  
Court of Appeals of Georgia  
404-651-6417

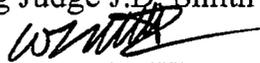


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# Court of Appeals

## Memorandum

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To: Presiding Judge J.D. Smith  
From:   
William L. Martin, III  
Subject: Lieutenant Governor Casey Cagle  
Date: October 9, 2008

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Enclosed please find a copy of Lieutenant Governor Casey Cagle's letter of September 26, 2008 addressed to Chief Judge Barnes. Also, please find Chief Judge Barnes' response of October 2, 2008 to the Lieutenant Governor's letter. I have also included a copy of what I have been told was a reply of the Supreme Court.

If you have any questions, please feel free to contact me. After you have read the Supreme Court's letter, please give me a call because I would like to make a comment about the second paragraph of that letter.

Thank you.

/ld  
Enclosures

cc: Chief Judge Anne Elizabeth Barnes



*The Court of Appeals  
of the  
State of Georgia  
Atlanta, Georgia 30334*

CHAMBERS OF  
CHIEF JUDGE ANNE ELIZABETH BARNES

(404) 856-3454  
barnes@gaappeals.us

October 2, 2008

The Honorable Casey Cagle  
Lieutenant Governor, State of Georgia  
240 State Capitol  
Atlanta, Georgia 30334

Dear Lieutenant Governor Cagle:

Thank you for your letter of September 26, 2008. I wholeheartedly agree with you that the cornerstone of good governing is the efficient delivery of necessary services. That is what the Court of Appeals does now. Our Court handles approximately 86% of all of the appeals from the trial courts of the State of Georgia. Our Court has no nonessential committees, commissions, or programs but has only as its core function the timely, efficient, and fair disposition of the appeals that come before this Court. As I am sure you know, Georgia is the only state in the nation which has a Constitutional requirement that the appellate courts dispose of their cases within two terms.

In response to the Governor's and the Legislative leadership's request that all agencies reduce their budget, the Court of Appeals took drastic measures in not only reducing our meager operations budget which amounts to approximately ten percent of our overall budget, but also by severely reducing all non-essential operating budgets, laying off nine (9) people on the Court, and not filling two (2) open positions. This amounted to a twelve (12) percent reduction in workforce, five (5) of whom were lawyers with over 60 years of service to the State.

As a consequence, we now have non-lawyers in the clerk's office doing initial jurisdictional review. This is in addition to the other workload of the clerk's office which is now two people short of full staffing.

The Court of Appeals is a service organization and approximately 90% of the budget goes toward personnel. Of the remaining operating budget, most of it is to dedicated expenses, such as rent to the Georgia Building Authority, telecommunications to the Georgia Technology Authority, postage and computer charges, and maintenance contracts.

I would like to address the seven points outlined in your letter regarding analyzing expenditures and following best management practices on a point by point basis:

Letter to: Lieutenant Governor Casey Cagle  
Date: October 2, 2008  
Page: 2

1. I am sure your budget officers have seen the Court's strategic plan, but if not, I have enclosed a copy for your review. This identifies the Court's programs and activities and prioritizes them relative to the Court's core mission.
2. Under Article VI, Paragraph IX, Section II of the Constitution of the State of Georgia, the Court has the mandate to dispose of all cases at the term during which they are entered on the Court's docket for hearing or at the next term. Other than the disposition of appeals properly docketed before the Court of Appeals of Georgia, this Court has no other programs.
3. Again, please refer to our Strategic Plan as to the organization of the Court and its staff responsibilities. In fact, we have re-organized the Court's staff and its responsibilities due to the loss of twelve percent of our workforce, totaling eleven positions, five of whom were lawyers.
4. During the emergency Administrative Banc Meeting on August 28, the Court did evaluate its operations and, among other things, terminated its contract with WestLaw, one of our legal research tools.
5. Since the Court does not have any programs or functions other than its Constitutionally mandated duty, there are no programs that can be out-sourced to the private or non-profit sector.
6. Again, there are no underutilized non-essential programs or activities or assets because, again, all the Court's budget is directed toward its core function of deciding appeals.
7. There is no "other agency" in the State that duplicates the functions of the Court of Appeals of Georgia. The Court of Appeals is composed of 12 judges who are Constitutional officers elected statewide by the people of Georgia.

The Court has identified enough cuts in the FY2009 budget to realize a 7.7% reduction. We cannot cut personnel further without jeopardizing our core function. Any additional cuts of any kind would frustrate our ability to decide cases within the constitutionally required time.

Letter to: Lieutenant Governor Casey Cagle  
Date: October 2, 2008  
Page: 3

The budget steps the Court took when projected to FY2010 will approach a ten percent budget reduction. The Court of Appeals can cut no more without seriously jeopardizing the Court's ability to do its Constitutional mandated functions and for the judges to comply with their Oaths of Office. In fact, the Court is in dire need of the \$193,000 which the House and Senate appropriated to the Court for the upgrade of the Court's computerized docketing system and implementation of an e-filing system.

The Court's current docket is a 1989 COBAL based docket which is serviced by a 74 year old retired state employee. I understand the problems that the shortfall in revenue is causing across the state for all state agencies and budget units. However, without an adequate computerized docketing system, the work of this Court will not get done. In fact, were it not for the computerized docketing system that we have, I dare say the Court would require twice as many persons to carry out its functions. We request a reinstatement of funds to update our docket system before some disaster occurs and our core functions are compromised.

I look forward to the Appropriation Subcommittee's Budget Workshops and our Court will send our Clerk/Court Administrator and Fiscal Officer to participate, as well as myself and other judges, when we are able to attend.

Again, thank you for your letter and thank you for the opportunity to place the urgent issue of our antiquated docket system before you. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Anne Elizabeth Barnes  
Chief Judge  
Court of Appeals of Georgia

AEB:cw

**OFFICE OF LIEUTENANT GOVERNOR**

240 STATE CAPITOL

ATLANTA, GEORGIA 30334

CASEY CAGLE

LIEUTENANT GOVERNOR

September 26, 2008

Chief Judge Anne Barnes  
Court of Appeals of Georgia  
47 Trinity Avenue, Suite 501  
Atlanta, GA 30334

Dear Chief Judge Barnes,

As you are undoubtedly aware, our state's revenues continue to fall well short of the projected budget estimates, and I anticipate that our situation will not improve anytime soon. While I am keenly aware and appreciative of the budget cuts currently underway at your agency, it is my sincere belief that a greater degree of downsizing may be required. I realize the Governor is working with your agency to make his recommended budget, and it is not my intentions to impede or hinder what the Governor is doing. Rather, it is my desire to work in conjunction with the Governor in an honest dialogue regarding the downsizing of our state's government. When economic times are tough, private industries makes hard choices, focusing on their core mission, and cutting those services that are not essential to that mission. Government should be no different.

The cornerstone of good government is the efficient delivery of necessary services. When in good economic times, we can build around this cornerstone, providing other services that are beneficial, but not essential. However, we must not hesitate to return to our cornerstone of necessary services in leaner times. Those times are now.

My office is taking the lead to work with all agency heads, the Senate, and other state leaders to maximize the efficiency and value of our government. It is critical we begin taking a hard look at each agency and its programs. We must work together to develop a strategy that insures our state's priorities are reflected in our state's spending. This will undeniably lead to cuts of favored but gratuitous programs -- an unfortunate but necessary action. Now is the time to examine all of our spending, to eliminate the non-essential, and expend resources only on the top priorities.

The Senate and I are beginning a comprehensive review of every aspect of our state's spending. The Senate Appropriations Committee will initiate a strategic evaluation of each state



department. The Appropriations Subcommittees will hold a series of budget workshops in the coming months, and your participation will be essential. I have instructed the subcommittee chairs to lead these workshops, analyze each agency's core mission, and determine if expenditures align with that mission. We are currently working to finalize the schedule for the workshops. As soon a final schedule is completed, your subcommittee chairs will contact you with details.

At a minimum, the subcommittee chairs will work with you to analyze expenditures employing the following best management practices:

1. Comprehensively review all of an agency's programs and activities, looking to prioritize those activities relative to the department's core mission.
2. Review an agency's statutory authority and obligation to provide specific programs. Thoroughly examine programs not explicitly authorized by statute to determine their need.
3. Review the organizational chart and staff responsibilities to determine if opportunities exist to consolidate administrative functions or programs within the agency.
4. Evaluate the steps taken by the department to maximize operational efficiency, including, but not limited to, the renegotiation of contracts and lease agreements.
5. Identify the programs or functions that the state could out-source to the private or non-profit sector.
6. Identify and eliminate underutilized or non-essential programs, activities, and assets.
7. Evaluate and consider services across agencies and eliminate duplications as needed.

As we move forward, working through this program-based budget review, I know I can count on your support to ensure quick analysis and expedient implementation of the best management practices. Please be prepared to discuss the above items as well as any other potential steps you believe your agency can take to improve overall efficiency.

I look forward to your assistance in this critical effort to properly manage our state government.

Sincerely,

  
Casey Cagle  
Lieutenant Governor of Georgia

Chief Judge Anne Barnes  
September 29, 2008

October 1, 2008

The Honorable Casey Cagle  
Lieutenant Governor of Georgia  
Office of the Lieutenant Governor  
240 State Capitol  
Atlanta, GA 30334

Dear Lt. Governor Cagle:

Thank you for your letter dated September 25, 2008. I appreciate what I know is your sincere desire to work together with the judicial branch of government to ensure that the citizens of Georgia are able to successfully negotiate through this economic crisis. It has been said that "every trial endured and weathered in the right spirit makes a soul nobler and stronger than it was before." I am committed to working with you and all of our state's leaders to make certain that Georgia comes out of this situation stronger than it ever was.

Although I have some concern that the extensive nature of the budget review you propose may raise possible separation of powers issues, we, nevertheless, want to make our budget process as transparent as possible. Please know that for the past few months, the Judicial Council of Georgia, which is the administrative and policy-making body of the judicial branch, has been working hard to make the necessary, albeit agonizing, reductions to its budget. Moreover, at all levels of court we have trimmed personnel, eliminated non-essential travel, frozen pay increases, scaled back programs, cut research subscriptions to only the most essential sources, deferred equipment updates, and generally have reduced our spending down to our most basic needs. We have also been in close communication with the Governor's office as well as with members of the House of Representatives and the Senate regarding these budget reductions. You can rest assured that we will continue to work with the other branches of government to deal with our tight situation.

Please don't hesitate to contact me with any questions or concerns you may have.

The Honorable Casey Cagle  
October 1, 2008  
Page Two

My office number is (404) 656-3474, and my mobile number is (404) 556-7456. Also, I carry a PDA and can be contacted at any time at [searsl@gasupreme.us](mailto:searsl@gasupreme.us)

With all good wishes,

Chief Justice Leah Ward Sears

cc: The Honorable Carol Hunstein  
The Honorable Robert Benham  
The Honorable George Carley  
The Honorable Hugh Thompson  
The Honorable P. Harris Hines  
The Honorable Harold Melton



# Court of Appeals

## Memorandum

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To: Presiding Judge Edward H. Johnson

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

Subject: FY2009 Cost-of-Living Adjustment (COLA)

Date: September 24, 2008

---

Attached please find a copy of Trey Childress' memo to the Constitutional Officers and others regarding COLA. I believe you have probably already received this, but I just wanted to make sure that you know about it. I believe the language in this memorandum is sufficient to stop the pay raises for those officials listed in the memorandum.

/ld  
Attachment

cc: Chief Judge Anne Elizabeth Barnes  
Jan Kelley



## OFFICE OF PLANNING AND BUDGET

Sonny Perdue  
Governor

Trey Childress  
Director

September 18, 2008

### MEMORANDUM

TO: Constitutional Officers  
Legislative Fiscal Affairs  
Justices of the Supreme Court Fiscal Officer  
Judges of the Court of Appeals Fiscal Officer  
Superior Court Judges Fiscal Officer  
District Attorneys Fiscal Officer

FROM: Trey Childress *TC*

RE: Fiscal Year 2009 Cost-of-Living Adjustment - Revised

In O.C.G.A 15-6-88(b), 15-9-63(a)(2), and 48-5-183(b)(2), the law authorizes the adjustment of salaries based on the cost of living increase or general performance based increase of the employees of the State Merit System. The Office of Planning and Budget shall calculate the average percentage increase or average amount increase when necessary.

Because revenue projections are less than originally projected, the general salary adjustment for Fiscal Year 2009, July 1, 2008 through June 30, 2009, has been revised. The State Personnel Board adopted a policy September 10, 2008 to defer all 2009 salary increases. Because state employees will not be receiving a pay raise this year, this letter serves as a retraction of the previous communication dated May 30, 2008. There is no cost-of-living increase for Fiscal Year 2009.

If you have any questions, please contact Brenda Purcell at 404-656-3820.

TC/bpg

c: Tommy Hills, Chief Financial Officer  
Jim Lientz, Chief Operating Officer  
John Brown, Director, House Budget Office  
Carolyn Bourdeaux, Director, Senate Budget Office



# Court of Appeals

## Memorandum

---

**To:** All Judges

**From:** Chief Judge Anne E. Barnes and  
Judge Herbert Phipps, Judge in Charge of Central Staff

**Subject:** Court Staff - Revised Duties for Applications and Jurisdictional Review  
of Direct Appeals

**Date:** September 17, 2008

---

On September 4, 2008 a meeting was held with Chief Judge Barnes, Judge Phipps, the Clerk of Court, the Deputy Court Administrator, and the central staff attorneys and floating staff attorneys who would be remaining with the Court after September 30, 2008. The purpose of the meeting was to determine how the functions of the central staff could be continued and how the work could be allocated after the reduction in force. Several options were discussed, but the following plan was considered the most feasible.

The central staff has been reduced to only two attorneys from six. Two of the three floating staff attorneys are assigned to judges' offices until either middle or late December with Sara O'Dea assigned to Presiding Judge Johnson's office while Pam Kilpatrick is on emergency leave. Therefore, in order to continue the highly important

functions of central staff, a new process must be established without delay. With keen awareness that everyone already has a full load, we will need the help of all employees as we endeavor, under difficult circumstances, to continue to do the high quality work for which this Court is well known.

### **APPLICATIONS**

At least until January, 2009, the two attorneys in central staff will attempt to process all discretionary and interlocutory applications. The Court must decide applications within a short time of docketing, and central staff has experience in executing this duty. By having central staff continue to handle all applications, we will minimize disruption in the workflow of chambers. Because the remaining two central staff attorneys will face a significant increase in their workload, the length and depth of their memoranda will probably decrease.

### **DIRECT APPEALS**

The judges' staff attorneys and the clerk's office will share central staff's duties for jurisdictional review so that the Court can continue to dismiss or transfer cases expeditiously.

The docketing clerks will do an initial screening for jurisdiction. If a docketing

clerk suspects the Court of Appeals does not have jurisdiction, the docketing clerk will flag the record by attaching a completed jurisdictional checklist. See the attached sample checklist. The Clerk/Court Administrator and Deputy Administrator will review the work of the docketing clerk in the initial stages of this change in process and as time permits. After the clerk's office review, the flagged record and the attached checklist will be sent to the assigned judge's office for appropriate action. Cases that are not flagged will remain in the clerk's office until requested by the judge's office, in the usual course of business. At that time, the staff attorney will begin work on the case with a jurisdictional review.

The clerk's office initial screening is not intended to be a thorough process, but an aid to the judges' staff attorneys in disposing of jurisdictionally deficient cases as rapidly as possible. Once a flagged record reaches the judge's office, a staff attorney of that office will conduct a complete review of jurisdiction and determine the appropriate action to be recommended to the judge. Staff attorneys, rather than the central staff, will draft dismissal and transfer orders as appropriate.

If a staff attorney disagrees with the jurisdictional flag on a case which was sent by the clerk's office, he or she should let the clerk know by returning the record and adding a notation to the checklist. This will aid the docketing clerks to gain more

experience and knowledge.

### **TRAINING**

Central staff attorneys will provide an informal seminar on jurisdiction to staff attorneys, and provide them with assistance in using DT search, checklists, and certain macros useful for conducting the jurisdictional review of direct appeals. Additionally, central staff attorneys will be available to answer questions.

### **EXPEDITED CASES**

The clerk's office, rather than central staff, will attempt to identify expedited cases for the judges' offices. The docketing clerks will stamp "Expedited," as appropriate, on the summary sheet which the assigned judge receives immediately after a direct appeal is docketed. See the attached example. Administrative assistants will no longer receive this information electronically from central staff. The clerk's office will also stamp the record as "Expedited."

### **IMPLEMENTATION**

Please instruct your staff attorneys as to the changes in their duties. As we diligently work through this reallocation of work, it is important for judges, attorneys, administrative assistants and clerk's office personnel to be understanding and patient

with each other as we assume and learn new duties. This new process will require additional training for the clerk's employees, and they will need to gain some experience to do this new task well.

For the Court to continue functioning at the same level with the reduced staff, this new process must be implemented immediately. As we move along, we may need to reassess the process and may have to make changes. For example, in January, 2009, the floating staff attorneys may be able to assist the central staff in their duties by rotating for certain periods into central staff as well as into chambers.

If you have any comments or questions about this new process, please do not hesitate to contact the Chief Judge, Judge Phipps, or the Clerk.

Thanks for your help.

cc: Clerk of Court Bill Martin  
Central Staff Attorneys and Floating Staff Attorneys

## JURISDICTIONAL REVIEW CHECKLIST

Case Number \_\_\_\_\_ Judge Number \_\_\_\_\_ Date \_\_\_\_\_

1. Is notice of appeal timely?
    - Yes
    - No
      - NOA > 30 days from entry of judgment or order
      - Dispossessory NOA > 7 days from entry of order (writ of possession)
      - Appeal from Grant of Application > 10 days from Grant of Application
      - Cross Appeal > 15 days from filing of main NOA
  
  2. Do we (vs. the Supreme Court) have jurisdiction?
    - Yes, case belongs in Court of Appeals
    - No, case belongs in Supreme Court because case classification is:
      - Divorce
      - Election Contest
      - Habeas Corpus
      - Mandamus
      - Murder
      - Wills
      - Other* \_\_\_\_\_
3. Is the case directly appealable?
    - Yes
    - No – discretionary application should have been filed
      - Attorney Fees - O.C.G.A. §9-15-14 (no other direct appeal pending)
      - Damages \$10,000 or less
      - Denial of Extraordinary Motion for New Trial
      - Denial of Motion to Set Aside Judgment
      - Dispossessory
      - Domestic Relations Case
      - Garnishment/Attachment
      - Probation Revocation
      - State Court Reviewing Magistrate Court Decision
      - Termination of Parental Rights
      - Workers' Compensation or Administrative Agency
      - Superior Court Review of Lower Court Decision (not probate)
  
    - No – interlocutory application should have been filed

COURT OF APPEALS OF GEORGIA  
47 Trinity Avenue, SW, Suite 501  
ATLANTA, GEORGIA 30334  
(404) 656-3450

**EXPEDITE:**

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APPEAL SUMMARY PAGE

CLASSIFICATION: CONTRACT

CASE NUMBER: A09A0200                      DATE OF DOCKETING: SEPTEMBER 15, 2008

STYLE: JUDY RAYFORD V. STEVE RAYMAN ET AL

LOWER COURT SUMMARY INFORMATION:

FULTON                      County SUPERIOR COURT    2008CV148635

TRIAL JUDGE:    HON.    CHRISTOPHER S. BRASHER

RECORDS	DESCRIPTION:	PARTS:
2008-09-15	LOWERCOURT RECORDS.	01
2008-09-15	TRANSCRIPTS.	

DATE OF JUDGMENT: 2008-07-23                      NOTICE OF APPEAL DATE: 2008-08-04

COURT OF APPEALS CODE: 97-010  
TERM: Jan. Cal. Mo.: JAN/09

DIVISION 3 PANEL CIR PATH: 98, 97, 94.  
DIVISION 3 PANEL CIR PATH: 98, 97, 94, 90, 70, 99, 95.

**COURT OF APPEALS OF GEORGIA**

47 Trinity Avenue, SW, Suite 501  
ATLANTA, GEORGIA 30334  
(404) 656-3450

APPEAL SUMMARY PAGE

CASE NUMBER: A09A0200      DATE OF DOCKETING: SEPTEMBER 15, 2008

STYLE: JUDY RAYFORD V. STEVE RAYMAN ET AL

ATTORNEY REGISTER:

FOR APPELLANT:

Ms.     Judy   Rayford  
PRO SE  
4830 N.W. 43RD STREET #0221  
GAINESVILLE         GA   32606

FOR APPELLEE:

Mr.     Stephen Hale Block  
LEVINE & BLOCK  
2270 RESURGENS PLAZA  
945 EAST PACES FERRY ROAD  
ATLANTA                 GA   30326

FOR OTHER:

COURT OF APPEALS OF GEORGIA

ADMINISTRATIVE BANC MEETING

Tuesday, May 27, 2008

10:30 a.m.

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

*Foley*

A G E N D A

- ✓ I. Call Meeting to Order Chief Judge Barnes
- ✓ II. Ascertainment of Quorum Chief Judge Barnes
- ✓ III. Approval of April 22, 2008 Banc Meeting Minutes Chief Judge Barnes
- ✓ IV. Technical Services Report - Budget Issues Judge Phipps  
Mr. John Ruggeri
- ✓ V. Usage of Legal Research Tools *EXEMPT EMPLOYEES* Ms. Jan Kelley
- ✓ VI. Budget Report *OLD BUSINESS*  
*NEW BUS* Judge Barnes  
Ms. Jan Kelley
- ✓ VII. 2008 Court Planning Session - Committee Appointments Chief Judge Barnes
- ✓ VIII. 2009 Court Planning Session *Other Ann* Chief Judge Barnes  
Ms. Jan Kelley
- ✓ IX. Central Staff Issues *Ady* Judge Phipps
- ✓ X. Termination of Parental Rights/Custody Cases Chief Judge Barnes  
Judge Phipps
- ✓ XI. 2008 Legislative Session Recap Chief Judge Barnes  
Presiding Judge Blackburn  
Mr. Bill Martin
- ✓ XII. Personnel Matters Chief Judge Barnes
- ✓ XIII. Old Business Chief Judge Barnes
- XIV. New Business Chief Judge Barnes
- XV. Other Announcements Chief Judge Barnes
- ✓ XVI. Adjournment Chief Judge Barnes

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

Tuesday, April 22, 2008

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 22, 2008. Those present were:

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

Not in attendance was Judge Charles B. Mikell

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 2008 Minutes.*

Chief Judge Barnes called for approval of the February 19, 2008 banc meeting minutes. Presiding Judge Johnson made a motion to approve the minutes which was seconded by Judge Phipps. Chief Judge Barnes called for a vote and the minutes were approved unanimously.

III. *Recognition of Judge Ruffin as Presiding Judge.*

Chief Judge Barnes recognized Judge Ruffin was now the Presiding Judge for the First Division. Chief Judge Barnes reported the move was initiated by Judge Andrews with no prodding or prompting from her or Presiding Judge Ruffin.

Presiding Judge Ruffin thanked both Chief Judge Barnes and Judge Andrews for the opportunity to finish his tenure on the Court as a Presiding Judge.

IV. *Budget Report.*

Chief Judge Barnes stated Jan Kelley was at the Fiscal Managers Conference and unable to make a budget report. Presiding Judge Blackburn suggested the budget report be waived. Chief Judge Barnes said she would defer the budget report. Presiding Judge Johnson said Chief Judge Barnes had done an excellent job in dealing with the Legislature and the Governor's Office during the budget cycle. Chief Judge Barnes thanked Presiding Judge Johnson and all of the judges for their help and support during the budget process, particularly Presiding Judge Johnson, Presiding Judge Blackburn, Judge Miller, Judge Ellington and Judge Bernes.

Chief Judge Barnes did relate that unless there were line item vetoes by the Governor in the Court's budget, there would be sufficient funds for the Court to hire interns in FY2009. She reported the supplemental budget has already signed into law and the Court has sufficient funds for all judges' offices to hire one and maybe two interns for the balance of the fiscal year. Also, she reported because of the frugality of the Court's operations last year, there was additional travel funds so all judges would be able to attend the State Bar Meeting, even those who had exceeded their travel budgets.

V. *Technical Services Report.*

Chief Judge Barnes then called upon Judge Phipps for a report of Technical Services. Judge Phipps reiterated the Court had made a wise move in assigning Mr. Martin to head Technical Services. Judge Phipps said he is beginning to see real accomplishments in Technical Services. He thanked Mr. Martin and Holly Sparrow for their work in that area. Judge Phipps then asked Mr. Martin to give his report.

Mr. Martin reported through the efforts of Chief Judge Barnes during the budget cycle, the Court will receive approximately \$190,000 in FY2009 budget for enhancement to the e-filing project and the creation of a new e-filing acceptable docket. This is the first time the Court has received an appropriation specifically for e-filing. Mr. Martin stated he, Holly Sparrow, and John Ruggeri continue their weekly telephone conferences with Trivir, our vendor for e-filing and the new docket. Mr. Martin said he is beginning to see real progress and the Clerk's Office is now testing some of the acceptance criteria on the application for the new docket.

He said the Supreme Court hopes to test e-filing in May and the Court of Appeals hopes to be testing e-filing in September. Mr. Martin opined that the creation of an electronic docket for the Supreme Court was not as complicated as creating one for the Court of Appeals. The Supreme Court does everything in a banc of seven where as the Court of Appeals disposes of some cases by one judge, some cases by three judges, some cases by seven judges, and some cases by twelve judges.

Mr. Martin asked if anyone had any questions or concerns about Technical Services to please feel free to contact him or Holly Sparrow.

VI. *Court Planning Session.*

Chief Judge Barnes called upon Mr. Martin to report on the Court Planning Session. Mr. Martin stated the judges had a packet of information prepared by Crystal Willis on the Court Planning Session. Mr. Martin said the Court would convene in the Cedar Knob room at Brasstown Valley Resort at 6:30 p.m. for a wine tasting from 6:30 to 7 p.m. sponsored by the Management Staff of the Court of Appeals (Bill Martin, Jan Kelley, John Ruggeri, Holly Sparrow). Mr. Martin said dinner would be at 7 p.m. with wine service throughout dinner. Mr. Martin said the Court would go over and review the work product of the 2005 Court Planning Session, get an overview of what the task would be for the 2009 strategic plan, and vote on some policy considerations regarding the Court's docket.

Mr. Martin said the Management Staff would compile the workbooks and make them available to the judges prior to the trip to Brasstown Valley.

Mr. Martin said the Friday's Planning Session would be from 8:30 a.m. to 12:30 p.m. with two morning breaks. The Management Staff will present some ideas but it will be up to the Court to decide which ideas it found acceptable, to rate them in priority and to assign a time frame in which to accomplish the goals.

Chief Judge Barnes thanked Mr. Martin for his report and asked the judges to review the conference materials and for those not able to attend, to please give their thoughts and views to Mr. Martin or Chief Judge Barnes.

VII. *Central Staff Procedures/Central Staff Memo.*

Judge Phipps stated he had received a memorandum from Cliff Head, the Head of Central Staff, in response to a memorandum Judge Phipps had sent to Mr. Head. Judge Phipps said he was concerned about the tone of the response he felt it was not appropriate. However, Judge Phipps said while he may be judge-in-charge of Central Staff, Central Staff works for the Court and not for him.

Chief Judge Barnes said she wanted all the judges on the Court to be aware of the correspondence that had gone on between Judge Phipps and Mr. Head. She suggested the Court study the matter with the possibility of discussing it further at the Court Planning Session with an idea toward taking some action.

Thereafter, there was a general discussion about Mr. Head's value to the Court and his relative strengths and weaknesses.

VII. *Report on Judge Mikell.*

Chief Judge Barnes said she had spoken to Linda Floyd of Judge Mikell's office. Ms. Floyd reported Judge Mikell is doing well and planned to be back at the Court for his May 1 oral arguments. Chief Judge Barnes also reported Linda would be getting married next month.

VIII. *Policy Considerations.*

Mr. Martin said there were some policy decisions the Court would need to make regarding the development of the new docket. He said Chief Judge Barnes had asked him to pass out the issues which will require the Court to make some policy decisions at this banc meeting for discussion at the Court Planning Session at Brasstown Valley. These items would be discussed and voted on Thursday night, May 8.

Mr. Martin said he would have staff recommendations on those policies, but it would be the decision of the Court. It is necessary for the Court to make these decisions so the vendor can go forward with implementing the new docket.

IX. *Recusal Policy Change.*

Mr. Martin made available to the judges at the banc meeting the existing policy on disqualifications/recusal, which the Court had approved recently. Mr. Martin said this policy required the random or blind draw to be conducted before the Chief Judge or a Presiding Judge in the presence of two of the following three people: Mr. Martin, Holly Sparrow or Sheila Collins. Mr. Martin related that during the past distress which fell on the Easter weekend, he had two occasions where distress cases came to him for transfer and no Presiding Judge or Chief Judge was available to witness the draw. This had the effect of delaying the transfer on distress cases.

Mr. Martin suggested a change in the IOM policy to provide that the draw can be made before a Chief Judge or Presiding Judge but if none of them are available, any other judge, and in absence of all judges, the draw can be made in the presence of two of the following three people: Sheila Collins, Holly Sparrow or Bill Martin.

Presiding Judge Blackburn moved to adopt the policy which was seconded by Presiding Judge Johnson and passed unanimously.

X. *New Business.*

Presiding Judge Ruffin thanked the members of the Court who were able to come to his portrait unveiling at the Burke County Courthouse in Waynesboro earlier this month.

Presiding Judge Ruffin said his portrait unveiling for the Court of Appeals is scheduled for September 11, 2008. Although the time had not been set yet, he anticipates it will be in the morning.

Chief Judge Barnes reported last year Judge Barnes had hosted an orientation and cookout for the summer interns. Chief Judge Barnes suggested those judges who were using summer interns might wish to contribute to the costs of that party which Judge Barnes said cost several hundred dollars.

XI. *Adjournment.*

There being no further business, an upon hearing a motion to adjourn, which was seconded and passed unanimously. 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, 2008.



# Court of Appeals

## Memorandum

---

**To:** Judge Gary B. Andrews

**From:** Holly Sparrow *HS*

**Subject:** Caseload Trends

**Date:** May 20, 2008

---

At the Court Planning Session in Brasstown Valley you asked how the trends in trial court filings compare to the generally flat trend in the Court of Appeals filings over the last few years. Mr. Martin has asked me to respond.

I have attached two charts which show the percent increase or decrease in filings in the Court of Appeals and the various classes of trial courts from 2004-2006. If you compare the two charts, you can see that the Court of Appeals' 2% increase in this period is similar to the State Courts' increase of 2.6%. On the other hand, the caseload of the Superior Courts has grown more rapidly increasing by almost 11% while the Juvenile Courts experienced a decrease.

The figures for the Probate Courts (41.6% increase) and Magistrate Courts (3.5% increase) are less reliable than the other three trial courts since the information is self-reported and the number of courts reporting caseload varies each year. As noted on the chart, the large increase in probate courts was mostly due to the increase in traffic cases.

If you have any questions about this caseload information, please let me know and I will try to answer them for you.

cc: Bill Martin

<b>COURT OF APPEALS CASELOAD TREND</b>		
<b>YEAR</b>	<b>FILINGS</b>	<b>PERCENT CHANGE</b>
2006	3,303	5.2%
2005	3,139	-3.1%
2004	3,238	
<b>Increase 2004-2006</b>		<b>2.0%</b>

**TRIAL COURT CASELOAD TRENDS**

COURT	YEAR	FILINGS	PERCENT CHANGE
<b>Superior</b>	2006	405703	3.0%
	2005	393940	7.6%
	2004	366132	
<b>Increase 2004-2006</b>			<b>10.8%</b>
<b>State</b>	2006	927978	6.2%
	2005	873641	-3.4%
	2004	904611	
<b>Increase 2004-2006</b>			<b>2.6%</b>
<b>Juvenile</b>	2006	151718	-0.6%
	2005	152655	-2.9%
	2004	157265	
<b>Increase 2004-2006</b>			<b>-3.5%</b>
<b>Probate</b>	2006	368183	25.5%
	2005	293376	12.8%
	2004	260011	
<b>Increase 2004-2006</b>			<b>41.6%</b>
Probate increase is largely traffic cases.			
<b>Magistrate*</b>	2006	576530	11.6%
	2005	516793	-7.2%
	2004	557111	
<b>Increase 2004-2006</b>			<b>3.5%</b>
*Magistrate caseload here excludes warrants issued.			



# Court of Appeals

## Memorandum

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**To:** Bill Martin  
**From:** H. Sparrow *HS*  
**Subject:** 2008 Legislation  
**Date:** May 23, 2008

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I reviewed the final composite for the 2008 legislation. Attached is a list of the bills, I thought might be of interest to the Court. Additionally, Chief Judge Barnes sent by email a copy of the AOC's compilation. You will find a copy of the email in your email inbox.

## **Salaries**

HB119 Appellate and Superior Court Judges Salary Increase. This bill was vetoed by the Governor on May 14, 2008.

HB 1053 Increases the county supplement for the Cobb Superior Court Judges to \$58,711 and provides for the Chief Judges to receive an additional supplement of \$9,800. Cobb County Superior Court Judges' state base and county supplement continue to exceed salary of Court of Appeals Judge.

## **Appellate Procedure**

HB958 Changes provisions related to magistrate court civil cases including appeals. Provides that there will be no appeal from a dismissal for want of prosecution after a nonappearance of a plaintiff for trial. Adds provision that review of a denial of a post judgment motion to vacate a judgment shall be by certiorari to the state court or to the superior court.

HB470 Creates new Lemon Law which applies to sale and leasing of motor vehicles. It provides for arbitration and appeal to the Superior Court de novo.

## **State Employees**

HB255 Changes provisions related to the forfeiture of retirement benefits of a public employee who has been convicted of a public employment related crime as defined in the bill. Adds convictions of public employment related crimes in another state or by the U.S. government for members of a public retirement system on or after July 1, 2008 and provides such conviction will result in forfeiture of an amount, 3 times the economic impact of the crime, before the employee may receive any retirement benefits.

SB328 Sets up a new Pension Savings Plan for state employees who join the retirement system on or after January 1, 2009 in lieu of the current state employees retirement plan.

## **Judges/Courts**

HB1163 Provides for three additional superior court judges; one in each of the following circuits, Brunswick, Alcovy, and Atlanta, with the effective date of the judgeships to be July 1, 2009.

HB1374 Abolishes the State Court of Clinch County on January 1, 2009.

HB1414 Provides for an additional state court judge of Douglas County effective July 1, 2009.

HB1456 Provides for an additional state court judge of Hall County effective July 1, 2009.

SB483 Abolishes the State Law Library. Sets out the number of copies of Georgia Reports which will be provided to state bodies including the Supreme Court and Court of Appeals.

**Other**

HB8 Changes provisions to permit carrying a licensed pistol into public facilities, restaurants and motor vehicles.

HB508 Grants to the probate court concurrent jurisdiction with superior court over the construction of wills

HB588 Provides for care of a minor child by a grandparent due to parental hardship by means of a power of attorney.

**HB1245 Removes the authority of the Chief Judge of the Court of Appeals to appoint a member of the Georgia Public Defender Standards Council among other changes to the Council. Also prohibits senior judges from serving in capital cases unless prior to retirement that senior judge presided over the case as an active elected superior court judge.**

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

**Tuesday, November 27, 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, November 27, 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. 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 SEPTEMBER 18, 2007 MINUTES:**

Chief Judge Barnes called for the approval of the Banc Meeting Minutes of the September 18, 2007 meeting. Presiding Judge Johnson moved for the approval of the Minutes. The motion was seconded by Judge Phipps. Chief Judge Barnes called for a vote and the Minutes were approved unanimously.

**III. NEW HIRE FOR TECHNICAL SERVICES:**

Chief Judge Barnes called upon Judge Phipps to report on the hire of the new person for Technical Services. Judge Phipps stated the Court had hired Mr. Sean Barrett who is currently working for the District Attorney's office in Fulton County. Mr. Barrett will begin work with the Court of Appeals on December 3, 2007. Judge Phipps stated Chief Judge Barnes, John Ruggeri and he had met with Mr. Barrett and were all favorably impressed with him. He is a graduate of Albany

State University and previously worked for BellSouth. He has been with the District Attorney's office in Fulton County since 2004.

Judge Phipps said he believes Mr. Barrett will be an excellent addition to the Court in general and to Technical Services in particular. Judge Phipps said Mr. Barrett presently serves approximately 300 people and he was given a good recommendation by all persons whom Judge Phipps had contacted.

Chief Judge Barnes said she had spoken with Bettianne Hart and Marc Mallon of the District Attorney's Office and both of them gave Mr. Barrett glowing recommendations and stated they hated to lose him but were happy he was having an opportunity for a promotion.

Chief Judge Barnes stated he was currently earning \$32,000.00 a year at Fulton County and the Court would hire him at \$42,000.00 a year.

#### IV. REORGANIZATION OF COURT'S ADMINISTRATIVE STRUCTURE:

Judge Phipps stated the current organizational chart and the proposed organizational chart were in the Banc materials. Judge Phipps said he was proposing an administrative reorganization which would place the Fiscal Office and Technical Services under the Clerk/Court Administrator. Judge Phipps said the IT Office does most of its work for the clerk's office and it is better to have a single person in constant contact with Technical Services rather than a judge-in-charge of Technical Services who would be rotating every couple of years. Judge Phipps said permanent supervision of IT is important and added that constant direct supervision will bring about the optimum production in Technical Services. He felt this would be beneficial for the Court and hoped the Court would agree with his proposal.

Chief Judge Barnes said she thought it was also in the best interest of the Court to put the Fiscal Office under the Clerk/Court Administrator as well. This would enable the head administrator, who is an attorney, to be a clearing house for questions or concerns the Fiscal Office may have.

Judge Ruffin said he supported the reorganization in light of the present Clerk/Court Administrator, however he felt the Court should design a structure for the long term. Also, he questioned where Central Staff would be and if the change would have an effect on the budget.

Judge Phipps said the only effect on the budget would be increased compensation for the Clerk/Court Administrator, which he felt would be commensurate with the additional responsibilities and duties placed upon Mr. Martin. Presiding Judge Blackburn said he felt an increase in pay was certainly in order given the increased responsibility, a sentiment which was echoed by Judge Miller.

Judge Mikell said he felt Central Staff should remain under control of the judges since their function is more in line with assisting judges' offices and disposing of the appeals as opposed

to being a clerk's office function. Judge Mikell also said should the Legislature create the position of the Security Officer for the Court of Appeals, but that person should be under control of the Clerk/Court Administrator, as well.

Presiding Judge Johnson asked if the structure of the chief judge and the administrative judges as the Executive Council would continue. Judge Phipps said that was his intention. The only administrative change in the Court would be to place Technical Services, the Fiscal Office and any security personnel under the direct supervision of the Clerk/Court Administrator.

Chief Judge Barnes asked Mr. Martin if he had any thoughts or would like to comment on the matter. Mr. Martin said he appreciated the confidence of the Court and would do the best he could to justify that confidence. Additionally, Mr. Martin said he felt Central Staff was better suited under the control of the judges.

Judge Mikell made a motion to approve the reorganization of the Court's administrative structure. The motion was seconded by Presiding Judge Johnson and passed unanimously.

#### V. COURT PLANNING SESSION:

Chief Judge Barnes called upon Presiding Judge Andrews for a report on the Court Planning Session. Presiding Judge Andrews said it appeared the Court will be required to have a Court Planning Session in 2008 to comply with the Budget Act. He also said there had been some question about combining a Court Planning Session along with a seminar to be conducted by George Mason Law School. Additionally, there was some discussion that George Mason Law School, Justice Served and/or the Georgia Chamber of Commerce may contribute to defray the expense of the seminars. Presiding Judge Andrews said he was against accepting outside monies and felt that was a very dangerous course of action. Presiding Judge Blackburn said that meeting outside the Atlanta area was also a course of action which may cause trouble for the Court or for individuals.

After a general discussion, Presiding Judge Andrews made a motion the Court conduct a Court Planning Session next year, the time and place to be determined. Judge Miller seconded the motion and all judges voted in favor except Presiding Judge Smith who abstained. Presiding Judge Andrews said he would meet with Mr. Martin and report back to the Banc with some tentative dates and sites.

Presiding Judge Andrews made another motion not to pursue the George Mason Seminar in connection with the Court Planning Session. He said he felt that the Court would be well served to deal with updating the Court's strategic plan and deal with a seminar produced by George Mason Law School in different meetings. Judge Miller seconded the motion. Judge Miller concurred with Presiding Judge Andrews and said she felt the first order of business needed to be a Court Planning Session to deal with the Court's strategic plan and a seminar with George Mason Law School could come at a different time and different place.

Chief Judge Barnes called the matter for a vote and it passed unanimously.

Presiding Judge Andrews made a third motion that the Court accept no outside funding for its Court Planning Session or seminars. The motion was seconded by Presiding Judge Johnson and passed unanimously.

Presiding Judge Andrews then said he was concerned about the continued relationship the Court of Appeals may or may not have with Justice Served. He also said he was concerned the Court of Appeals may be being used to solicit funds.

Presiding Judge Blackburn said at the time the Court was planning the Centennial Dinner he recalled the Court was going to get a letter, opinion or directions from the Law Department regarding this activity. Judge Miller asked if we had ever received such a report.

Judge Ruffin said he did have a report from the Law Department. He said there was no ongoing relationship with Justice Served; the only relationship the Court has with Justice Served is in the publication of the Court Centennial History book and that relationship will end as soon as the History of the Court is published.

Judge Ruffin added he could make a report available to the Court if that is what the Court wanted. There was a general discussion as to the advisability of such a report and/or putting the report in the Court's Minutes.

Judge Phipps made a motion that Judge Ruffin prepare a written report of the Court's relationship with Justice Served and deliver that report to the Clerk/Court Administrator for safekeeping in the Court of Appeals archives. The motion was seconded by Presiding Judge Johnson and passed unanimously.

VI. HOOD V. THE STATE vis a vis COURT RULES AND CLERK PROCEDURES:

The next item of business for the Banc was how the Court was going to deal with pleadings which were defective in light of the Supreme Court's decision of *Hood v. The State*, S07G0412, September 24, 2007. Mr. Martin said the Banc materials included two options to deal with the matter. Both options were discussed and Presiding Judge Smith suggested a third option which was a combination of the two.

After a thorough discussion of the matter, Judge Mikell made a motion to adopt Option 1 on an interim basis. He said he would ask Central Staff to look into the best way to deal with the issues raised by the *Hood* decision. The motion was seconded by Presiding Judge Johnson and passed with all judges voting in favor except Presiding Judge Smith, Judge Miller and Judge Bernes who voted against and Judge Ruffin who abstained.

Chief Judge Barnes asked Judge Mikell to make a report available prior to the next Banc Meeting and directed the Clerk/Court Administrator to put this item on the Agenda for the next Banc Meeting.

VII. RELOCATION OF COURTYARD SMOKING AREA:

Judge Ruffin stated smokers congregate outside of his window and when his office overheats he has to open his windows, the cigarette smoke is sucked into this office producing an irritating atmosphere within his Chambers. There was a general discussion about what could be done and it was decided some communication needs to be directed to the Georgia Building Authority requesting a relocation of the smoking area in the courtyard.

VIII. REINSTATEMENT OF LAWYERS:

Chief Judge Barnes called upon Mr. Martin for the issue of reinstating lawyers who had been suspended or disbarred from the practice of law. Mr. Martin stated a proposal was in the Banc materials which outlines a protocol for lawyers who were suspended for non-payment of dues or failure to maintain continuing legal education requirements and those who were suspended or disbarred for violation of ethical rules. The proposal suggested a \$30.00 reinstatement fee for the first category suspension and a \$100.00 reinstatement fee and a retaking of the Oath for the second. Presiding Judge Andrews made a motion to adopt the proposal which was seconded by Judge Phipps and passed unanimously.

IX. OLD BUSINESS:

Presiding Judge Johnson stated the new recusal procedure has been working well. Although the committee remains in tact, it has no intention of taking any other action regarding recusals unless other issues come up that require action.

X. NEW BUSINESS:

Presiding Judge Johnson stated he attended all the in-house Continuing Legal Education seminars the Court produced along with the Supreme Court. He reported at every seminar the Court is criticized for the failure of the Court of Appeals to have written ethical standards for their staff attorneys. Presiding Judge Johnson said Judge Ruffin has had these standards for years. The Supreme Court has theirs as does the Northern District. After a general discussion, it was decided that Presiding Judge Johnson would circulate to the judges the copies of the written Ethical Standards for staff attorneys that he has and the matter would be discussed at the next Banc Meeting. Chief Judge Barnes directed the Clerk/Court Administrator to put this item on the Agenda for the next Banc Meeting.

XI. ANNOUNCEMENTS:

Chief Judge Barnes announced the Annual Open House on Galleria Parkway would be November 27, 2007, from 5:30p.m. to 8:30 p.m. and the Court's annual Holiday Party would be at noon, Tuesday, December 4th. Chief Judge Barnes said there would be plenty of food but if Court personnel would like to bring a salad or dessert they would be free to do so.

XII. ADJOURNMENT:

There being no further business and upon hearing a motion to adjourn made by Judge Miller and seconded by Presiding Judge Blackburn, 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

## Memorandum

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To: Chief Judge Anne Elizabeth Barnes  
From: *WLM*  
William L. Martin, III  
Subject: Banc Meeting, October 15, 2008  
Date: October 15, 2008

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This is a recapitulation of my memory and my notes from our conversation on Friday afternoon regarding talking points for the Banc Meeting. Also, I have added a couple of items we did not discuss.

**I. Call Meeting to Order**

**II. Ascertainment of Quorum**

**III. Approval of August 27, 2008 Banc Meeting Minutes:** I have the original Minutes and the Minutes with the information redacted about the specifics on the vote for Central Staff attorneys.

**IV. IT Memo:** The Chair will recognize Presiding Judge Ruffin to discuss his concerns about IT videotaping his Portrait Unveilings. I have copies of his memo and John Ruggeri's response in the Banc materials.

**V. Budget Matters:** The Chair will recognize Presiding Judge Smith to speak to his scheduled meeting with Lieutenant Governor Casey Cagle. I have enclosed in the Banc materials the Lieutenant Governor's letter, your response and the response of the Chief Justice.

**VI. Judges' Cost of Living Adjustment:** The Chair will inform the judges of Trey Childress' memorandum of September 18, 2008 rescinding the cost of living raise for the judges. The Chair will inform the judges the memo is in their Banc materials, but there will be no discussion unless some judges would like to comment on the matter.

**MEMO TO:** Chief Judge Anne Elizabeth Barnes  
**SUBJECT:** Banc Meeting, October 15, 2008  
**DATE:** October 15, 2008  
**PAGE:** 2

**VII. Central Staff/Floating Staff Attorneys:** The Chair will call upon Judge Phipps for any report he has regarding Central Staff. A copy of the memo from you and Judge Phipps discussing the reorganization of Central Staff is in the Banc material.

**VIII. Changing Administrative Banc Meeting Date:** The Chair will bring to the attention of the Banc the suggestion to change the Banc Meeting day from the third Tuesday to the third Wednesday of each month. This is because Tuesday has become the new Monday and more judges seem to be at the Court on Wednesday, making for a generally better attendance.

**IX. Coffee for Banc Meetings and Robing Room:** I believe your suggestion was that anyone who wants contribute to the coffee shall feel free to do so but no one is being compelled to do so.

**X. Clerk's Office Organization:** The Chair will recognize me to state that Patty Bender is the new deputy and she and Lynn Osborne are doing the jurisdictional screening on direct appeals and doing a good job. A copy of the reorganization of assignment of clerk duties and back up is in the Banc materials so judges' offices will know whom to call about certain areas in the clerk's office.

**XI. Old Business:** I thought you might like to remind the judges that the Mass Swearing-In scheduled for 1:30 p.m on October 27th. in the Supreme Court Courtroom. It is our time to provide a speaker and you may wish to see if anyone would like to volunteer. There will probably only be about 40 or 50 lawyers to be sworn-in.

**XII. New Business:** I do not have any comments for New Business.

**XIII. Announcements:** I do not have any comments for Announcements.

**XIV. Adjournment**

Thank you.

/ld

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

Wednesday, October 15, 2008

10:30 a.m.

Court of Appeals Banc Room • Suite 501 • 47 Trinity Avenue, S.W.  
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 August 27, 2008 Banc Meeting Minutes | Chief Judge Barnes                          |
| IV.   | IT Memo  | Presiding Judge Ruffin                      |
| V.    | Budget Matters                                   | Chief Judge Barnes<br>Presiding Judge Smith |
| VI.   | Judges' Cost of Living Adjustment                | Chief Judge Barnes                          |
| VII.  | Central Staff/Floating Staff Attorneys           | Judge Phipps                                |
| VIII. | Changing Administrative Banc Meeting Date        | Chief Judge Barnes                          |
| IX.   | Coffee for Banc Meetings and Robing Room         | Chief Judge Barnes                          |
| X.    | Clerk's Office Organization                      | Mr. Bill Martin                             |
| XI.   | Old Business                                     | Chief Judge Barnes                          |
| XII.  | New Business                                     | Chief Judge Barnes                          |
| XIII. | Announcements                                    | Chief Judge Barnes                          |
| XIV.  | Adjournment                                      | Chief Judge Barnes                          |

**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<br>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<br>Mr. Bill Martin       |
| VIII. | Court Planning Session   | Chief Judge Barnes<br>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<br>Mr. Bill Martin |
| XIII. | Recusal Policy Change  | Mr. Bill Martin                       |
| XIV.  | Old Business   |                                       |
| XV.   | New Business   |                                       |
| XVI.  | Announcements  |                                       |
| XVII. | Adjournment  |                                       |

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

**Tuesday, February 19, 2008 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, February 19, 2008. 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 A. Harris Adams  
Judge Debra Bernes  
Ms. Jan Kelley, Fiscal Officer (Part of Meeting)  
Mr. William L. Martin, III, Clerk/Court Administrator

Not in attendance were:

Presiding Judge Gary B. Andrews  
Judge Charles B. Mikell

I. **CALL MEETING TO ORDER, ASCERTAINMENT OF QUORUM AND APPROVAL OF NOVEMBER, 2007 BANC MEETING MINUTES:**

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

Chief Judge Barnes called for the approval of the Banc Meeting Minutes of the November 27, 2007. Presiding Judge Johnson moved for the approval of the Minutes which motion was seconded by Presiding Judge Smith. Chief Judge Barnes called for a vote and the Minutes were approved unanimously.

II. **BUDGET REPORT:**

Chief Judge Barnes called upon Jan Kelley, the Court's Fiscal Officer for a Budget Report. Ms. Kelley first addressed the FY2008 Supplemental Budget. She said most of the \$408,258 had been restored. The Senate Subcommittee had recommended its approval of \$408,258 but the full Senate Appropriations Committee had cut that by \$73,242. Ms. Kelley said the Court

would be able to complete the fiscal year notwithstanding the cut. She said this was because the Court had conserved resources by delaying filling positions.

Ms. Kelley also thanked Chief Judge Barnes, Presiding Judge Johnson and Judge Bernes for the part they had played in shepherding the supplemental budget through the House and Senate Appropriations Committees.

Ms. Kelley reported that meetings were already underway for the FY2009 budget. In this budget the Court is requesting three new positions, funding for e-filing and longevity steps for staff attorneys. Ms. Kelley said it may be late March or early April before that budget is finalized. Ms. Kelley left the meeting at 10:45 a.m.

### III. TECHNICAL SERVICES REPORT:

Chief Judge Barnes called upon Mr. Martin for a Technical Services report. Mr. Martin said the backup batteries were installed in late January and the disaster recovery vendor had been selected and that system would soon be operational. Mr. Martin reported he, John Ruggeri, Holly Sparrow and various members of the clerk's office staff had been meeting through telephone conferences with Britt Courtney of TRIVIR regarding the new docket system and the e-filing applications. Mr. Martin reported these were very tedious meetings but were necessary to have a docket system that could accommodate what the Court needs.

Mr. Martin suggested if any judge or that judges' staff have ideas or requests for reports the new docket system could run to make the management of his or her caseload easier to please let him or Holly Sparrow know.

Mr. Martin said the docket system the Court has now was one that was developed in 1988 and implemented in 1989. He said the Court has had to adapt its operations to conform to the docketing system and now we have an opportunity to make the docket system responsive to the needs of the Court today.

Judge Phipps thanked Mr. Martin for the fine job he was doing as the administrator of the Technical Services Division. Judge Phipps said he was seeing immediate and positive tangible results.

### IV. LEGISLATION:

Presiding Judge Blackburn gave the report on Legislation. Presiding Judge Blackburn said he had spoken to Representative Wendell Willard regarding the pay raise bill for the judges. Representative Willard said the House had passed the measure and was waiting for the Governor's input, which was to have come before the Session began, but has still not been received. Presiding Judge Blackburn reported Representative Willard told him the Governor's Office hired a consulting firm to study executive compensation and retirement for all three branches of government.

Representative Willard stated the Governor would get a compensation bill but he may or may not sign it.

V. **HIRING OF NEW FLOATING ADMINISTRATIVE ASSISTANT:**

Chief Judge Barnes said the Court needed to fill the floating administrative assistant position which was created last year but the hiring was delayed because of the budget crisis. She reported Tracey Parker, Judge Ruffin's administrative assistant, had applied for the job. Chief Judge Barnes said the Court could hire Tracey as the floating administrative assistant and allow her to continue working as Judge Ruffin's administrative assistant and then convert to the floating administrative assistant at the end of the year.

Chief Judge Barnes said she had located a person willing to work as a floating administrative assistant in the meantime with the understanding that job may only be temporary and there may not be a position at the end of the year. There was a brief discussion regarding the matter. Judge Phipps suggested the understanding between the Court and the temporary floating administrative assistant be reduced to writing. Presiding Judge Blackburn suggested the Attorney General's Office review the letter setting out the terms of employment with the temporary floating administrative assistant.

The Court then discussed the hiring of the vacant position for Central Staff which was created when Diana Suber left to take a staff attorney position with Justice Benham. There was a general discussion that the Court should try to retain Court employees whenever possible. Judge Phipps stated he had interviewed several candidates, both from inside and outside of the Court. Presiding Judge Blackburn asked if there had been an open posting process, to which Judge Phipps replied in the affirmative. Judge Phipps said there were several postings around the state but none of which cost the Court any money.

Judge Phipps said all three staff attorneys who work in Judge Ruffin's office were the most experienced and qualified of the candidates interviewed. Judge Phipps made a motion to hire the most senior staff attorney in Judge Ruffin's office for the open Central Staff position, that being Kathryn Mattuch. Presiding Judge Blackburn seconded the motion and it passed unanimously.

VI. **COURT SEAL OR COURT LETTERING FOR COURTROOM AND OLD COURT PHOTOS FOR COURTROOM:**

Judge Phipps said the Whole Court photographs in the Courtroom and in the judges' offices do not have anyway to identify the judges or the Court. He suggested the Whole Court photographs be re-framed and matted to include information about the judges, and the date of the photograph. He stated these photographs could line the wall of the by-way on the east side of the Courtroom.

Judge Phipps also said it might be appropriate to identify the Courtroom as the Court of Appeals of Georgia and suggested gold lettering on the bench. Presiding Judge Johnson suggested

the Court Seal be placed on the center of the bench. After a short discussion, Presiding Judge Blackburn suggested the Court put together a policy regarding the matter.

Chief Judge Barnes noted Presiding Judge Blackburn was the Chair of the Portrait Committee and appointed Presiding Judge Johnson and Judge Phipps to the committee to come up with an appropriate policy. Presiding Judge Blackburn asked if any judges has any idea or thoughts regarding the photographs or a way to identify the Court of Appeals in the Courtroom to please communicate those to him in writing.

VII. **RELATED CASES INVOLVING SAME ISSUE AND DIFFERENT JUDGES:**

Mr. Martin reported to the Court there were six appeals involving five different judges' offices coming from different counties but dealing with an identical issue. Mr. Martin said he wanted all judges' offices to be aware these appeals were pending so the offices could coordinate with one another prior to issuing opinions.

There was a discussion about the Uniform Rules requiring attorneys to notify the Court of these situations and to notify the Court of related cases and whether a similar rule should be incorporated in the rules of the Court.

After a brief discussion, it was decided Mr. Martin would send a memorandum to each of the judges' offices who had been assigned one or more of these appeals for purposes of authoring the opinions.

VIII. **CUSTODY CASES AND TERMINATION OF PARENTAL RIGHTS (TPR) CASES:**

Mr. Martin said Chief Judge Barnes had talked to him about the possibility of expediting custody cases and TPR cases and tracking them as they wind there way through the Court. Mr. Martin said the administrative assistants already have the ability to track which cases have been designated as those to be expedited by Central Staff. He suggested when the administrative assistants log in the opinion or order disposing of the case dealing with child custody or TPR, that an extra copy be placed in Mr. Martin's in box. Mr. Martin could then track the date of docketing through date of disposition and the Court's decision.

IX. **NEW WESTLAW CONTRACT:**

Mr. Martin stated Jan Kelley, Holly Sparrow, John Ruggeri and he have been negotiating with West for a new contract for its on-line legal research services. The current contract is not very beneficial to the Court of Appeals resulting in a lot of out of network research time which is quite expensive. Mr. Martin reported after several meetings, it appeared likely the Court could execute a contract for \$3,500.00 per month which is a substantial savings over current costs. Additionally, it would give greater access to in network research tools and would be a contract that would hold the line for five years.

X. **ETHICS AND GIFTS TO JUDGES:**

Chief Judge Barnes asked Mr. Martin to hand out a Brief guide dealing with gifts and ethical consideration therefor. Chief Judge Barnes said this was an individual matter and each judge should follow his or her conscience. Judge Ruffin said he felt the Court should have a policy about gifts, even if the policy is simply to follow existing law.

Chief Judge Barnes appointed a committee of Judge Ruffin, Judge Phipps and Judge Bernes to study the matter and make a recommendation as to whether there should be a policy as to gifts and if so, what the policy should be.

XI. **OLD BUSINESS:**

Judge Ruffin passed out a letter he had received from the Attorney General's Office regarding Justice Served, Inc. This is the matter which had been discussed at the November 2007 Banc Meeting.

Also, Judge Miller inquired about the ethical standards for staff attorneys. After a brief discussion, it was determined Judge Ruffin would send out copies of his standards to all judges on the Court.

XII. **NEW BUSINESS:**

It was reported Judge Mikell is still in Texas and his blood count is up and he seems to be doing well.

Judge Bernes suggested Central Staff memos reference factual assertions either to the record or to the exhibits in applications. There was a general consensus with this recommendation and Judge Phipps said he would pass it on to Central Staff.

XIII. **ADJOURNMENT:**

There being no further business and upon hearing a motion to adjourn, Chief Judge Barnes adjourned the meeting at 11:45 a.m.

Respectfully submitted,

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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  
\_\_\_\_\_, 2008.

## **COURT PLANNING SESSION**

### **Thursday, May 8, 2008**

- 4:00 p.m.      Check-In
- 6:30 p.m.      Private Dinner  
Location: Cedar Knob (located beside the Dining Room)  
\* Dinner menu is attached for your review.

### **Friday, May 9, 2008**

- 8:30 a.m.      Breakfast  
Location: Cedar Knob  
\* An assortment of breakfast breads, muffins, bagels and seasonal fruit.  
Coffee, juices and specialty teas.
- 8:30 a.m.      Court Planning Session  
Location: Cedar Knob
- 12:30 p.m.     Meeting Adjourns  
Lunch (on your own)  
\* Judges can be reimbursed for this meal using the travel expense form.

## **DIRECTIONS**

From Atlanta: Take I-75 North to Exit #268 onto I-575 North toward Canton.

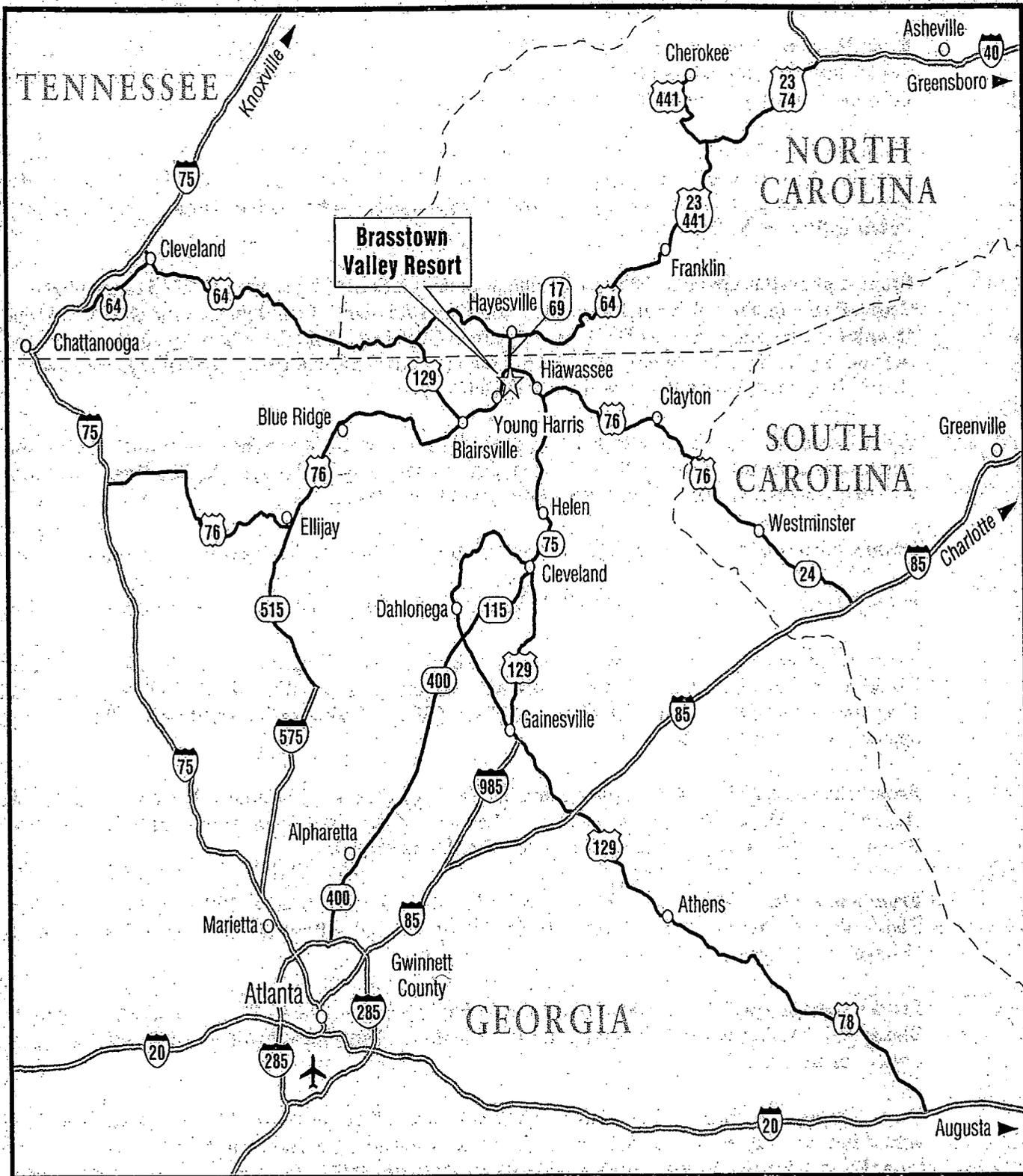
I-575 North becomes Zell Miller Mountain Pkwy. (GA-515).

Follow GA-515 North until it becomes U.S. Highway 76 East.

Stay on U.S. Highway 76 East through Young Harris.

Follow the signs to Brasstown Valley which will be on your right.

Brasstown Valley Resort is one mile past Young Harris College.



What Does Your Room Include?

Unlimited local phone calls

Unlimited toll free calling

Access to our Fitness Center and steam/sauna features

Access to the over 9 miles of maintained hiking trails

Access and equipment usage for on site Bass fishing pond

Unlimited hours of lighted tennis court time with complimentary equipment usage

Daily Newspaper

In-room coffee

Wireless internet access

Business Center access

## ***Appetizers***

### ***Fried Green Tomatoes 7***

*Cornmeal Fried Green Tomatoes,  
Vidalia Onion and Cucumber Slaw and Sun Dried Tomato Vinaigrette*

### ***Crabcakes 9***

*Lump Crabmeat, Peppers, Bacon,  
Mango-Pineapple Relish, Brown Butter Hollandaise*

### ***Shrimp Cocktail 10***

*Jumbo Gulf Shrimp Served with Traditional Cocktail Sauce*

### ***Crispy Vegetable Spring Rolls 8***

*Served with Jicama Slaw, Sweet and Sour Teriyaki Dipping Sauce*

### ***Brasstown Sampler***

*Combination of our Favorites Served Family Style,  
Fried Green Tomatoes, Crispy Spring Rolls, Crabcakes and Grilled Ahi Tuna*

***Just For Two 18***

***Enough for Four 36***

## ***Soups and Salads***

### ***Wild Mushroom and Vidalia Onion Soup 6***

*With Parmesan Crostini*

*"Our House Specialty"*

### ***Soup Du Jour 4***

*Our Chef's Daily Creation*

### ***Tomato and Mozzarella Napoleon 8***

*Beefsteak Tomatoes, Fresh Mozzarella, Shaved Red Onion,  
Fresh Basil, and drizzled with Balsamic Glaze*

### ***Pine Grove Caesar 8***

*Romaine, Parmesan, Toasted Pine Nuts and Classic Caesar Dressing*

### ***Crispy Iceberg Wedge 8***

*Bacon, Tomato, Sliced Onion, Crumbled Maytag Blue Cheese and Blue Cheese Dressing*

### ***Brasstown Spinach Salad 8***

*Baby Spinach, Candied Pecans, Warm Goat Cheese,  
Smoked Bacon, with Vidalia Onion Vinaigrette*

*A customary 20% gratuity will be added to parties of 6 or more*

## **Entrees**

### **12oz. Char grilled Strip Steak 26**

*Hand-trimmed Choice steak, Country Mashed Potatoes and Fresh Vegetables*

### **Tabago Ribeye Steak 22**

*12oz. Ribeye Steak, Grilled to Perfection, with Tabago Onions,  
Country Mashed Potatoes and Fresh Vegetables*

### **Maytag Blue Cheese Topped Filet of Beef 30**

*Choice 8oz. Cut, Topped with Maytag Blue Cheese, Demi-Glace, Country Mashed Potatoes*

### **Roast Prime Rib of Beef**

*Slow Roasted Choice Beef, Country Baked Potato, Rosemary Au Jus*

**Our Generous 12oz. Cut 22**

**Our Hearty 16oz. Lumberjack's Cut 26**

### **Veal Piccata 24**

*Tender Medallions of Veal Sautéed with White Wine,  
Capers, Mushrooms, Angel Hair Pasta and Fresh Vegetables*

### **Sea Bass 25**

*Pan Seared and resting on Sautéed Spinach, Kalamata Olives,  
Roasted Cherry Tomatoes, Capers, a Hint of Garlic and Basmati Rice*

### **Grilled Salmon 22**

*Fresh North Atlantic Salmon, Brown Butter Hollandaise and Basmati Rice*

### **Pecan Crusted Georgia Brook Trout 20**

*Fresh Local Brook Trout dredged in Crushed Pecans,  
Pan Seared and topped with Maple Butter, served with Basmati Rice*

### **Chicken Toscana 22**

*Tender Chicken stuffed with Spinach, Prociutto,  
Boursin Cheese, Parmesan Polenta and Pesto Cream Sauce*

### **Roasted Duck 24**

*Semi- Boneless Crispy Roasted Half Duck,  
Served with Wild Rice, Pomegranate and Passion Fruit Glaze*

### **Shrimp Scampi 24**

*Jumbo Gulf Shrimp Sautéed with Fresh Garlic, White Wine,  
tossed with Linguini and served with Fresh Vegetables*

## **House Specialty Dessert**

### **Warm Apple Pie for Two 12**

*Our Chef has created an Old Fashioned Favorite,  
fresh baked in a Cast Iron Skillet and served with Cinnamon Ice Cream  
A limited number is available daily, so please order with your meal.*

*A customary 20% gratuity will be added to parties of 6 or more*

Recreation at Brasstown Valley Resort

For more information, please call 706-379-9900, Ext. 4602, and speak to Terry Plott.

**Golf:**

\$79 before Noon

\$59 after Noon

Tee times can be arranged through our Pro-Shop / Dial Ext. 64.

Driving range and/or lessons are available with our Golf Professional.

**Pool:**

Heated indoor/outdoor pool and Jacuzzi. Open from 6:00am – 10:00pm.

**Fitness Center:**

Exercise equipment, Steam room, and Sauna are available. Open from 6:00am – 10:00pm.

**Massages:**

Available to our guests by appointment .

\$95 for 50 minutes

\$125 for 80 minutes.

Dial ext. 4700 for appointments.

Please allow 8 hours notice for appointments/4 hours for cancellation.

**Fishing:**

Stocked pond and stream on our property / Call Leisure Services at Ext. 4700 for directions. Complimentary equipment available in Pro-Shop / Fishing Licenses are required.

Guided Fishing Trips can be booked for groups or individuals. A 5-hour guided trip is \$250 per person. If you need help finding public water, call Terry at ext. 4602.

\* Fishing on your own can be found the Chattahoochee River near Helen is 45 minutes away.

**Hiking Trails:**

Enjoy our 9.2 miles of wilderness trails / One hour guided hikes @ \$10 per person. Proper shoes, long pants, and bug spray recommended.

\* If you would like to hike on your own, see Leisure Services for maps.

**The Stables:**

Enjoy Western Style horseback riding on our 4.5 miles of natural mountain trails. One (1) hour guided trail rides @ \*\$35.00 per person & two (2) hour guided trail rides @ \*\$60.00 per person. (\*A 20% service charge and 7% sales tax will be added to each stable activity).

Call the Front Desk at Ext. 62 for times and availability.

**Exclusive Trips:**

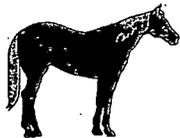
Trips to Brasstown Bald, Georgia's highest mountain, Antique Shopping Sprees, Crane Creek Vineyards\*, and Whitewater Rafting can be arranged. See Terry Plott to arrange transportation.

\* For the tour and transportation to and from Vineyard is \$25 per person. Information attached.

# BRASSTOWN VALLEY RESORT ACTIVITY OPTIONS

Listed below are several activity options and costs.

*Just let us know your choices; we'll make all the arrangements for you in advance!*



## Horseback Riding:

706-379-1649

\$35.00/hour

\$60.00/2 hour

(250 lb. Weight limit)

Closed on Mondays

\*A 20% service charge, and 7% tax will be added to all rides.



## Fishing License Information

Available at several local outlets or order on-line @ [www.permit.com](http://www.permit.com)

1-888-748.6887

GA Resident License (one day) and Trout Stamp \$8.50

GA Resident License (annual) and Trout Stamp \$14.00

Non-Resident License (one day) and Trout Stamp \$16.50

## Boating / Fishing\* on Lake Chatuge:

Boundary Waters – 706.896.2530

[bwater@alltel.net](mailto:bwater@alltel.net)

(Approx. 10 minutes from Resort)

\*You must bring or arrange rental of fishing equipment.

### (Non-Guided Trip):

23' Pontoon Boat for 1/2 Day (4 hrs.)

\$140.00 + tax + fuel

(Boat will hold up to 10 people riding or 6 fishing)



Mountain Adventures – 706.896.4300

[www.fieldstoneresort.com/adventures](http://www.fieldstoneresort.com/adventures)

## Trout Fishing (pond)

Hickorynut Cove Campground and Trout Pond in Hiawassee, GA –

706.896.5341

\$3.55/lb. + 10% service fee for cleaning & packaging

\*All equipment is provided.



Brasstown Valley Resort Trout Stream –

Pro Shop 706.379.4613

Free of Charge

\*Must bring own equipment.

## Fly Fishing

Unicoi Outfitters – 706.878.3083

Located in Helen, GA –

Gilligan Special: \$228.00/2 people

(Includes: 1 hr. lesson, 2-hrs. fly-fishing)

\*All equipment is provided.



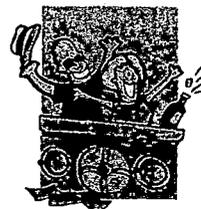
• All pricing includes our booking fee

## Mountain Biking

Woody's Mountain Bikes

Alpine Helen, Georgia

706.878.3715



## River Tubing:

Cool River Tubing – 800.896.4595

Located in Helen, GA –

(Approx. 30-40 min. from Resort)

\$8.40 (Adults)

\$6.00 (Children – 5 and under free)

## Shopping (lots of choices)

Including Helen, GA –

Only 30-40 minutes from the Resort, Helen, GA is an Alpine Village with numerous shops and outlets.



## And even more activities...

Contact our Concierge at 706.379.9900, Ext. 60

Hiking Trails

Fitness Center

Massages

Bird Watching

Tennis

Championship Golf Course

Golf & Tennis Pro Shop

Whitewater Rafting on the

Nantahala River

Indoor/Outdoor Pool

Sand Volleyball & Horseshoes

Mountaineers Kids Club

Casual and Formal Dining

Plenty of Rest & Relaxation

For more information on Brasstown Valley Resort, check out our web-site at [www.brasstownvalley.com](http://www.brasstownvalley.com)

[About Us](#) | [Our People](#) | [Wines](#) | [Vineyards](#) | [Tasting Room](#) | [Calendar of Events](#) | [Events News](#) | [Entertaining at Crane Creek](#) | [Weddin](#)



## TASTING ROOM

Making your way to the tasting room on a field stone path, the sense of history can be felt before you reach the door. Housed in the old Bryson farmhouse, the tasting room at Crane Creek Vineyards is intimate and charming. There is something to please every one of your senses here!

Sample our wines while browsing through our many gourmet food items. Pick up some crackers and dip and enjoy it with a bottle of your favorite Crane Creek wine on the tasting room decks. Chat with our knowledgeable staff about the romantic world of wine making.

Shopping for your favorite wine lover? We carry many gift items including books, wine carriers, picnic backpacks, and wine savers. We can also create custom gift baskets featuring Crane Creek wine.

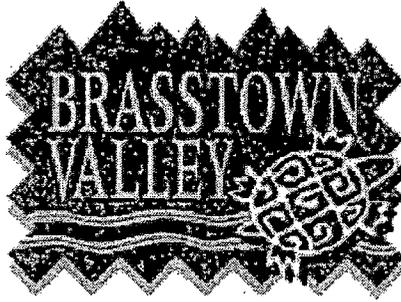
Visit our [Calendar of Events](#) page to see what's going on this week in the tasting room.

### **Tasting Room Hours**

January through March  
Tuesday-Saturday from 11:00 am to 5:00 pm

April through December  
Tuesday-Saturday from 11:00 am to 6:00 pm

Sample the fruits of our labor! Wine tastings available for \$3.00.



## **GUIDED FISHING TRIPS AT BRASSTOWN**



Let us make Brasstown Valley Resort your fishing destination. We offer guided fishing trips for trout, bass, panfish, and striped bass. The clean mountain lakes and streams provide beautiful, plentiful, and enjoyable fishing that will make your memories last for a lifetime.

We work with a number of guide services that can work with anyone from beginners to experts. Prices can be quoted for any size corporate group, couples, or individuals. Trophy trout streams include the Hiawassee River and the Toccoa River. Bass and Striper fishing on Lake Nottely, Lake Chatuge, and Lake Blue Ridge are also available. Most Northeast Georgia streams, rivers, and lakes can be accommodated.

Transportation to all sites can be arranged along with lunches, snacks and beverages.

Full day trips and/or half day trips that fit your needs for any daylight hours can be arranged.

**For information on our guided fishing please call Brasstown Valley Resort-Recreation at 706 379-9900 ext. 4602.**



# Court of Appeals

## Memorandum

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**To:** William L. Martin, III  
**From:** Holly Sparrow *HS*  
**Subject:** E-Filing/New Docket Policy Issues for Next Banc  
**Date:** April 18, 2008

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Below is a list of e-filing and new docket issues that I feel we need to pass by the judges so Britt can move forward on the design. Since we need either the judges' understanding or approval before Britt can put these items into production, you may want to bring them up at the next banc meeting. I would like to run my description of these issues by Britt before we put them before the judges to make sure I have described them properly.

1. Circulation Path of Opinions and Three-Judge Orders - To facilitate electronic voting, opinion tracking, and orders that must circulate to three judges, circulation to a three-judge panel will follow the path of judge 1 to judge 2 to judge 3 and then, if necessary, back to judge 1 and so on unless there is a change, special concurrence, or dissent from judge 2 or judge 3 when the opinion would go back to judge 1 and then through the sequence of 2 and

3 again. This would change the process in some judicial offices in which the opinion is returned to the authoring judge after it is sent to another judge even if that judge agrees with the authoring judge.

2. Opinion Tracking - If the judges truly want to track not only where a case is during circulation; but how long the case has remained with a particular judicial office, then the judges will have to require the AAs enter the appropriate data into the new docket opinion tracking module. Although the initial computer docket system had been designed with such a tracking function, it was made inactive when the AAs did not enter the data necessary to generate the reports.

A proposal to change the IOM to require a voting judge to notify the authoring judge by memoranda of the status the case and reason why the case is still in that office on a specific schedule during the 30-day period before distress has been made. Such notices could be combined into the opinion tracking process if the judges offices enter the necessary data. See attached proposal from Judge Phipps.

3. Transmission of Docketing Notices and Court Actions to both Electronic and Paper Filers - Court actions electronically sent to the clerk's office after 2:00 p.m. will need to be

dated by the AAs for the next business day. E-filers and trial court clerks and judges will receive their copy of a court action immediately upon acceptance and approval by the Clerk's office. Since our postal mail must be ready by 2:30 p.m., the Clerk's office will be unable to mail court actions to paper filers on that day if the court action is received after 1:00 p.m. These court actions will be dated for the next day and the paper copy will be mailed then. Having the court action dated for the next business day, will reduce any disadvantage the paper filers might have as compared to the electronic filers.

Docketing notices will be treated in the same way. Cases docketed after 1 p.m. will be displayed on the docket as docketed the next business day. Electronic notices will be sent immediately, but paper copies will be date for and sent on the next business day.

There will be an exception to this rule for emergency motion orders and court actions during opinion and MFR distress. These orders or opinion will be mailed on the date finalized even if it is afer 1:00 p.m.

4. Cite Check - Currently the clerk's office sends briefs which appear to have no citations to the record or transcripts to central staff. Central staff checks the brief to determine if citations are necessary. Central staff will either return the brief for processing

as usual or send the brief to the assigned judge's office with a draft order. Most briefs do not require a cite check.

Once e-filing begins all electronic briefs will be transmitted from the clerk's office directly to the assigned judge's office and staff attorney. Therefore, it will be necessary to shift the responsibility of cite check to the staff attorney. A flag will be attached to the electronic brief by the clerk's office if the staff attorney needs to perform a cite check.

5. Extensions to File Briefs - The e-filing system needs to process these motions by date rather than by a number of days so the orders can be properly generated. We will ask attorneys to submit their request for an extension to a particular date not to a certain number of days. The AAs will create the extension order by using a standard form order and entering a specific date as the extension deadline.

6. The e-filing system as currently planned will automatically reject a document that a party is attempting to file for any of the reasons on the attached list. Your review of the list is requested. Please note that exceeding the page limit by even one page will cause a rejection unless the court wishes to establish a different procedure for the e-filing application.

7. The new docket system will permit the change of judges on the panels or positions on the

panel at the beginning of each term, if desired. Due to administrative and automation difficulties, the new system will not permit changing the judges on the panel or the positions of the judges on a panel for a term once that term has begun.

8.



# Court of Appeals

## Memorandum

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**To:** Judge Debra Bernes, Chair, IOM Committee  
Chief Judge Anne Elizabeth Barnes  
Presiding Judge G. Alan Blackburn, Member, IOM Committee  
Judge John J. Ellington, Member, IOM Committee

**From:** Judge Herbert E. Phipps

**Subject:** Proposed Revision of IOM Rule XXX. Processing of Opinions.

**Date:** July 18, 2007

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I propose that the IOM Committee consider the attached proposed revision to IOM Rule XXX, Processing of Opinions. If your committee feels this is a worthy recommendation I would ask that you propose this revision to the whole court.

The proposed language would be substituted for what is now No. 2 of the Rule, which would be deleted in its entirety. Number 1 of the Rule would remain as written.

Attachments

2. If a voting judge holds a case more than 10 working days, that judge must send a courtesy memo to the authoring judge stating the status of his or her consideration of the case, e.g., whether he or she is drafting or considering a special concurrence or dissent, or is unavailable to vote. If more time is needed, the memo should identify the aspect of the case which requires extra study and consideration. Thereafter, a similar memo must be sent after each additional week that the case is held.

Once we enter the internal distress period (30 days prior to Distress Day) the time period after which the memo must be sent will change from 10 days, as follows:

- 4th week out: after 4 days
- 3rd week out: after 3 days
- 2nd week out: after 2 days
- Final week: after 24 hours or less

During the internal distress period, if the case is circulating whole court the memo should go to every judge on the circulation path.

The idea behind this rule is that when a judge receives a case, he or she should vote on it within a reasonable time, or inform the authoring judge (who needs to know for case and staff management purposes) and other judges within the circulation path why he or she is holding the case so that they can plan accordingly.

### XXX. PROCESSING OF OPINIONS

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

## XXXIII. PROTOCOL ON DISQUALIFICATION AND RECUSAL OF JUDGES

### A. DISQUALIFICATIONS

Whenever a judge disqualifies or recuses, that judge shall notify the Clerk's Office by memorandum with a copy to the other judges of the disqualification and that the case is to be transferred to another judge. If the case is to be reassigned, all records, transcripts, exhibits, briefs, motions, etc. are to be attached and given to the Clerk, Deputy Clerk or Deputy Administrator. The procedures for transfer shall be as follows.

1. The Clerk shall maintain two containers with twelve balls or lots in each. One container will be used to reassign cases for the purpose of authoring the opinion. The second container will be used to reassign cases for voting purposes. The twelve balls or lots will be numbered one through 12. The numbers 1 through 12 will represent the judges of the Court starting with the most senior judge as number 1 to the least senior judge as number 12.
2. Upon receipt of a memorandum of a disqualifying or recusing judge, the Clerk shall draw a ball or lot to designate the judge to whom the case will be transferred. The draw must be made in the presence of three persons, at least one of whom

shall be the Chief Judge or a Presiding Judge, but not the recused or disqualified judge, and at least one of the following persons, the Clerk of Court, Deputy Clerk or Deputy Administrator. If neither the Chief Judge nor any of the Presiding Judges are available to witness the draw, any judge may do so so long as that judge is not the recused or disqualified judge. If no judge is available, at least two of the following persons must be present and one must draw the lot or ball: the Clerk of Court, Deputy Clerk and Deputy Administrator. Should the ball or lot drawn be the number of the judge who is disqualifying or recusing, another ball or lot will be drawn, and, thereafter, the first ball drawn will be replaced in the container.

3. Once a number is drawn from the container, unless it is the ball of the disqualifying or recusing judge, it will not be replaced until all the numbers have been drawn from the container. After the last number is drawn, the container will be re-filled with all the numbers 1-12.



# Court of Appeals

## Memorandum

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To: Judge Phipps

From: Cliff Head (Central Staff)

Subject: Central Staff contacts, etc.

Date: February 18, 2008

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In response to your memorandum of February 13 I have updated and attached general contact information as well as our telecommuting schedule. Please be advised that we have never found it necessary to use Groupwise for anything other than e-mail.

As for requests for leave, it is each attorney's responsibility to initial the calendar we keep on our bulletin board as leave requests are made. Basically leave requests are first come, first served. Office coverage has never been an issue due to multiple leave requests.

With regard to office supplies, requisitioning has always been done collectively and such requests are very rare. I never specifically order office supplies of any kind, so I am never the person who handles that duty. Nevertheless, I can assure you that trying to "schedule" our requisitions would be pointless. We order supplies perhaps twice a year when the need arises. We are a very low maintenance group.

As for monthly leave reports, each staff attorney has always been responsible for taking

care of that task individually. Unlike the Supreme Court's Central Staff, our group does not have its own administrative assistant to handle such tasks. Fortunately this has never been a problem for us. Leave reports never get lost in the shuffle. I cannot even imagine how that would happen. Our substantive work never gets "lost in the shuffle," and in practice neither do our leave reports. If this does occur, however, please let us know and we will make sure that the affected attorney supplies a replacement leave report.

I can assure you that giving me responsibility for such matters will only cause more problems than it will solve. I lack the organizational skills required of an administrative assistant, and until now neither I nor my predecessors have ever been asked to take on such responsibilities. Furthermore, collecting leave sheets from my fellow Central Staffers would frustrate the egalitarian approach that I prefer to take with my peers. We are professionals and equals and we are expected to conduct ourselves accordingly. My job in the past year has been merely to act as spokesperson for the group and to relay information to them as necessary. As much as I prefer that we all be viewed as equals in every way, I understand that it is absolutely necessary for one of us to be a little more equal than the others for the judges' convenience.

Chuck Williams adopted a similar approach as "supervisor" and it served him well. I can tell you honestly that I would not have appreciated having to submit my leave reports to Chuck, regardless of the reason given. I am even less interested in giving my peers a reason to resent me unnecessarily. I feel that I should no more be responsible for collecting leave reports within this

office than a senior staff attorney within chambers should be responsible for collecting the leave sheets of his or her fellow elbow clerks. From my perspective such a practice would serve no positive purpose. There is currently no formal "pecking order" in Central Staff and I see no need to create one. The work is automatically divided equally as it comes in, and as far as I am concerned that makes us equals in every way that matters. To the extent that my peers come to me to discuss matters of substance, it is because I have earned their respect and not because they are expected to do so. Ultimately I will do whatever is asked of me, but I do hope you will give my concerns on this particular matter their due consideration.

During the time Judge Mikell was over Central Staff I sensed that his biggest frustration with us is that we virtually never needed his assistance as a group. While I understand that Judge Mikell may have found his responsibility over Central Staff to be relatively uneventful, we would not have had it any other way. I can assure you, however, that if issues arise that should be brought to your attention I will certainly do so. It just so happens that our individual responsibilities are very well defined and understood, which minimizes the potential for problems that would require a judge to "go to bat for us," so to speak. Conflicts within Central Staff are nonexistent, thanks largely to the way we have learned from experience to manage ourselves and the workflow. And if there are complaints among the judges about Central Staff or our work, I am not aware of them. I assume you would become aware of such issues before I would.

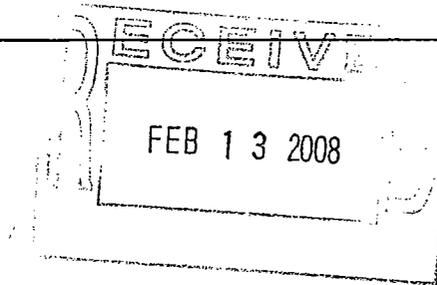
If there is anything else I can do for you at this time please let me know.



# Court of Appeals

## Memorandum

To: Cliff Head  
From: Judge Herbert Phipps *HJP*  
Subject: Central Staff  
Date: February 13, 2008



I look forward to working with you during 2008 as chair of the committee with oversight over the court's central staff attorneys. I hope you will always feel free to come to me with your questions, concerns, and ideas for improvement.

As an initial matter, I would like to have a list of contact information (names, office room numbers and phone numbers) for all central staff attorneys. I understand that some attorneys may telecommute, and I would like to have a schedule showing which attorneys telecommute and the day on which they work from home, along with their home contact information. If there is an electronic Groupwise calendar for central staff work and leave information, please let me know and add me and my administrative assistant, Debbie Zimmerman, as proxy readers of that calendar.

Judge Mikell's office has forwarded to me leave requests submitted by you (February

14 and 15) and Katherine Durant (February 29). I know of no reason not to grant both requests and hereby grant them. I assume there is some internal mechanism for coordinating leave requests by central staff attorneys to ensure uninterrupted central staff services to the court, and will count on you to inform me of that mechanism and to let me know whether and how you would like to provide input to me regarding central staff requests for leave.

When central staff attorneys are in need of office supplies, please coordinate a group supplies request on the appropriate court form and forward it to Debbie Zimmerman for my signature. I would appreciate these requests being submitted to me either monthly or quarterly, whichever is more appropriate for your needs.

Monthly leave reports should be submitted to me by all central staff attorneys promptly at the end of each month, and I would appreciate your help in coordinating their submission collectively so that none gets lost in the shuffle.

If there are other matters, administrative or substantive, that I should be aware of, please bring them to my attention.

Thank you for the extra efforts required of you as supervising attorney for the court's central staff attorneys. Your attention to this responsibility is greatly appreciated by me and all the judges.

cc: Chief Judge Barnes, Judge Miller, Judge Mikell



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# Court of Appeals

## Memorandum

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**To:** Chief Judge Anne Elizabeth Barnes  
**From:** William L. Martin, III  
**Subject:** Banc Meeting Agenda Items  
**Date:** February 2, 2007

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Attached please find a list of Items from the 2005-2006 Banc Minutes which remain open and/or may need Court attention. I believe it would be very difficult for the Court to address all of these items at one Banc Meeting so we might want to prioritize the items in terms of which ones need to be brought to the attention of the Banc first.

In addition to these items, I have three other items: Judge John Sammons Bell Memorial; raising the amount of the expenditure on the Flower Fund to \$100.00 and review of the policy of allowing public review of oral argument recordings.

Thank you.

/ld

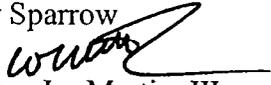
Attachments



# Court of Appeals

## Memorandum

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To: Holly Sparrow  
From:  William L. Martin, III  
Subject: Unresolved Banc Issues for 2006  
Date: January 25, 2007

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Thank you for the review of the Banc Minutes for 2006. Please review the Banc Minutes for 2005 to see if there are unresolved issues from the first year of Judge Ruffin's tenure as chief judge. Also, please look at the Banc Minutes from 2001 forward relative to any decision of the Court in permitting persons to view, listen to or copy the Court's oral argument tapes and CDs.

Thank you.

*1/29/2007*  
*See attached*  
*HS*

/ld



# Court of Appeals

## Memorandum

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**To:** William L. Martin, III  
**From:** H. Sparrow *HS*  
**Subject:** 2006 Banc Issues Not Resolved  
**Date:** January 24, 2007

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Per your request, I have prepared the attached list of items discussed at 2006 Banc sessions which appear to remain unresolved.

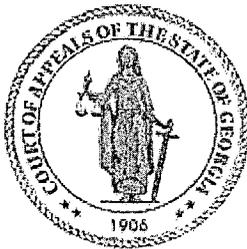
Banc

- 1) Judge Bell memorial
- 2) tapes for public/pres/medic
- 3) Flowers to <sup>100</sup>

2006 Banc Minutes

**Items Not Addressed**

- Jan. 2006 V. (4) Page 3 Process for Hiring Central Staff. See May, Sep. and Nov. 2006 below.
- Apr. 2006 IV. (6) Page 5 Authority of Judge in Charge of Central Staff  
IV. (7) Page 6 Rule 36 Opinions for Misdemeanor Cases
- May 2006 II. (a) Page 2 Motion to adopt policy for advertising vacancies See Sep. and Nov. 2006 below.
- June 2006 IV. (2) Page 3 Policy on Recusals and Disqualifications  
IV. (5) Page 5 Discussion on permission for staff attorneys to attend a seminar or one to State Bar Meeting
- Sep. 2006 III. (6) Page 4 Criteria for advertising vacancies (not in a judge's office) assigned to committee of Judges Barnes, Phipps and Ellington  
IV. (1) Page 4 Physical Precedent apply on header of only published opinions. Vote was to be by email, but I don't remember a change to the IOM about this?
- Nov. 2006 VI. E. Page 4 Report from Judge Barnes on advertising vacancies concerning cost of advertising positions in the Fulton Daily and/or AJC on-line. She recommended the AJC on-line for all positions. No decision was made.  
VII. A. Page 4 Judge representation at the Mass Swearing In Ceremonies - Discussion of whether to have only the Chief Judge of the Court of Appeals and Chief Justice of Supreme Court attend. Vote was tied, with one abstention so Chief Judge said it would be up to the decision of the next Chief Judge.  
VII. C. Page 5 Judge Johnson brought up problems with certain IT service calls. Chief Judge said this would be addressed to the parties. No further information about this in the minutes.  
VII. C. Page 5 There was to be a report from Central Staff about telecommuting. Unclear when or how this was to take place.



COPY

## Court of Appeals

### Memorandum

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To: Chief Judge Anne Elizabeth Barnes

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

Subject: Banc Meeting Agenda Items

Date: April 11, 2007

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I have listed some possible Banc Meeting Agenda Items for your consideration for the Banc Meeting scheduled for Tuesday, April 17, 2007 at 10:30 a.m. in the new Court Banc Room located behind the reception area of the clerk's office. Please remember that you and I, and hopefully several other judges, will be attending a luncheon in honor of Lieutenant Governor Casey Cagle at noon on that date. In that regard, you might want to keep the agenda as short as possible.

1. Budget Report
2. Technical Services Report
3. Selling Briefs to LexisNexis and Thomson West
4. Clearing out Storage Room (Jan specifically wanted this on the agenda).
5. Making Oral Argument Tapes Available to the Public
6. Disqualification/Recusal of Judges
7. Retention of Court Car
8. Emergency Response Seminar for Court
9. Guidelines for Judicial Orientation
10. Blackberries for Judges
11. Rule 36 Opinions for Misdemeanor Cases

I have also taken the liberty of attaching a copy of my memorandum to you of February 2, 2007 which includes several items which were leftover from previous Banc Meetings.

Thank you.

/ld  
Attachments



# Court of Appeals

## Memorandum

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To: Chief Judge Anne Elizabeth Barnes  
From: William L. Martin, III  
Subject: Banc Meeting Agenda Items  
Date: February 2, 2007

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Attached please find a list of Items from the 2005-2006 Banc Minutes which remain open and/or may need Court attention. I believe it would be very difficult for the Court to address all of these items at one Banc Meeting so we might want to prioritize the items in terms of which ones need to be brought to the attention of the Banc first.

In addition to these items, I have three other items: Judge John Sammons Bell Memorial; raising the amount of the expenditure on the Flower Fund to \$100.00 and review of the policy of allowing public review of oral argument recordings.

Thank you.

/ld

Attachments

2005-6 Banc Minutes

**Items Not Addressed**

- Jan. 2005 VI. Page 5 Retention of Court Car - Review annually - each January Banc
- Apr. 2005 VI. Page 3 Emergency Response Seminar for Court  
Page 4 Brief Manual - Guidelines for Judicial Orientation (I don't think this was done by you and Chief Judge, was it?)
- Sep. 2005 VI. C. Page 5 Investigate - Blackberries for judges - cost and necessary platform for routing emails ( I am not sure if this was ever completed with a decision.)
- Oct. 2005 IV. (i) Page 3 Sale of Briefs to Thomson - West
- Nov. 2005 IV. (5) Page 3 Electronic Signatures - Rule or Rely on Parties to Raise Objections (Not sure if there was a final decision on this.)
- Jan. 2006 V. (4) Page 3 Process for Hiring Central Staff. See May, Sep. and Nov. 2006 below.
- Apr. 2006 IV. (6) Page 5 Authority of Judge in Charge of Central Staff  
IV. (7) Page 6 Rule 36 Opinions for Misdemeanor Cases
- May 2006 II. (a) Page 2 Motion to adopt policy for advertising vacancies See Sep. and Nov. 2006 below.
- June 2006 IV. (2) Page 3 Policy on Recusals and Disqualifications  
IV. (5) Page 5 Discussion on permission for staff attorneys to attend a seminar or one to State Bar Meeting
- Sep. 2006 III. (6) Page 4 Criteria for advertising vacancies (not in a judge's office) assigned to committee of Judges Barnes, Phipps and Ellington  
IV. (1) Page 4 Physical Precedent apply on header of only published opinions. Vote was to be by email, but I don't remember a change to the IOM about this?
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VII. A. Page 4 Judge representation at the Mass Swearing In Ceremonies -

Discussion of whether to have only the Chief Judge of the Court of Appeals and Chief Justice of Supreme Court attend. Vote was tied, with one abstention so Chief Judge said it would be up to the decision of the next Chief Judge.

VII. C. Page 5 Judge Johnson brought up problems with certain IT service calls. Chief Judge said this would be addressed to the parties. No further information about this in the minutes.

VII. C. Page 5 There was to be a report from Central Staff about telecommuting. Unclear when or how this was to take place.



# Court of Appeals

## Memorandum

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**To:** William L. Martin, III  
**From:** H. Sparrow *HS*  
**Subject:** Oral Argument Tapes  
**Date:** January 29, 2007

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The only two mentions of oral argument tapes in the Banc Minutes (that I found) are attached. The first initiates the taping for use by Court personnel only. The second mention, in 2004, was a discussion of selling copies of the oral arguments. It appears there was no vote on the issue at that time.

1/16 2001

by the House and Senate Retirement Committees and then final approval by the House and Senate and, of course, signature by the Governor.

IV. EMERGENCY MOTION JUDGE EQUIPMENT:

Chief Judge Blackburn reported he had consulted with Bud Tirey, Head of Technical Services, and has provided for the Court a statewide pager for the Emergency Motion Judge as well as a laptop computer. This will enable the Emergency Motion Judge to be in constant contact with the Court. The laptop computer which is also available will have information on it regarding prior orders of the Court in dealing with various emergency motions. The Emergency Motion Judge equipment was then turned over to January's Emergency Motion Judge, Presiding Judge Pope.

Chief Judge Blackburn directed the clerk/court administrator to set up a procedure for rotating the Emergency Motion Judge equipment among the judges on the Court. Chief Judge Blackburn also said the laptop will have an e-mail address and sample orders available for use by the Court.

V. ORAL ARGUMENTS

Chief Judge Blackburn stated the Court had received the digital clock for the courtroom the purchase of which had been authorized by the Executive Council last Summer. He suggested the clock would benefit the Court and attorneys attending oral argument by having a clock which the judges and attorneys can plainly see with the time remaining in oral argument.

Chief Judge Blackburn also discussed the idea of tape recording all oral arguments in the Court for use of the Division hearing oral arguments or judges who are not present at oral argument on 7 judge or 12 judge cases. Chief Judge Blackburn said the oral argument tapes would also be available to staff attorneys or judges who wish to hear or rehear the oral arguments. Chief Judge Blackburn directed the clerk/court administrator to set up a procedure by which the clerk's office could be responsible for identifying the file folder and record of cases which have been orally argued and set up a procedure in which the oral argument tapes can be checked out. After a brief discussion, it was decided the tapes would only be available for use by Court personnel and not available to the public, attorneys or parties.

VI. RECORDING BANC MEETINGS:

Chief Judge Blackburn discussed the possibility of tape recording the Banc Meetings for judges who were not able to attend the Banc Meetings. After a brief discussion about the pros and cons of such action, Presiding Judge Johnson made a motion not to tape record the Banc Meetings. The motion was seconded by Judge Barnes and passed unanimously.

Presiding Judge Pope then urged the judges of the Court to be circumspect in their use and disposition of the Court's Administrative Banc Minutes. Presiding Judge Pope made a motion that no sensitive information be memorialized in the Minutes and that the Minutes be safeguarded or destroyed by the individual judges after each has read the Minutes.

Judge Miller seconded the motion and it passed unanimously.

Judge Miller, such amendment seconded by Presiding Judge Ruffin and agreed to by Judge Eldridge that the Court would take steps to acquire space on the Fifth Floor of the Health Building and the First Floor of the Health Building with an eye toward renovating the First Floor space for a suite of offices for a judge and judge's staff, and with the idea of looking toward taking the existing Chambers of Judge Eldridge to utilize for staff attorneys, while recognizing that it is the hope, common desire and intent of all the judges on the Court to eventually have enough space in the Judicial Building to have all judges in the Judicial Building and all judges in a suite of offices with their staff attorneys and administrative assistant.

All judges present voted in favor of the amended motion with the exception of Presiding Judge Andrews who voted against the motion and Presiding Judge Ruffin who abstained.

Since Presiding Judge Andrews stated he no longer wished to chair the committee, Chief Judge Smith appointed Presiding Judge Johnson as Chair of the Office Space Committee.

#### IV. REVENUE ENHANCEMENTS:

Chief Judge Smith called upon Mr. Martin to discuss the possibility of revenue enhancements for the Court. Mr. Martin stated he had contacted Thomson West Group as directed by the Banc regarding the purchase of the briefs filed in the Court of Appeals of Georgia. Mr. Martin reported Thomson West did not really want to pay for the briefs but wanted to trade West Law or otherwise barter for the briefs. Mr. Martin stated Tom Leighton in the West Group would be sending a written proposal.

Briefly, other items discussed as revenue enhancements were: selling non-published opinions; increasing certification fees; increasing Certificate of Good Standing fees, charging for Courtesy Appearances; raising admission fees; selling copies of oral argument tapes and raising copying costs.

Judge Miller made a motion the Court study the suggestions to enhance its revenue. The motion was seconded by Judge Eldridge and passed unanimously. Judge Barnes made a motion not to sell the oral argument tapes. The motion was seconded by Judge Eldridge with all judges voting in favor, except Presiding Judge Ruffin who opposed the motion.

#### V. LEGISLATION REPORT:

Mr. Martin stated no legislation passed that would affect the Court.

2006 Banc Minutes

**Items Not Addressed**

- Jan. 2006 V. (4) Page 3 Process for Hiring Central Staff. See May, Sep. and Nov. 2006 below.
- Apr. 2006 IV. (6) Page 5 Authority of Judge in Charge of Central Staff  
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VII. C. Page 5 Judge Johnson brought up problems with certain IT service calls. Chief Judge said this would be addressed to the parties. No further information about this in the minutes.  
VII. C. Page 5 There was to be a report from Central Staff about telecommuting. Unclear when or how this was to take place.

**COURT OF APPEALS OF GEORGIA**

**ADMINISTRATIVE BANC MEETING**

Tuesday, May 27, 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 April 22, 2008 Banc Meeting Minutes      | Chief Judge Barnes   |
| IV.   | Technical Services Report                            | Judge Phipps<br>Mr. John Ruggeri                                   |
| V.    | Usage of Legal Research Tools                        | Ms. Jan Kelley   |
| VI.   | Budget Report  | Judge Barnes<br>Ms. Jan Kelley                                     |
| VII.  | 2008 Court Planning Session - Committee Appointments | Chief Judge Barnes   |
| VIII. | 2009 Court Planning Session                          | Chief Judge Barnes<br>Ms. Jan Kelley                               |
| IX.   | Central Staff Issues                                 | Judge Phipps   |
| X.    | Termination of Parental Rights/Custody Cases         | Chief Judge Barnes<br>Judge Phipps                                 |
| XI.   | 2008 Legislative Session Recap                       | Chief Judge Barnes<br>Presiding Judge Blackburn<br>Mr. Bill Martin |
| XII.  | Personnel Matters                                    | Chief Judge Barnes   |
| XIII. | Old Business   | Chief Judge Barnes   |
| XIV.  | New Business   | Chief Judge Barnes   |
| XV.   | Other Announcements                                  | Chief Judge Barnes   |
| XVI.  | Adjournment  | Chief Judge Barnes   |

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

Tuesday, April 22, 2008

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 22, 2008. Those present were:

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

Not in attendance was Judge Charles B. Mikell

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 2008 Minutes.*

Chief Judge Barnes called for approval of the February 19, 2008 banc meeting minutes. Presiding Judge Johnson made a motion to approve the minutes which was seconded by Judge Phipps. Chief Judge Barnes called for a vote and the minutes were approved unanimously.

III. *Recognition of Judge Ruffin as Presiding Judge.*

Chief Judge Barnes recognized Judge Ruffin was now the Presiding Judge for the First Division. Chief Judge Barnes reported the move was initiated by Judge Andrews with no prodding or prompting from her or Presiding Judge Ruffin.

Presiding Judge Ruffin thanked both Chief Judge Barnes and Judge Andrews for the opportunity to finish his tenure on the Court as a Presiding Judge.

IV. *Budget Report.*

Chief Judge Barnes stated Jan Kelley was at the Fiscal Managers Conference and unable to make a budget report. Presiding Judge Blackburn suggested the budget report be waived. Chief Judge Barnes said she would defer the budget report. Presiding Judge Johnson said Chief Judge Barnes had done an excellent job in dealing with the Legislature and the Governor's Office during the budget cycle. Chief Judge Barnes thanked Presiding Judge Johnson and all of the judges for their help and support during the budget process, particularly Presiding Judge Johnson, Presiding Judge Blackburn, Judge Miller, Judge Ellington and Judge Barnes.

Chief Judge Barnes did relate that unless there were line item vetoes by the Governor in the Court's budget, there would be sufficient funds for the Court to hire interns in FY2009. She reported the supplemental budget has already signed into law and the Court has sufficient funds for all judges' offices to hire one and maybe two interns for the balance of the fiscal year. Also, she reported because of the frugality of the Court's operations last year, there was additional travel funds so all judges would be able to attend the State Bar Meeting, even those who had exceeded their travel budgets.

V. *Technical Services Report.*

Chief Judge Barnes then called upon Judge Phipps for a report of Technical Services. Judge Phipps reiterated the Court had made a wise move in assigning Mr. Martin to head Technical Services. Judge Phipps said he is beginning to see real accomplishments in Technical Services. He thanked Mr. Martin and Holly Sparrow for their work in that area. Judge Phipps then asked Mr. Martin to give his report.

Mr. Martin reported through the efforts of Chief Judge Barnes during the budget cycle, the Court will receive approximately \$190,000 in FY2009 budget for enhancement to the e-filing project and the creation of a new e-filing acceptable docket. This is the first time the Court has received an appropriation specifically for e-filing. Mr. Martin stated he, Holly Sparrow, and John Ruggeri continue their weekly telephone conferences with Trivir, our vendor for e-filing and the new docket. Mr. Martin said he is beginning to see real progress and the Clerk's Office is now testing some of the acceptance criteria on the application for the new docket.

He said the Supreme Court hopes to test e-filing in May and the Court of Appeals hopes to be testing e-filing in September. Mr. Martin opined that the creation of an electronic docket for the Supreme Court was not as complicated as creating one for the Court of Appeals. The Supreme Court does everything in a banc of seven where as the Court of Appeals disposes of some cases by one judge, some cases by three judges, some cases by seven judges, and some cases by twelve judges.

Mr. Martin asked if anyone had any questions or concerns about Technical Services to please feel free to contact him or Holly Sparrow.

VI. *Court Planning Session.*

Chief Judge Barnes called upon Mr. Martin to report on the Court Planning Session. Mr. Martin stated the judges had a packet of information prepared by Crystal Willis on the Court Planning Session. Mr. Martin said the Court would convene in the Cedar Knob room at Brasstown Valley Resort at 6:30 p.m. for a wine tasting from 6:30 to 7 p.m. sponsored by the Management Staff of the Court of Appeals (Bill Martin, Jan Kelley, John Ruggeri, Holly Sparrow). Mr. Martin said dinner would be at 7 p.m. with wine service throughout dinner. Mr. Martin said the Court would go over and review the work product of the 2005 Court Planning Session, get an overview of what the task would be for the 2009 strategic plan, and vote on some policy considerations regarding the Court's docket.

Mr. Martin said the Management Staff would compile the workbooks and make them available to the judges prior to the trip to Brasstown Valley.

Mr. Martin said the Friday's Planning Session would be from 8:30 a.m. to 12:30 p.m. with two morning breaks. The Management Staff will present some ideas but it will be up to the Court to decide which ideas it found acceptable, to rate them in priority and to assign a time frame in which to accomplish the goals.

Chief Judge Barnes thanked Mr. Martin for his report and asked the judges to review the conference materials and for those not able to attend, to please give their thoughts and views to Mr. Martin or Chief Judge Barnes.

VII. *Central Staff Procedures/Central Staff Memo.*

Judge Phipps stated he had received a memorandum from Cliff Head, the Head of Central Staff, in response to a memorandum Judge Phipps had sent to Mr. Head. Judge Phipps said he was concerned about the tone of the response he felt it was not appropriate. However, Judge Phipps said while he may be judge-in-charge of Central Staff, Central Staff works for the Court and not for him.

Chief Judge Barnes said she wanted all the judges on the Court to be aware of the correspondence that had gone on between Judge Phipps and Mr. Head. She suggested the Court study the matter with the possibility of discussing it further at the Court Planning Session with an idea toward taking some action.

Thereafter, there was a general discussion about Mr. Head's value to the Court and his relative strengths and weaknesses.

VII. *Report on Judge Mikell.*

Chief Judge Barnes said she had spoken to Linda Floyd of Judge Mikell's office. Ms. Floyd reported Judge Mikell is doing well and planned to be back at the Court for his May 1 oral arguments. Chief Judge Barnes also reported Linda would be getting married next month.

VIII. *Policy Considerations.*

Mr. Martin said there were some policy decisions the Court would need to make regarding the development of the new docket. He said Chief Judge Barnes had asked him to pass out the issues which will require the Court to make some policy decisions at this banc meeting for discussion at the Court Planning Session at Brasstown Valley. These items would be discussed and voted on Thursday night, May 8.

Mr. Martin said he would have staff recommendations on those policies, but it would be the decision of the Court. It is necessary for the Court to make these decisions so the vendor can go forward with implementing the new docket.

IX. *Recusal Policy Change.*

Mr. Martin made available to the judges at the banc meeting the existing policy on disqualifications/recusal, which the Court had approved recently. Mr. Martin said this policy required the random or blind draw to be conducted before the Chief Judge or a Presiding Judge in the presence of two of the following three people: Mr. Martin, Holly Sparrow or Sheila Collins. Mr. Martin related that during the past distress which fell on the Easter weekend, he had two occasions where distress cases came to him for transfer and no Presiding Judge or Chief Judge was available to witness the draw. This had the effect of delaying the transfer on distress cases.

Mr. Martin suggested a change in the IOM policy to provide that the draw can be made before a Chief Judge or Presiding Judge but if none of them are available, any other judge, and in absence of all judges, the draw can be made in the presence of two of the following three people: Sheila Collins, Holly Sparrow or Bill Martin.

Presiding Judge Blackburn moved to adopt the policy which was seconded by Presiding Judge Johnson and passed unanimously.

X. *New Business.*

Presiding Judge Ruffin thanked the members of the Court who were able to come to his portrait unveiling at the Burke County Courthouse in Waynesboro earlier this month.

Presiding Judge Ruffin said his portrait unveiling for the Court of Appeals is scheduled for September 11, 2008. Although the time had not been set yet, he anticipates it will be in the morning.

Chief Judge Barnes reported last year Judge Barnes had hosted an orientation and cookout for the summer interns. Chief Judge Barnes suggested those judges who were using summer interns might wish to contribute to the costs of that party which Judge Barnes said cost several hundred dollars.

XI. *Adjournment.*

There being no further business, an upon hearing a motion to adjourn, which was seconded and passed unanimously. 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, 2008.

**GA Court of Appeals  
1000564165**

<b>Date</b>	<b>User Name</b>	<b>Database ID</b>	<b>Database Name</b>	
11/28/2007	DORVEE,IDA	FEDPROC	FEDERAL PROCEDURE	Exclude
11/28/2007	WRIGHT,JESSICA	ADMARL	SCHOENBAUM ADMIRALTY & MARITIME LAW 3RD	Exclude
11/27/2007	DORVEE,IDA	SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	Exclude
11/26/2007	ROBISON,LAURA	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
11/26/2007	DORVEE,IDA	WILLSTN-CN	WILLISTON ON CONTRACTS	Exclude
11/25/2007	ROBISON,LAURA	GAHANDEVID	COURTROOM HANDBK ON GA EVIDENCE	Exclude
11/16/2007	HUTCHINSON,ROBIN	GASECINTPP	GA ENFORCE OF SECURITY INTERESTS	Exclude
11/16/2007	HUTCHINSON,ROBIN	FLTR-CYC	FLETCHER CYC CORP	Exclude
11/16/2007	BRANT,LASEAN	GA-TRIALORDERS	GEORGIA STATE TRIAL COURT ORDERS	Exclude
11/14/2007	DORVEE,IDA	SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	Exclude
11/5/2007	ROBISON,LAURA	ANDR-UCC	ANDERSON ON THE UNIFORM COM CODE	Exclude
11/1/2007	MOODY, TIFFANI	WILLCONTESTS	WILL CONTESTS SECOND EDITION	Exclude
10/24/2007	CHANDLER,JOE	GA-FILING	GEORGIA TRIAL COURT FILINGS	Exclude
10/22/2007	BERNES,DEBRA	LIT-PROFILE	LITIGATION HISTORY REPORTS	Exclude
10/18/2007	DURANT,KATHERINE	REG-SURVEYS	50 STATE REGULATORY SURVEYS	Exclude
10/15/2007	WEISBECKER,AMY	WILLSTN-CN	WILLISTON ON CONTRACTS	Exclude
10/14/2007	CHANDLER,JOE	DOLIAB	DIR & OFFICER LIABILITY INDEM & INS	Exclude
10/12/2007	CHANDLER,JOE	INCD	INS CLMS & DISP REP OF INS COMP & INSR	Exclude
10/12/2007	BERNES,DEBRA	CLASSACT	NEWBERG ON CLASS ACTIONS	Exclude
10/10/2007	CHANDLER,JOE	MA-BRIEF-ALL	MA BRIEFS ALL	Exclude
10/5/2007	HUTCHINSON,ROBIN	BFA	BAD FAITH ACTIONS LIABILITY & DAMAGES	Exclude
10/3/2007	HUTCHINSON,ROBIN	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
10/3/2007	HUTCHINSON,ROBIN	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
10/3/2007	HUTCHINSON,ROBIN	GA-CMLFORM	GA COMMERICAL LAW FORMS	Exclude
10/1/2007	MOODY, TIFFANI	DCMLARB	DOMKE ON COMMERCIAL ARBITRATION	Exclude
9/26/2007	CHANDLER,JOE	SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	Exclude
9/24/2007	WEISBECKER,AMY	SSAC	SEARCHES SEIZURES ARRESTS CONFESS 2D	Exclude
9/21/2007	CHANDLER,JOE	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
9/20/2007	CHANDLER,JOE	GADAMAGES	WL GA LAW OF DAMAGES W/FORMS	Exclude
9/20/2007	HAMRICK,GORDON	HEARSAY	HEARSAY HNDBK	Exclude
9/20/2007	CHANDLER,JOE	WILLSTN-CN	WILLISTON ON CONTRACTS	Exclude
9/20/2007	HAMRICK,GORDON	MCMK-EVID	MCCORMICK ON EVIDENCE - STACKED	Exclude
9/17/2007	HUTCHINSON,ROBIN	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
9/13/2007	OWENS,MONICA	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	Exclude

9/11/2007 HUTCHINSON,ROBIN	BOGERT	TRUSTS AND TRUSTEES 2D (BOGERT)	Exclude
9/4/2007 BERNES,DEBRA	CRIMEVID	WHARTONS CRIMINAL EVIDENCE	Exclude
9/4/2007 BERNES,DEBRA	MCMK-EVID	MCCORMICK ON EVIDENCE - STACKED	Exclude
8/28/2007 DORVEE,IDA	MEDLITMULTIBASE	MED LITI MULTIBASE & TAXONOMY SEARCH	Exclude
8/27/2007 HAMRICK,GORDON	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
8/22/2007 ROBISON,LAURA	GOVDISCRIM	GOVT DISCRIM EQUAL PROT LAW & LITIGATION	Exclude
8/16/2007 BERNES,DEBRA	LIT-PROFILE	LITIGATION HISTORY REPORTS	Exclude
8/13/2007 WEISBECKER,AMY	DOCK-GA-APP	COURT DOCKETS STATE GA COURT OF APPEALS	Exclude
8/13/2007 HAMRICK,GORDON	CLASSACT	NEWBERG ON CLASS ACTIONS	Exclude
8/13/2007 CHANDLER,JOE	SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	Exclude
8/9/2007 HAMRICK,GORDON	FPP-CLA	CLASS ACTIONS-FEDERAL PRACTICE&PROCEDURE	Exclude
8/8/2007 DORVEE,IDA	CONRTACC	CONSTITUTIONAL RIGHTS OF THE ACCUSED	Exclude
8/7/2007 MOODY,TIFFANI	GA-BRIEF-ALL	GEORGIA BRIEF MULTIBASE	Exclude
8/7/2007 HAMRICK,GORDON	CLASSACT	NEWBERG ON CLASS ACTIONS	Exclude
8/3/2007 HAMRICK,GORDON	CLASSACT	NEWBERG ON CLASS ACTIONS	Exclude
8/3/2007 BERNES,DEBRA	FEDPROC	FEDERAL PROCEDURE	Exclude
8/1/2007 SUBER,DIANA	GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	Exclude
7/17/2007 MOODY,TIFFANI	FEDPROC	FEDERAL PROCEDURE	Exclude
7/12/2007 HAMRICK,GORDON	GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	Exclude
7/12/2007 BERNES,DEBRA	MCMK-EVID	MCCORMICK ON EVIDENCE - STACKED	Exclude
7/10/2007 CHANDLER,JOE	FEDPROC	FEDERAL PROCEDURE	Exclude
7/10/2007 CHANDLER,JOE	CLASSACT	NEWBERG ON CLASS ACTIONS	Exclude
7/5/2007 MOODY,TIFFANI	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
7/3/2007 ANDREWS,HON GARY BLAYLOCK	PROFILER-WLD	WLD - PROFILES OF ATTORNEYS AND JUDGES	Exclude
7/3/2007 DORVEE,IDA	SECCRIM	SECURITIES CRIMES	Exclude
6/29/2007 EARLES,JOHN	MIPG-TORTS	MI PR GUIDE TORTS	Exclude
6/29/2007 EARLES,JOHN	ATLA-TORT	ATLA'S LITIGATING TORT CASES	Exclude
6/29/2007 EARLES,JOHN	CCP-TORTS	CALIFORNIA CIVIL PRACTICE-TORTS	Exclude
6/29/2007 EARLES,JOHN	TXPG-TORTS	TEXAS PRACTICE GUIDE TORTS	Exclude
6/26/2007 MOODY,TIFFANI	GAESTCONTR	GA REAL ESTATE SALES CONTRACTS	Exclude
6/25/2007 FLOYD,LINDA	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	Exclude
6/6/2007 SUBER,DIANA	GA-FILING	GEORGIA TRIAL COURT FILINGS	Exclude
6/5/2007 FEIL,CLYDE	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
6/3/2007 FLOYD,LINDA	GA-JICRIM	GEORGIA JURY INSTR - CRIMINAL	Exclude
6/1/2007 BURNAUGH,REBECCA	GACONSMECH	GA CONSTR MECHANICS LEINS W/FORMS	Exclude
5/24/2007 SUBER,DIANA	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	Exclude
5/23/2007 HUTCHINSON,ROBIN	TIFFANY-RP	TIFFANY REAL PROPERTY	Exclude

5/18/2007	DORVEE,IDA	GAEMDOMAIN	GA EMINENT DOMAIN	Exclude
5/16/2007	HUTCHINSON,ROBIN	INCD	INS CLMS & DISP REP OF INS COMP & INSRS	Exclude
5/8/2007	HAMRICK,GORDON	GACONSMECH	GA CONSTR MECHANICS LEINS W/FORMS	Exclude
5/7/2007	HAMRICK,GORDON	GACONSMECH	GA CONSTR MECHANICS LEINS W/FORMS	Exclude
5/4/2007	HAMRICK,GORDON	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
4/23/2007	BRANT,LASEAN	GA-JI	GEORGIA JURY INSTR - CIVIL AND CRIMINAL	Exclude
4/20/2007	HAMRICK,GORDON	CLASSACT	NEWBERG ON CLASS ACTIONS	Exclude
4/12/2007	DORVEE,IDA	NC-BRIEF-ALL	NORTH CAROLINA BRIEFS MULTIBASE	Exclude
4/12/2007	DORVEE,IDA	BNA-DER-ALL	BNA DAILY RPT FOR EXEC	Exclude
4/11/2007	FEIL,CLYDE	GADAMAGES	WL GA LAW OF DAMAGES W/FORMS	Exclude
4/10/2007	WEISBECKER,AMY	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	Exclude
3/30/2007	HUTCHINSON,ROBIN	GADAMAGES	WL GA LAW OF DAMAGES W/FORMS	Exclude
3/30/2007	HUTCHINSON,ROBIN	STEIN	STEIN ON PERSONAL INJURY DAMAGES	Exclude
3/29/2007	BERNES,DEBRA	LELL	THE LAW OF EASEMENTS & LICENSES IN LAND	Exclude
3/29/2007	BURNAUGH,REBECCA	GA-JICRIM	GEORGIA JURY INSTR - CRIMINAL	Exclude
3/26/2007	BERNES,DEBRA	MUNICORP	MCQUILLIN THE LAW OF MUNICIPAL CORP	Exclude
3/26/2007	BERNES,DEBRA	SUTHERLAND	SUTHERLAND STAT CONSTR 6TH	Exclude
3/23/2007	HAMRICK,GORDON	GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	Exclude
3/23/2007	OWENS,MONICA	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	Exclude
3/18/2007	DORVEE,IDA	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
3/16/2007	ROBISON,LAURA	TRDSECR	TRADE SECRETS LAW	Exclude
3/14/2007	CHANDLER,JOE	SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	Exclude
3/12/2007	HAMRICK,GORDON	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
3/9/2007	HAMRICK,GORDON	GAWRKCMPL	WL GA WORKERS COMP CLAIMS W/FORMS	Exclude
3/9/2007	ROBISON,LAURA	GA-TPLF	GEORGIA TEXTS PERIODICALS AND LEGAL FORM	Exclude
3/8/2007	CHANDLER,JOE	GAESTCONTR	GA REAL ESTATE SALES CONTRACTS	Exclude
3/6/2007	HAMRICK,GORDON	GARULEEVID	GEORGIA RULES OF EVIDENCE	Exclude
2/23/2007	DORVEE,IDA	WILLSTN-CN	WILLISTON ON CONTRACTS	Exclude
2/22/2007	HAMRICK,GORDON	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
2/22/2007	CHANDLER,JOE	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	Exclude
2/16/2007	DORVEE,IDA	RLZPN	RATHKOPFS LAW OF ZONING & PLANNING	Exclude
2/15/2007	WRIGHT,JESSICA	BRIEFPDF-IMAGE	BRIEF PDF IMAGE	Exclude
1/31/2007	HUTCHINSON,ROBIN	GAPRODLIAB	GA PRODUCTS LIABILITY	Exclude
1/30/2007	HAMRICK,GORDON	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
1/30/2007	BERNES,DEBRA	CJS	CORPUS JURIS SECUNDUM	Exclude
1/12/2007	BERNES,DEBRA	PROFILER-WLD	WLD - PROFILES OF ATTORNEYS AND JUDGES	Exclude
11/13/2006	BERNES,DEBRA	GA-LH	GEORGIA LEGISLATIVE HISTORY	Exclude

11/12/2006	BERNES,DEBRA	GAJUR	GEORGIA JURISPRUDENCE	Exclude
11/7/2006	DORVEE,IDA	IL-LP	ILLINOIS LAW AND PRACTICE	Exclude
10/24/2006	BERNES,DEBRA	AMJUR-PP	AMERICAN JURISPRUDENCE PLEADING AND PRAC	Exclude
10/24/2006	BERNES,DEBRA	GAJUR	GEORGIA JURISPRUDENCE	Exclude
10/21/2006	BERNES,DEBRA	GAJUR	GEORGIA JURISPRUDENCE	Exclude
10/11/2006	BERNES,DEBRA	CJS	CORPUS JURIS SECUNDUM	Exclude
10/5/2006	MOODY,TIFFANI	GAJUR	GEORGIA JURISPRUDENCE	Exclude
9/15/2006	BURNAUGH,REBECCA	GA-LH	GEORGIA LEGISLATIVE HISTORY	Exclude
9/15/2006	ELZEY,ROBERT	UNASGND_DB_ERF	UNASSIGNED_DATABASE_ERROR	Exclude
9/13/2006	HUTCHINSON,ROBIN	GA-TPLF	GEORGIA TEXTS PERIODICALS AND LEGAL FORM	Exclude
8/30/2006	GALLOWAY,SARA	UNASGND_DB_ERF	UNASSIGNED_DATABASE_ERROR	Exclude
8/24/2006	ELZEY,ROBERT	UNASGND_DB_ERF	UNASSIGNED_DATABASE_ERROR	Exclude
8/21/2006	MATTUCH,KATHRYN	UNASGND_DB_ERF	UNASSIGNED_DATABASE_ERROR	Exclude
7/20/2006	FLOYD,LINDA	UNASGND_DB_ERF	UNASSIGNED_DATABASE_ERROR	Exclude
6/27/2006	BURNAUGH,REBECCA	GAJUR	GEORGIA JURISPRUDENCE	Exclude
6/23/2006	CLARK,KATHERINE	AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	Exclude
6/23/2006	ROBISON,LAURA	GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	Exclude
6/23/2006	CLARK,KATHERINE	AMJUR-TRIALS	AMERICAN JURISPRUDENCE TRIALS	Exclude
6/23/2006	CLARK,KATHERINE	BNA-USLW	BNA USLW	Exclude
6/13/2006	BURNAUGH,REBECCA	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	Exclude
6/9/2006	KIRCHEN,MARK	DOCK-GA-APP	COURT DOCKETS STATE GA COURT OF APPEALS	Exclude
6/6/2006	ELZEY,ROBERT	STATCIVAC	CVL ACT ANG ST&LOC GOVT DIV AGEN OFF	Exclude
6/6/2006	OWENS,MONICA	AMJUR-TRIALS	AMERICAN JURISPRUDENCE TRIALS	Exclude
6/2/2006	KIRCHEN,MARK	CJS	CORPUS JURIS SECUNDUM	Exclude

**GA Court of Appeals  
1000564165**

Month/ Year	Database ID	Database Name	Cost of transaction
Feb-04	AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$ 88.35
Feb-04	AUTOLIAINS	AUTOMOBILE LIABILITY INSURANCE 4TH	\$ 9.00
Mar-04	AUTOLIAINS	AUTOMOBILE LIABILITY INSURANCE 4TH	\$ 12.95
Mar-04	BILLS	BILLS-ALL FIFTY STATES & CONGRESS-SUMMAR	\$ 49.18
Mar-04	GA-BILLS	GEORGIA BILL TRACKING-SUMMARIES & FULL T	\$ 101.10
Mar-04	GA-BILLTRK	GEORGIA BILL TRACKING	\$ 92.40
Mar-04	GA-TPLF	GEORGIA TEXTS PERIODICALS AND LEGAL FORM	\$ 142.46
Mar-04	GAPRODLIAB	GA PRODUCTS LIABILITY	\$ 24.33
Mar-04	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$ 10.00
Apr-04	ANDR-UCC	ANDERSON ON THE UNIFORM COM CODE	\$ 9.00
May-04	ANDR-UCC	ANDERSON ON THE UNIFORM COM CODE	\$ 27.00
May-04	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$ 50.00
Jun-04	GA-JICIV	GEORGIA JURY INSTR - CIVIL	\$ 81.95
Jun-04	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$ 10.00
Jul-04	AMJUR	AMERICAN JURISPRUDENCE 2D	\$ 12.00
Jul-04	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$ 40.00
Aug-04	AMJUR	AMERICAN JURISPRUDENCE 2D	\$ 12.00
Aug-04	RLZPN	RATHKOPFS LAW OF ZONING & PLANNING	\$ 49.00
Sep-04	GA-JICIV	GEORGIA JURY INSTR - CIVIL	\$ 76.93
Sep-04	SB-GA-AGENCY	STATE AGENCIES - GA	\$ 12.39
Nov-04	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$ 9.54
Jan-05	AMJUR	AMERICAN JURISPRUDENCE 2D	\$ 8.59
Mar-05	GAJUR	GEORGIA JURISPRUDENCE	\$ 50.06
Apr-05	FLTR-CYC	FLETCHER CYC CORP	\$ 8.58
Apr-05	NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$ 9.54
May-05	AMJUR	AMERICAN JURISPRUDENCE 2D	\$ 20.02
May-05	COA	CAUSES OF ACTION	\$ 11.44
May-05	CTA11-BRIEF-ALL	CTA11 BRIEFS MULTIBASE	\$ 23.82
May-05	GA-JICRIM	GEORGIA JURY INSTR - CRIMINAL	\$ 40.63
May-05	GACONSMECH	GA CONSTR MECHANICS LEINS W/FORMS	\$ 8.58
May-05	GAJUR	GEORGIA JURISPRUDENCE	\$ 17.16
Jun-05	AMJUR	AMERICAN JURISPRUDENCE 2D	\$ 24.94
Jun-05	AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$ 11.44

Jun-05 CJS	CORPUS JURIS SECUNDUM	\$	8.58
Jun-05 COA	CAUSES OF ACTION	\$	11.44
Jun-05 FLB-CS	FEDERAL LABOR & EMPLOYMENT-CASES	\$	10.48
Jun-05 GAJUR	GEORGIA JURISPRUDENCE	\$	38.27
Jun-05 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	9.53
Jun-05 SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	\$	23.83
Jun-05 STATEBRIEFFIND	FIND MULTIBASE FOR STATE BRIEFS	\$	23.83
Aug-05 ATLA-TORT	ATLA'S LITIGATING TORT CASES	\$	9.77
Aug-05 BRIEFPDF-IMAGE	BRIEF PDF IMAGE	\$	39.07
Aug-05 CJS	CORPUS JURIS SECUNDUM	\$	9.77
Aug-05 FLJUR	FLORIDA JURISPRUDENCE 2D	\$	9.77
Aug-05 GAEMDOMAIN	GA EMINENT DOMAIN	\$	6.02
Aug-05 GAJUR	GEORGIA JURISPRUDENCE	\$	9.77
Aug-05 GASETTLEMT	GA SETTLEMENTS LAW & STRATEGIES	\$	9.77
Aug-05 PROFILER-WLD	WLD - PROFILES OF ATTORNEYS AND JUDGES	\$	5.86
Sep-05 GAJUR	GEORGIA JURISPRUDENCE	\$	9.77
Sep-05 LTGMANHB	LITIGATION MANAGEMENT HANDBOOK	\$	9.77
Sep-05 PEOPLE-FIND	PEOPLE HISTORIC TRACKER PHONE-COMBINED	\$	512.70
Sep-05 PROFILER-WLD	WLD - PROFILES OF ATTORNEYS AND JUDGES	\$	5.86
Oct-05 CJS	CORPUS JURIS SECUNDUM	\$	24.42
Oct-05 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	9.77
Oct-05 PEOPLE-FIND	PEOPLE HISTORIC TRACKER PHONE-COMBINED	\$	410.16
Oct-05 PERSON-PHONES	PERSON PHONE RECORDS-COMBINED	\$	102.54
Oct-05 PERSONPHONES-GA	PERSON PHONE RECORDS-INDIVIDUAL STATES	\$	205.08
Nov-05 AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$	48.84
Nov-05 CJS	CORPUS JURIS SECUNDUM	\$	73.38
Nov-05 GA-JI	GEORGIA JURY INSTR - CIVIL AND CRIMINAL	\$	41.98
Nov-05 GAJUR	GEORGIA JURISPRUDENCE	\$	9.77
Nov-05 PLEADFIND	FIND MULTIBASES FOR WL TRIALPLEAD	\$	39.06
Nov-05 WILLSTN-CN	WILLISTON ON CONTRACTS	\$	34.19
Dec-05 AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$	330.71
Dec-05 GA-TPLF	GEORGIA TEXTS PERIODICALS AND LEGAL FORM	\$	69.33
Dec-05 MARITIME	THE LAW OF MARITIME PERSONAL INJURIES	\$	12.13
Jan-06 ANDR-UCC	ANDERSON ON THE UNIFORM COM CODE	\$	12.00
Jan-06 COA	CAUSES OF ACTION	\$	24.41
Jan-06 GAPRODLIAB	GA PRODUCTS LIABILITY	\$	127.05
Jan-06 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	9.77

Feb-06	AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$	9.77
Feb-06	ATTYFEES	ATTORNEYS' FEES	\$	14.12
Feb-06	GA-JICRIM	GEORGIA JURY INSTR - CRIMINAL	\$	84.36
Feb-06	GAJUR	GEORGIA JURISPRUDENCE	\$	9.77
Feb-06	HTHLHB	HEALTH LAW HANDBOOK	\$	12.60
Feb-06	MARITIME	THE LAW OF MARITIME PERSONAL INJURIES	\$	12.13
Mar-06	AMJUR-TRIALS	AMERICAN JURISPRUDENCE TRIALS	\$	9.77
Mar-06	CJS	CORPUS JURIS SECUNDUM	\$	12.44
Mar-06	GAJUR	GEORGIA JURISPRUDENCE	\$	12.71
Mar-06	PREMLIAB	PREMISES LIABILITY 3D	\$	9.77
Mar-06	SRCHWARLAW	SEARCH WARRANT LAW DSKBK	\$	9.77
Apr-06	AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$	9.77
Apr-06	GA-BRIEF-ALL	GEORGIA BRIEF MULTIBASE	\$	39.06
Apr-06	GA-LH	GEORGIA LEGISLATIVE HISTORY	\$	64.94
Apr-06	GAJUR	GEORGIA JURISPRUDENCE	\$	9.77
May-06	ALPL	AMERICAN LAW OF PRODUCTS LIABILITY 3D	\$	9.76
May-06	BILLSALLFIND	BILL DRAFTS BILL LINKING	\$	9.76
May-06	GA-LH	GEORGIA LEGISLATIVE HISTORY	\$	7.06
May-06	GAEMDOMAIN	GA EMINENT DOMAIN	\$	10.44
May-06	GAJUR	GEORGIA JURISPRUDENCE	\$	34.17
May-06	GAPRODLIAB	GA PRODUCTS LIABILITY	\$	127.76
Jun-06	AMJUR-POF	AMERICAN JURISPRUDENCE PROOF OF FACTS	\$	41.40
Jun-06	AMJUR-TRIALS	AMERICAN JURISPRUDENCE TRIALS	\$	65.81
Jun-06	BNA-USLW	BNA USLW	\$	41.40
Jun-06	CJS	CORPUS JURIS SECUNDUM	\$	24.41
Jun-06	DOCK-GA-APP	COURT DOCKETS STATE GA COURT OF APPEALS	\$	9.76
Jun-06	GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	\$	12.15
Jun-06	GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	9.76
Jun-06	GAJUR	GEORGIA JURISPRUDENCE	\$	9.76
Jun-06	STATCIVAC	CVL ACT ANG ST&LOC GOVT DIV AGEN OFF	\$	9.76
Sep-06	GA-LH	GEORGIA LEGISLATIVE HISTORY	\$	44.90
Sep-06	GA-TPLF	GEORGIA TEXTS PERIODICALS AND LEGAL FORM	\$	147.16
Oct-06	AMJUR-PP	AMERICAN JURISPRUDENCE PLEADING AND PRAC	\$	80.82
Oct-06	CJS	CORPUS JURIS SECUNDUM	\$	37.03
Oct-06	GAJUR	GEORGIA JURISPRUDENCE	\$	80.47
Nov-06	GA-LH	GEORGIA LEGISLATIVE HISTORY	\$	44.91
Nov-06	GAJUR	GEORGIA JURISPRUDENCE	\$	23.44

Nov-06 IL-LP	ILLINOIS LAW AND PRACTICE	\$	56.18
Jan-07 CJS	CORPUS JURIS SECUNDUM	\$	34.17
Jan-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	17.77
Jan-07 GAPRODLIAB	GA PRODUCTS LIABILITY	\$	144.13
Jan-07 PROFILER-WLD	WLD - PROFILES OF ATTORNEYS AND JUDGES	\$	5.86
Feb-07 BRIEFPDF-IMAGE	BRIEF PDF IMAGE	\$	48.82
Feb-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	46.89
Feb-07 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	11.72
Feb-07 RLZPN	RATHKOPFS LAW OF ZONING & PLANNING	\$	41.60
Feb-07 WILLSTN-CN	WILLISTON ON CONTRACTS	\$	35.72
Mar-07 GA-JICRIM	GEORGIA JURY INSTR - CRIMINAL	\$	12.34
Mar-07 GA-TPLF	GEORGIA TEXTS PERIODICALS AND LEGAL FORM	\$	64.93
Mar-07 GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	\$	18.25
Mar-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	12.99
Mar-07 GADAMAGES	WL GA LAW OF DAMAGES W/FORMS	\$	62.03
Mar-07 GAESTCONTR	GA REAL ESTATE SALES CONTRACTS	\$	16.89
Mar-07 GARULEEVID	GEORGIA RULES OF EVIDENCE	\$	30.66
Mar-07 GAWRKCMPCL	WL GA WORKERS COMP CLAIMS W/FORMS	\$	11.72
Mar-07 LELL	THE LAW OF EASEMENTS & LICENSES IN LAND	\$	42.79
Mar-07 MUNICORP	MCQUILLIN THE LAW OF MUNICIPAL CORP	\$	45.94
Mar-07 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	11.72
Mar-07 SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	\$	78.96
Mar-07 STEIN	STEIN ON PERSONAL INJURY DAMAGES	\$	90.20
Mar-07 SUTHERLAND	SUTHERLAND STAT CONSTR 6TH	\$	34.18
Mar-07 TRDSECRT	TRADE SECRETS LAW	\$	16.09
Apr-07 BNA-DER-ALL	BNA DAILY RPT FOR EXEC	\$	14.65
Apr-07 CLASSACT	NEWBERG ON CLASS ACTIONS	\$	57.62
Apr-07 GA-JI	GEORGIA JURY INSTR - CIVIL AND CRIMINAL	\$	41.01
Apr-07 GADAMAGES	WL GA LAW OF DAMAGES W/FORMS	\$	14.15
Apr-07 NC-BRIEF-ALL	NORTH CAROLINA BRIEFS MULTIBASE	\$	48.82
Apr-07 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	11.72
May-07 GACONSMECH	GA CONSTR MECHANICS LEINS W/FORMS	\$	116.46
May-07 GAEMDOMAIN	GA EMINENT DOMAIN	\$	20.93
May-07 GARULEEVID	GEORGIA RULES OF EVIDENCE	\$	11.71
May-07 INCD	INS CLMS & DISP REP OF INS COMP & INSRS	\$	33.72
May-07 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	11.71
May-07 TIFFANY-RP	TIFFANY REAL PROPERTY	\$	26.30

Jun-07 ATLA-TORT	ATLA'S LITIGATING TORT CASES	\$	32.79
Jun-07 CCP-TORTS	CALIFORNIA CIVIL PRACTICE-TORTS	\$	32.79
Jun-07 GA-FILING	GEORGIA TRIAL COURT FILINGS	\$	136.64
Jun-07 GA-JICRIM	GEORGIA JURY INSTR - CRIMINAL	\$	12.50
Jun-07 GACONSMECH	GA CONSTR MECHANICS LEINS W/FORMS	\$	11.71
Jun-07 GAESTCONTR	GA REAL ESTATE SALES CONTRACTS	\$	19.61
Jun-07 GARULEEVID	GEORGIA RULES OF EVIDENCE	\$	46.36
Jun-07 MIPG-TORTS	MI PR GUIDE TORTS	\$	32.79
Jun-07 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	11.71
Jun-07 TXPG-TORTS	TEXAS PRACTICE GUIDE TORTS	\$	32.79
Jul-07 CLASSACT	NEWBERG ON CLASS ACTIONS	\$	34.73
Jul-07 FEDPROC	FEDERAL PROCEDURE	\$	65.53
Jul-07 GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	\$	11.71
Jul-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	16.19
Jul-07 MCMK-EVID	MCCORMICK ON EVIDENCE - STACKED	\$	118.08
Jul-07 PROFILER-WLD	WLD - PROFILES OF ATTORNEYS AND JUDGES	\$	20.49
Jul-07 SECCRIM	SECURITIES CRIMES	\$	57.94
Aug-07 CLASSACT	NEWBERG ON CLASS ACTIONS	\$	737.43
Aug-07 CONRTACC	CONSTITUTIONAL RIGHTS OF THE ACCUSED	\$	11.71
Aug-07 DOCK-GA-APP	COURT DOCKETS STATE GA COURT OF APPEALS	\$	4.88
Aug-07 FEDPROC	FEDERAL PROCEDURE	\$	60.50
Aug-07 FPP-CLA	CLASS ACTIONS-FEDERAL PRACTICE&PROCEDURE	\$	45.86
Aug-07 GA-BRIEF-ALL	GEORGIA BRIEF MULTIBASE	\$	63.43
Aug-07 GAAPPLPRAC	GEORGIA APPELLATE PRACTICE W/FORMS	\$	16.42
Aug-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	41.96
Aug-07 GOVDISCRIM	GOVT DISCRIM EQUAL PROT LAW & LITIGATION	\$	11.71
Aug-07 MEDLITMULTIBASE	MED LITI MULTIBASE & TAXONOMY SEARCH	\$	106.36
Aug-07 SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	\$	78.91
Sep-07 BOGERT	TRUSTS AND TRUSTEES 2D (BOGERT)	\$	252.24
Sep-07 CRIMEVID	WHARTONS CRIMINAL EVIDENCE	\$	48.79
Sep-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	18.54
Sep-07 GADAMAGES	WL GA LAW OF DAMAGES W/FORMS	\$	138.69
Sep-07 GARULEEVID	GEORGIA RULES OF EVIDENCE	\$	60.10
Sep-07 HEARSAY	HEARSAY HNDBK	\$	11.71
Sep-07 MCMK-EVID	MCCORMICK ON EVIDENCE - STACKED	\$	99.64
Sep-07 NRS-IMAGE	NRS - WEST REPORTER IMAGES DATABASE	\$	11.71
Sep-07 SCT-PETITION	PET WRIT OF CERTIORARI TO THE US SUP CT	\$	48.79

Sep-07 SSAC	SEARCHES SEIZURES ARRESTS CONFESS 2D	\$	48.79
Sep-07 WILLSTN-CN	WILLISTON ON CONTRACTS	\$	48.79
Oct-07 BFA	BAD FAITH ACTIONS LIABILITY & DAMAGES	\$	36.62
Oct-07 CLASSACT	NEWBERG ON CLASS ACTIONS	\$	687.24
Oct-07 DCMLARB	DOMKE ON COMMERCIAL ARBITRATION	\$	48.79
Oct-07 DOLIAB	DIR & OFFICER LIABILITY INDEM & INS	\$	83.92
Oct-07 GA-CMLFORM	GA COMMERICAL LAW FORMS	\$	53.67
Oct-07 GA-FILING	GEORGIA TRIAL COURT FILINGS	\$	61.48
Oct-07 GACONTRLAW	GEORGIA CONTRACTSLAW & LITIGATION	\$	15.96
Oct-07 GARULEEVID	GEORGIA RULES OF EVIDENCE	\$	209.80
Oct-07 INCD	INS CLMS & DISP REP OF INS COMP & INSRS	\$	16.98
Oct-07 MA-BRIEF-ALL	MA BRIEFS ALL	\$	48.79
Oct-07 REG-SURVEYS	50 STATE REGULATORY SURVEYS	\$	146.37
Oct-07 WILLSTN-CN	WILLISTON ON CONTRACTS	\$	48.79
		\$	10,226.55

ONLINE SERVICES ANALYSIS - EXCLUSION CHARGES  
WESTLAW

MO/YR	ADAMS		ANDREWS			BLACKBURN		ELLINGTON	BERNES					MILLER	
	LAURA ROBISON	MICHAEL WAKEFIELD	GARY ANDREWS	JOE CHANDLER	DIANA WILLIS	P. ROBERT ELZEY	SUMMER INTERN	ROBIN HUTCHINSON	DEBRA BERNES	TIFFANI MOODY	GORDON HAMRICK	MONICA OWENS	SUMMER INTERN	IDA DORVEE	JOHN EARLES
Jul-04															
Aug-04					\$ 12.00										
Sep-04															
Oct-04															
Nov-04															
Dec-04															
Jan-05															
Feb-05															
Mar-05															
Apr-05		\$ 8.58													
May-05	\$ 23.82				\$ 8.58							\$ 11.44			
Jun-05					\$ 23.83							\$ 47.82			
Jul-05															
Aug-05								\$ 6.02							
Sep-05															
Oct-05												\$ 24.42			
Nov-05									\$ 63.61			\$ 48.84			
Dec-05	\$ 342.84														
Jan-06								\$ 117.28		\$ 12.00		\$ 34.18			
Feb-06								\$ 31.67	\$ 14.12						
Mar-06	\$ 9.77							\$ 12.71	\$ 12.44						
Apr-06												\$ 9.77			
May-06					\$ 147.28			\$ 10.44	\$ 7.06			\$ 34.17			
Jun-06	\$ 12.15					\$ 9.76	\$ 34.17					\$ 24.41	\$ 124.20		
Jul-06															
Aug-06															
Sep-06								\$ 147.16							
Oct-06									\$ 170.56	\$ 26.76					
Nov-06									\$ 23.44		\$ 44.91			\$ 56.18	
Dec-06															
Jan-07									\$ 40.03		\$ 17.77			\$ 144.13	
Feb-07			\$ 11.72	\$ 11.72							\$ 46.89			\$ 84.54	
Mar-07	\$ 81.02		\$ 95.85	\$ 95.85				\$ 152.23	\$ 122.91		\$ 61.90	\$ 11.72		\$ 11.72	
Apr-07											\$ 57.62			\$ 63.47	

ONLINE SERVICES ANALYSIS - EXCLUSION CHARGES  
WESTLAW

MO/YR	ADAMS		ANDREWS			BLACKBURN		ELLINGTON	BERNES					MILLER	
	LAURA ROBISON	MICHAEL WAKEFIELD	GARY ANDREWS	JOE CHANDLER	DIANA WILLIS	P. ROBERT ELZEY	SUMMER INTERN	ROBIN HUTCHINSON	DEBRA BERNES	TIFFANI MOODY	GORDON HAMRICK	MONICA OWENS	SUMMER INTERN	IDA DORVEE	JOHN EARLES
May-07								\$ 60.02			\$ 128.17				
Jun-07										\$ 19.61					\$ 131.16
Jul-07			\$ 20.49	\$ 51.47						\$ 64.98	\$ 11.71	\$ 118.08		\$ 57.94	
Aug-07	\$ 11.71			\$ 78.91					\$ 60.50	\$ 63.43	\$ 825.25			\$ 118.07	
Sep-07				\$ 254.81				\$ 312.34	\$ 94.65		\$ 65.49	\$ 11.71			
Oct-07				\$ 357.54				\$ 316.05	\$ 687.24	\$ 48.79					
Nov-07	\$ 65.46							\$ 328.47		\$ 60.62				\$ 273.23	
Dec-07									\$ 100.74	\$ 12.76					
Jan-08								\$ 66.94	\$ 11.71			\$ 125.30			
Feb-08										\$ 113.84	\$ 53.53				
Mar-08									\$ 73.73	\$ 13.31					
Apr-08						\$ 11.71		\$ 16.32				\$ 23.42			
May-08															
Jun-08															
Amount	\$ 546.77	\$ 8.58	\$ 128.06	\$ 850.30	\$ 191.69	\$ 21.47	\$ 34.17	\$ 1,564.94	\$ 1,475.95	\$ 455.60	\$ 1,313.24	\$ 525.28	\$ 124.20	\$ 809.28	\$ 131.16
# Occurrence:	7	1	3	6	4	3	1	12	13	12	10	13	1	8	1
% of Costs	5%	0%	1%	8%	2%	0%	0%	14%	13%	4%	12%	5%	1%	7%	1%

ONLINE

MO/YR	MIKELL					PHIPPS		RUFFIN		CENTRAL		AVG P/FY			
	JESSICA WRIGHT	LA'SEAN BRANT	CLYDE FEIL	PEARL SCHAKIEWITZ	LINDA FLOYD	AMY DOYLE	AMY WEISBECKER	REBECCA BURNAUGH	SUMMER INTERN	DIANA SUBER	KATHERINE DURANT				
Jul-04							\$ 12.00		\$ 40.00		\$ 52.00	X	2		
Aug-04											\$ 49.00	\$ 61.00	X	2	
Sep-04							\$ 89.32					\$ 89.32	X	1	
Oct-04												\$ -	X	0	
Nov-04												\$ -	X	0	
Dec-04												\$ -	X	0	
Jan-05												\$ -	X	0	
Feb-05												\$ -	X	0	
Mar-05												\$ -	X	0	
Apr-05								\$ 9.54				\$ 18.12	X	2	
May-05							\$ 40.63	\$ 37.18				\$ 121.65	X	5	
Jun-05							\$ 43.84	\$ 46.85				\$ 162.34	X	\$ 42.04	4
Jul-05												\$ -	X	0	
Aug-05								\$ 93.78				\$ 99.80	X	2	
Sep-05								\$ 538.10				\$ 538.10	X	1	
Oct-05								\$ 727.55				\$ 751.97	X	2	
Nov-05							\$ 41.98	\$ 92.79				\$ 247.22	X	4	
Dec-05				\$ 69.33								\$ 412.17	X	2	
Jan-06						\$ 9.77						\$ 173.23	X	4	
Feb-06							\$ 84.36	\$ 12.60				\$ 142.75	X	4	
Mar-06								\$ 19.54				\$ 54.46	X	4	
Apr-06		\$ 64.94					\$ 39.06	\$ 9.77				\$ 123.54	X	4	
May-06												\$ 198.95	X	4	
Jun-06								\$ 19.52				\$ 224.21	X	\$ 247.20	6
Jul-06												\$ -	X	0	
Aug-06												\$ -	X	0	
Sep-06								\$ 44.90				\$ 192.06	X	2	
Oct-06												\$ 197.32	X	2	
Nov-06												\$ 124.53	X	3	
Dec-06												\$ -	X	0	
Jan-07												\$ 201.93	X	3	
Feb-07	\$ 41.60											\$ 196.47	X	5	
Mar-07								\$ 12.34				\$ 645.54	X	9	
Apr-07							\$ 11.72					\$ 187.97	X	5	

ONLINE

MO/YR	MIKELL				PHIPPS		RUFFIN		CENTRAL		AVG P/FY		
	JESSICA WRIGHT	LA'SEAN BRANT	CLYDE FEIL	PEARL SCHAKIEWITZ	LINDA FLOYD	AMY DOYLE	AMY WEISBECKER	REBECCA BURNAUGH	SUMMER INTERN	DIANA SUBER		KATHERINE DURANT	
May-07		\$ 41.01	\$ 14.15							\$ 32.64	\$ 220.83 X	3	
Jun-07			\$ 46.36		\$ 24.21			\$ 11.71		\$ 136.64	\$ 369.69 X	\$ 194.70	6
Jul-07											\$ 324.67 X		6
Aug-07							\$ 4.88			\$ 16.42	\$ 1,179.17 X		8
Sep-07							\$ 48.79				\$ 787.79 X		6
Oct-07							\$ 48.79				\$ 1,458.41 X		5
Nov-07	\$ 52.19	\$ 92.71									\$ 872.68 X		6
Dec-07											\$ 113.50 X		2
Jan-08											\$ 203.95 X		3
Feb-08							\$ 90.77				\$ 258.14 X		3
Mar-08											\$ 87.04 X		2
Apr-08							\$ 63.43				\$ 114.88 X		4
May-08											\$ -	\$ 540.02	
Jun-08											\$ -		
Amount	\$ 93.79	\$ 198.66	\$ 60.51	\$ 69.33	\$ 24.21	\$ 9.77	\$ 619.57	\$ 1,676.17	\$ 40.00	\$ 185.70	\$ 49.00	\$ 11,207.40	
# Occurrence:	2	3	2	1	1	1	13	14	1	3	1		
% of Costs	1%	2%	1%	1%	0%	0%	6%	15%	0%	2%	0%		

ONLINE SERVICES ANALYSIS - EXCLUSION CHARGES  
LEXIS-NEXIS

MO/YR	ANDREWS	BARNES		BLACKBURN		LLINGTO	BERNES		PHIPPS	SMITH		CENTRAL			REPORTER			AVG P/FY			
	JOSEPH CHANDLER	ANNE BARNES	CHRISTINA SMITH	CHARLES BONNER	DIRK CHRISTENSEN	MARY HINES	SUMMER INTERN	GORDON HAMRICK	SIMON WEINSTEIN	LYNN JOHNSON	JULIANNE WHISNANT	DAVID PAYNE	KATHERINE DURANT	AL RABY	RACHEL DERRICO	DIANNE JOY	HILLARY EASON		TECH SVCS		
Jul-04																		\$ -	X		
Aug-04																			\$ -	X	
Sep-04																			\$ -	X	
Oct-04																			\$ -	X	
Nov-04																			\$ -	X	
Dec-04																			\$ -	X	
Jan-05																			\$ -	X	
Feb-05																			\$ -	X	
Mar-05												\$ 4.00					\$ 40.00	\$ 44.00	X		
Apr-05	\$ 20.00																	\$ 20.00	X		
May-05																		\$ -	X		
Jun-05						\$ 20.00	\$ 635.00											\$ 655.00	X	\$ 59.92	
Jul-05																		\$ -	X		
Aug-05																		\$ -	X		
Sep-05				\$ 140.00				\$ 120.00					\$ 20.00					\$ 280.00	X		
Oct-05																		\$ -	X		
Nov-05																		\$ -	X		
Dec-05																		\$ -	X		
Jan-06																		\$ -	X		
Feb-06																		\$ -	X		
Mar-06										\$ 20.00								\$ 20.00	X		
Apr-06																		\$ -	X		
May-06		\$ 20.00																\$ 20.00	X		
Jun-06																		\$ -	X	\$ 26.67	
Jul-06																		\$ -	X		
Aug-06																		\$ -	X		
Sep-06																		\$ -	X		
Oct-06			\$ 40.00						\$ 40.00									\$ 80.00	X		
Nov-06	\$ 40.00																	\$ 40.00	X		
Dec-06	\$ 20.00																	\$ 20.00	X		
Jan-07																		\$ -	X		
Feb-07											\$ 20.00				\$ 80.00	\$ 25.00		\$ 125.00	X		
Mar-07																		\$ -	X		
Apr-07				\$ 25.00														\$ 25.00	X		
May-07								\$ 20.00		\$ 20.00								\$ 40.00	X		
Jun-07					\$ 25.00													\$ 25.00	X	\$ 29.58	
Jul-07	\$ 24.00																	\$ 24.00	X		
Aug-07																		\$ -	X		
Sep-07					\$ 50.00													\$ 50.00	X		
Oct-07	\$ 60.00																	\$ 60.00	X		
Nov-07																		\$ -	X		
Dec-07																		\$ -	X		
Jan-08																		\$ -	X		

ONLINE SERVICES ANALYSIS - EXCLUSION CHARGES  
LEXIS-NEXIS

MO/YR	ANDREWS	BARNES		BLACKBURN		LLINGTO	BERNES		PHIPPS	SMITH		CENTRAL			REPORTER			AVG P/FY	
	JOSEPH CHANDLER	ANNE BARNES	CHRISTINA SMITH	CHARLES BONNER	DIRK CHRISTENSEN	MARY HINES	SUMMER INTERN	GORDON HAMRICK	SIMON WEINSTEIN	LYNN JOHNSON	JULIANNE WHISNANT	DAVID PAYNE	KATHERINE DURANT	AL RABY	RACHEL DERRICO	DIANNE JOY	HILLARY EASON		TECH SVCS
Feb-08																			\$ -
Mar-08																			\$ -
Apr-08																			\$ -
May-08																			\$ -
Jun-08																			\$ -
	\$ 164.00	\$ 20.00	\$ 40.00	\$ 165.00	\$ 75.00	\$ 20.00	\$ 635.00	\$ 20.00	\$ 120.00	\$ 40.00	\$ 40.00	\$ 20.00	\$ 4.00	\$ 20.00	\$ -	\$ 80.00	\$ 25.00	\$ 40.00	\$ 1,528.00
	5	1	1	2	2	1	1	1	1	1	2	1	1	1	0	1	1	1	
	11%	1%	3%	11%	5%	1%	42%	1%	8%	3%	3%	1%	0%	1%	0%	5%	2%	3%	



# Court of Appeals

## Memorandum

---

**To:** Bill Martin  
**From:** H. Sparrow   
**Subject:** Court Planning Session and IOM  
**Date:** May 22, 2008

---

Attached you will find excerpts from the IOM concerning circulation of cases and processing of opinions.

I have drafted a couple of amendments. First, in XV (I) (1) I tried to indicate the 1 to 2 to 3 order circulating pattern for opinions, and, then, in XXX. I drafted language to incorporate the goal of having all opinions for a term drafted 30 days in advance of distress.

I did not add anything about 50% of the offices working on current term cases since this was a three-year rather than one-year goal.

## XV. Case Management

### I. CIRCULATION OF CASES

1. Each case will go to the other two judges on the division for review and initials in the order of his or her position on that division. If one writes a dissent, the case must be shown to the judge to whom the case is assigned, and shown again to the other judge if he/she has already voted, and then it must be marked "Whole Court" and circulated. The prevailing judge will disseminate the case, correcting the judgment line on the last page of the opinion to include those concurring and those dissenting. If an opinion has no majority, then the judge who was originally assigned the opinion shall be responsible for issuing a per curiam decision. (Source: September 1999 Banc Meeting.)
2. If a judge writes a special concurrence, it is not necessary to circulate to the whole court unless it is otherwise a whole court case, but it is necessary that the opinion be shown to the assigned judge and the other judge on the division. Any time something new has been written, the case must be recirculated to all who have seen it before. Any memo or writing between judges shall be dated so as to show chronology, should circulate to author of the opinion first, and then recirculate.

### J. DISSEMINATING CASES

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

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

XV. Case Management

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

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

T. VOTING ON OPINIONS

1. When a judge writes a concurrence or dissent or memo, he/she shall cross out all signatures above his/hers and recirculate. The author of the majority is responsible for recirculating with every new writing.
2. Whenever a special concurrence has more votes than the proposed majority opinion, the case shall be transferred to the judge who authored that special concurrence, who will then author the majority opinion. The original proposed majority opinion shall become a special concurrence. In a situation where there are multiple opinions in a case, and no single opinion receives a majority vote among the judges voting, the case shall be transferred to the judge whose opinion received the most votes. That judge shall then write and circulate an opinion which shall issue as a per curiam opinion. If two or more of the opinions tie for the highest number of votes, the senior judge authoring one of the tied opinions shall be responsible for writing, circulating and issuing the per curiam opinion, provided, however, if the judge originally assigned the case is the author of one of the opinions tied for receiving the most votes, then that judge is responsible for writing, circulating and issuing the per curiam opinion. (**Source:** September 2000 Banc Meeting.)

U. COURTESY COPY

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

V. REVISED OPINION

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

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

## X. OVERRULING PRIOR CASES

1. When an opinion seeks to overrule a prior decision, the author of the opinion overruling the prior decision should attach a memo so stating, showing the panel members of the case being overruled. If a Judge who participated in that opinion is still on the Court, the overruling opinion should be circulated first to the author of that opinion, and then to the other Judges on the panel of the case being overruled, if they are still on the Court, even before the opinion goes to the overruling author's panel members.
2. After the opinion has been circulated to the author of the opinion being overruled, and the other members of the panel, if the author of the overruling opinion holds to his/her decision to overrule a prior decision, the case shall be circulated, first to the overruling Judge's panel and then to all Judges on the Court.
3. If a Senior Judge is serving on the panel which is overruling a prior decision, and the Judge from whom the case was assigned to the Senior Judge is a Judge who sat on the panel of the case being overruled, then the case shall circulate to that Judge and the Judge junior most in time of service as a Judge of the Court of Appeals of Georgia on the panel next in succession to the panel overruling the prior decision, shall not participate in the decision, unless that Judge also sat on the panel of the case being overruled, in which case the junior most Judge on the Court, who is not on the panel overruling the prior case and who did not participate in the case being overruled, shall not participate in the decision.
4. In no event shall a case be voted on by more than 12 judges of the Court. (Source: September 1999 Banc Meeting.)
5. This procedure should be used whenever the opinion uses the words "overrule," "disapprove," "disavow," and/or "reject."
6. In all cases which involve one or more questions which, in an opinion of the majority of the judges of the division or of the two divisions plus a seventh judge to which a case is assigned, should be passed upon by all members of the Court, the questions may be presented to all members of the Court; if a majority of all the members of the Court decide that the question or questions involved should, in their judgment and discretion, be decided by all the members of the Court, the case shall be passed upon by all members of the Court, provided that a majority of the judges passing upon the case concur in the judgment.
7. When the Court has elected to have a case passed upon by all twelve (12) members of the Court under OCGA §15-3-1(c)(2), the author of the majority opinion shall circulate the opinion along with the dissent and any memoranda of the majority and/or dissent to all members of the Court immediately. The case shall then circulate to the five (5) judges who do not initially vote on the case in order of seniority. (Source: November 2000 Banc Meeting.)

## XXX. PROCESSING OF OPINIONS

1. It is the duty of each judge to complete a draft of the opinion on all his or her assigned cases by thirty (30) days prior to the distress date.
- 1-2. It is the duty of every judge to give his/her prompt attention to an opinion prepared by an associate. This duty results not only from common judicial courtesy but from the necessity of processing cases with reasonable diligence in view of the workload of the court. **THE REVIEW OF OPINIONS PREPARED BY OTHER JUDGES SHALL HAVE FIRST PRIORITY OVER THE PREPARATION OF OPINIONS IN CASES ASSIGNED TO THE REVIEWING JUDGE.** Opinions shall be reviewed and acted upon in the following order of priority:
  - a. Whole Court -- Distress.
  - b. Division -- Distress.
  - c. Whole Court -- Non-Distress.
  - d. Division -- Non-Distress.
  - e. Cases assigned to author judge -- Distress and Non-Distress.
- 2-3. Items 1 and 2 above are ~~This is~~ not a fixed rule~~s~~ but expresses guidelines which, when reasonably possible, will be followed.



# Court of Appeals

## Memorandum

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To: Judge Gary B. Andrews

From: Holly Sparrow *HS*

Subject: Caseload Trends

Date: May 20, 2008

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At the Court Planning Session in Brasstown Valley you asked how the trends in trial court filings compare to the generally flat trend in the Court of Appeals filings over the last few years. Mr. Martin has asked me to respond.

I have attached two charts which show the percent increase or decrease in filings in the Court of Appeals and the various classes of trial courts from 2004-2006. If you compare the two charts, you can see that the Court of Appeals' 2% increase in this period is similar to the State Courts' increase of 2.6%. On the other hand, the caseload of the Superior Courts has grown more rapidly increasing by almost 11% while the Juvenile Courts experienced a decrease.

The figures for the Probate Courts (41.6% increase) and Magistrate Courts (3.5% increase) are less reliable than the other three trial courts since the information is self-reported and the number of courts reporting caseload varies each year. As noted on the chart, the large increase in probate courts was mostly due to the increase in traffic cases.

If you have any questions about this caseload information, please let me know and I will try to answer them for you.

cc: Bill Martin

COURT OF APPEALS CASELOAD TREND		
YEAR	FILINGS	PERCENT CHANGE
2006	3,303	5.2%
2005	3,139	-3.1%
2004	3,238	
Increase 2004-2006		2.0%

**TRIAL COURT CASELOAD TRENDS**

COURT	YEAR	FILINGS	PERCENT CHANGE
<b>Superior</b>	2006	405703	3.0%
	2005	393940	7.6%
	2004	366132	
<b>Increase 2004-2006</b>			<b>10.8%</b>
<b>State</b>	2006	927978	6.2%
	2005	873641	-3.4%
	2004	904611	
<b>Increase 2004-2006</b>			<b>2.6%</b>
<b>Juvenile</b>	2006	151718	-0.6%
	2005	152655	-2.9%
	2004	157265	
<b>Increase 2004-2006</b>			<b>-3.5%</b>
<b>Probate</b>	2006	368183	25.5%
	2005	293376	12.8%
	2004	260011	
<b>Increase 2004-2006</b>			<b>41.6%</b>
Probate increase is largely traffic cases.			
<b>Magistrate*</b>	2006	576530	11.6%
	2005	516793	-7.2%
	2004	557111	
<b>Increase 2004-2006</b>			<b>3.5%</b>
*Magistrate caseload here excludes warrants issued.			



# Court of Appeals

## Memorandum

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**To:** Bill Martin  
**From:** H. Sparrow *HS*  
**Subject:** 2008 Legislation  
**Date:** May 23, 2008

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I reviewed the final composite for the 2008 legislation. Attached is a list of the bills, I thought might be of interest to the Court. Additionally, Chief Judge Barnes sent by email a copy of the AOC's compilation. You will find a copy of the email in your email inbox.

## **Salaries**

HB119 Appellate and Superior Court Judges Salary Increase. This bill was vetoed by the Governor on May 14, 2008.

HB 1053 Increases the county supplement for the Cobb Superior Court Judges to \$58,711 and provides for the Chief Judges to receive an additional supplement of \$9,800. Cobb County Superior Court Judges' state base and county supplement continue to exceed salary of Court of Appeals Judge.

## **Appellate Procedure**

HB958 Changes provisions related to magistrate court civil cases including appeals. Provides that there will be no appeal from a dismissal for want of prosecution after a nonappearance of a plaintiff for trial. Adds provision that review of a denial of a post judgment motion to vacate a judgment shall be by certiorari to the state court or to the superior court.

HB470 Creates new Lemon Law which applies to sale and leasing of motor vehicles. It provides for arbitration and appeal to the Superior Court de novo.

## **State Employees**

HB255 Changes provisions related to the forfeiture of retirement benefits of a public employee who has been convicted of a public employment related crime as defined in the bill. Adds convictions of public employment related crimes in another state or by the U.S. government for members of a public retirement system on or after July 1, 2008 and provides such conviction will result in forfeiture of an amount, 3 times the economic impact of the crime, before the employee may receive any retirement benefits.

SB328 Sets up a new Pension Savings Plan for state employees who join the retirement system on or after January 1, 2009 in lieu of the current state employees retirement plan.

## **Judges/Courts**

HB1163 Provides for three additional superior court judges; one in each of the following circuits, Brunswick, Alcovy, and Atlanta, with the effective date of the judgeships to be July 1, 2009.

HB1374 Abolishes the State Court of Clinch County on January 1, 2009.

HB1414 Provides for an additional state court judge of Douglas County effective July 1, 2009.

HB1456 Provides for an additional state court judge of Hall County effective July 1, 2009.

SB483 Abolishes the State Law Library. Sets out the number of copies of Georgia Reports which will be provided to state bodies including the Supreme Court and Court of Appeals.

**Other**

HB8 Changes provisions to permit carrying a licensed pistol into public facilities, restaurants and motor vehicles.

HB508 Grants to the probate court concurrent jurisdiction with superior court over the construction of wills

HB588 Provides for care of a minor child by a grandparent due to parental hardship by means of a power of attorney.

HB1245 Removes the authority of the Chief Judge of the Court of Appeals to appoint a member of the Georgia Public Defender Standards Council among other changes to the Council. Also prohibits senior judges from serving in capital cases unless prior to retirement that senior judge presided over the case as an active elected superior court judge.



# Court of Appeals

## Memorandum

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To: Bill  
From: Lola  
Subject: Banc Meeting Minutes  
Date: May 8, 2008

---

You asked me to check to be sure that all the Banc Meeting Minute copies were in the binder. I did and they are. You also asked that I go back through the Minutes beginning with January 2007 and see if something was brought up that was possibly, still outstanding. The following may be or may not be outstanding, I did not read anything further after they were brought up.

**Meeting Minutes of: February 20, 2007**

III. Old Business

- A. Fiscal Office Report  
3. Judges Elevator

Otis Elevator Company - a newer version of the software which controls the elevator for judges, has the problem been corrected? The Minutes indicated Georgia Building Authority would be contacted.

IV. New Business

- B. Exception Report

..Memoranda going to the judge's office regarding appeals in which Briefs were late. The ability to run that report will be reinstated and we will begin to issue the Exception Report again.

**Meeting Minutes of: May 22, 2007**

III. Budget Report

The service of the chief judge run on the fiscal year rather than calendar year. Chief judge's term should coincide with chief justice's term. Would give a better understanding of the budget and budget process. Budget Committee established with Judge Mikell (as Chair), Presiding Judge Blackburn, Presiding Judge Smith, Judge Miller (as judge next in line to be Chief) and Judge Bernes.

**Meeting Minutes of:**

**November 27, 2007**

VII. Relocation of Courtyard Smoking Area

It was decided that some communication needs to be directed to the Georgia Building Authority requesting a relocation of the smoking area in the courtyard.....

That concludes what I found.

/ld

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

Tuesday, February 19, 2008

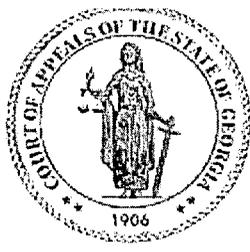
10:30 a.m.

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

Atlanta, Georgia 30334

**A G E N D A**

- |       |   |  |
|-------|---|--|
| I.    | Call Meeting to Order, Ascertainment of Quorum, and Approval of November, 2007 Banc Meeting Minutes | Chief Judge Barnes                                   |
| II.   | Budget Report   | Chief Judge Barnes<br>Ms. Jan Kelley                 |
| III.  | Technical Services Report   | Mr. John Ruggeri<br>Mr. Bill Martin                  |
| IV.   | Legislation   | Presiding Judge Blackburn<br>Presiding Judge Johnson |
| V.    | Hiring of New Floating Administrative Assistant   | Chief Judge Barnes<br>Mr. Bill Martin                |
| VI.   | Court Seal or Court Lettering for Courtroom and Old Court Photos for Courtroom                      | Judge Phipps   |
| VII.  | Related Cases Involving Same Issue and Different Judges   | Mr. Bill Martin                                      |
| VIII. | Custody Cases and Termination of Parental Rights Cases  | Chief Judge Barnes<br>Mr. Bill Martin                |
| IX.   | A New WestLaw Contract  | Mr. Bill Martin                                      |
| X.    | Ethics and Gifts to Judges  | Chief Judge Barnes<br>Mr. Bill Martin                |
| XI.   | Old Business  |  |
| XII.  | New Business  |  |
| XIII. | Adjournment   |  |



# Court of Appeals

## Memorandum

To:

From: William L. Martin, III

Subject: Items to Discuss with Chief Judge Barnes before Banc Meeting

Date: February 15, 2008

1. ✓ Some type of seal or lettering to identify the Courtroom as the Court of Appeals Courtroom.  
Judge Phipps
2. ✓ Hang and tag past Whole Court photos for Courtroom
3. ✓ Budget Report
  - a. Would you prefer Jan make a formal report or would the chief prefer to have Jan standing by?
- ✓ Technical Services
  - a. Would you prefer me or John Ruggeri make a formal report or prefer to have John standing by?
4. Creating a fourth floor reception area with 08 money. (Outside of elevator.) Would like to staff with Dianne Joy, when she is not assigned. Dianne works on the computer and can do that in the fourth floor reception area and also act as a security buffer.
5. Contract for Brasstown Valley to commit or not? - *not on*
6. Senate Bill 112 and Senate Bill 326 - Senate Retirement bills } *PJ Blackman wants*
7. House Bill 119 - the judges' pay bill. } *does he report*
8. ✓ Selling Briefs to Thomson West and LexisNexis. I will need to check with Jan to find out how much is coming thus far.

9. Outstanding Items from the November Banc Meeting:
- a. Central Staff report on the ramifications of the *Hood* decision.
  - b. Ethical standards for staff attorneys.
  - c. The Smoking Station in the courtyard below Judge Ruffin's office.
10. A new contract with WestLaw.
11. The Court has several cases involving the same issue assigned to different judges. There are pending motions to consolidate and remand. The cases are as follows:

A08A0130	Judge Phipps
A08A0248	Presiding Judge Smith
A08A0255	Judge Bernes
A08A0281	Judge Ellington
A08A0526	Judge Adams
A08A0559	Judge Bernes

12. Custody and TPR cases - how do we track them?

13. Awards -

Michael Wakefield  
Judge Johns

Q. J. A.

**COURT OF APPEALS OF GEORGIA**  
**SPECIAL CALLED BANC MEETING**

Wednesday, July 23, 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
- II. Ascertainment of Quorum
- III. Approval of May 27, 2008 Banc Meeting Minutes
- IV. GBA Parking Spaces
- V. FY 2009 Budget Concerns
- VI. FY 2010 Budget Concerns
- VII. Other Business
- VIII. Adjournment

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

**Tuesday, May 27, 2008 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 27, 2008. Those present were:

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

Not in attendance was:

Judge Charles B. Mikell

**I. CALL MEETING TO ORDER:**

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

**II. ASCERTAINMENT OF QUORUM:**

Chief Judge Barnes announced a quorum was present.

**III. APPROVAL OF APRIL 22, 2008 BANC MEETING MINUTES:**

Chief Judge Barnes called for the approval of the April 22, 2008 Banc Meeting Minutes. Presiding Judge Blackburn moved for the approval of the Minutes which motion was seconded by Presiding Judge Johnson. The Minutes were approved unanimously.

#### IV. TECHNICAL SERVICES REPORT:

Chief Judge Barnes called upon Judge Phipps for a report of Technical Services. Judge Phipps asked Mr. Ruggeri to give the report. Mr. Ruggeri stated the Fiscal Office was making equipment purchases for the Court and would be standardizing the tele-working kits with similar models to facilitate supply and support. Mr. Ruggeri stated the IT Staff would be in training the week of June 2nd but Dianne Joy would take calls and the staff would be able to make the service calls during lunch, after hours or, in case of emergency, immediately.

Mr. Ruggeri also reported the speaker and audio system had been placed in the Robing Room with controls so the judges in the Robing Room could hear oral argument in the Courtroom. Additionally, he said the e-filing project would begin testing this week with clerk's office personnel.

Mr. Ruggeri said we would be soon be entering a new contract with Trivir for further implementation of the e-filing and new docket system. He reported he and Mr. Martin had attended the Clerk's Training Seminar at St. Simon's Island, Georgia last week and had spoken with members of the Superior Court Clerk's Authority and would soon be having meetings with them about implementing the e-filing of transcripts from the trial courts to the Court of Appeals. Finally, Mr. Ruggeri reported the co-location project was about 65 percent complete and he hoped to have the project completed by the end of June.

#### V. USAGE OF ON-LINE LEGAL RESEARCH TOOLS:

Chief Judge Barnes called upon Jan Kelley for a report on the Court's usage of on-line legal research tools. Mr. Martin said a copy of several reports was placed in the judges' Banc Meeting materials. Ms. Kelley reported the cost of West Law research tools had gone up dramatically over the past few years and the cost of out of network West Law research tools had also gone up. Judge Andrews and Judge Miller questioned the correctness of bills indicating their offices had used West Law out of network research tools. Mr. Ruggeri and Ms. Kelley stated they would check the accuracy of those reports.

There was a general discussion about the Court's use of these on-line research tools, the attempt of the Supreme Court to contract for the Court of Appeals and the fact that the Court of Appeals' on-line research bills went first to the Supreme Court and were later forwarded to the Court of Appeals. Presiding Judge Blackburn suggested the Court appoint a committee to study this situation. Judge Barnes stated she would like to be on that committee.

Chief Judge Barnes stated the on-line legal research and staff attorney training was one of the committees the Court had agreed to create at the Court Planning Session and the committee could study the entire situation. She suggested that West might send each user a bill individually.

Presiding Judge Blackburn also suggested the clerk contact the clerks of the appellate courts around the country to see what their on-line and in-network costs were for West Law and also suggested several States may wish to combine their purchasing power to get a better deal from West. Mr. Ruggeri left the room at 11:20 a.m.

VI. **BUDGET REPORT:**

Ms. Kelly reported that in the FY2009 budget the Court was able to have its rent money added back to its base and also experienced a reduction in health care costs. She said GBA had agreed to hold the line on rent for the facilities but may raise parking and may impose a surcharge on agencies with more than five parking spaces.

She also stated the Legislature appropriated \$150,000 for longevity raises for the staff attorneys. This is less than the \$213,000 Ms. Kelly had asked for and said overall there may be a shortfall in personnel services in the amount of \$234,000. She did state the Legislature appropriated \$147,900 for the docket upgrade and \$45,000 to continue the e-filing project.

VII. **2008 COURT PLANNING SESSION - COMMITTEE APPOINTMENTS:**

Chief Judge Barnes said she would soon make appointments for the committees which were to be created as a product of the Court Planning Session. She asked if any judges wished to be on or not be on a committee to let her know.

VIII. **2009 COURT PLANNING SESSION:**

Chief Judge Barnes stated the Court needed to conduct a Court Planning Session annually since the budget is now driven by the work product of the Agency's Strategic Plan. Ms. Kelley stressed the importance of continuing to review and update of the Strategic Plan annually since the Legislature wants the Strategic Plan before it appropriates funds. She said as a Judicial Branch Agency we are not required to present a plan, however, agencies who do present a plan seem to fare better in the Legislative Budget process. Ms. Kelley left the meeting at 11:45 a.m.

IX. **CENTRAL STAFF ISSUES:**

Judge Phipps stated Amy Doyle has been assigned to Presiding Judge Johnson's office while Pam Kilpatrick is caring for her son, Julian who was injured in an automobile crash. Judge Phipps said he had discussed the matter with Cliff Head of Central Staff and he believes Central Staff is able to pick up the slack and no change in personnel is required at present.

There was a general discussion about when the staff attorney longevity raises would become effective. Chief Judge Barnes called for a motion. Judge Andrews made a motion that the

longevity raises be effective July 1, 2008. The motion was seconded by Judge Phipps and passed unanimously.

X. **TERMINATION OF PARENTAL RIGHTS/CUSTODY CASES:**

Chief Judge Barnes gave a brief overview of the history of the Legislation which created the right of a direct appeal for child custody cases and the requirement of filing a discretionary application for termination of parental rights cases. After a brief discussion, Judge Phipps made a motion the 2007 amendment apply to all appeals on or after January 1, 2008, regardless of where the appeal initiated and when it was initiated. The motion was seconded by Judge Andrews and passed unanimously.

XI. **2008 LEGISLATIVE SESSION RECAP:**

Mr. Martin reported that a synopsis of Legislative effecting the Court was included in the Banc handout materials. He noted the Governor vetoed the appellate court judges pay raise bill and that the Cobb Superior Court judges supplement is now over \$58,711 a year with an additional \$9,800.00 per year supplement to the chief judge of the Cobb Judicial Circuit.

XII. **PERSONNEL MATTERS:**

The Court invited Mr. Martin to leave the room and went into Executive Session. Mr. Martin left the room at 11:55 a.m. When Mr. Martin returned to the Banc Room at 12:10 p.m., the Court informed him that his salary would be raised to 90% of the salary of a judge on the Court of Appeals of Georgia, that raise to be effective July 1, 2008. The Court thanked Mr. Martin for his service and also for his work he was doing with Technical Services and the Fiscal Office.

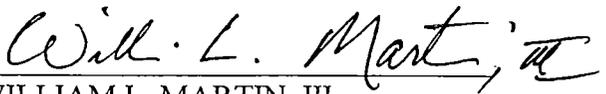
Mr. Martin thanked the judges for their confidence and support and their generosity toward him. He stated it was an honor to work for each and every one of them.

Chief Judge Barnes and Judge Phipps asked Mr. Martin to study the salaries of Holly Sparrow and Jan Kelley and to recommend to the Court an appropriate raise for each of them.

XVI. **ADJOURNMENT:**

There being no further business and upon hearing a motion to adjourn, Chief Judge Barnes adjourned the meeting at 12:15 p.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  
\_\_\_\_\_, 2008.

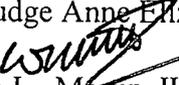


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## Court of Appeals

### Memorandum

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To: Chief Judge Anne Elizabeth Barnes  
From:   
William L. Martin, III  
Subject: January 2008 Banc Meeting  
Date: January 7, 2008

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Below are some items that have been discussed at previous Banc Meetings which you may wish to include on the Agenda for the January 15, 2008 Banc Meeting:

- a. From the November 2007 Banc Meeting, Judge Mikell stated he would like to ask Central Staff for the best way to deal with the ramifications of the *Hood* decision and this was to be placed on the agenda for January. Also, the clerk was directed to place on the January agenda the item of Ethical Standards for Staff Attorneys. From the November Banc Meeting was also the concern Judge Ruffin had about the smoking station below his office and if anyone had contact GBA about relocating the smoking station.
- b. At the September Banc Meeting there was a discussion about selling Briefs to Thomson West. Of course, we are now selling Briefs to Thomson West and LexisNexis but that has not been reported at the Banc Meeting.
- c. At the July Banc Meeting John Ruggeri gave a partial e-filing report. Because of time constraints, Mr. Ruggeri was asked to discuss Phase III at the September Banc Meeting, but that did not occur.

Other items that you might like to discuss at the January Banc Meeting are the Appellate Judges Retirement Bills, Senate Bill 112 and Senate Bill 326. Also, you might like to have a budget report from Jan Kelley and a technical services report from John Ruggeri, or from me.

Thank you.

/ld



# Court of Appeals

## Memorandum

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**To:** Court of Appeals Judges

**From:** Jan R. Kelley, Director of Fiscal Services

**Subject:** Online Legal Research Costs

**Date:** May 19, 2008

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As you are aware, we are constantly monitoring our Lexis & Westlaw usage in an effort to control costs. This last year, particularly, Westlaw costs increased dramatically. Not only did the contract rate increase, but charges for services outside our contract increased significantly.

Attached you will find several graphs which depict our historical costs for online legal research since July 2005. As you can see, monthly in-contract costs have risen from approximately \$3,200 per month to more than \$4,600 per month since 2005. Costs for excluded services also rose during this time with several months more than \$1,000.

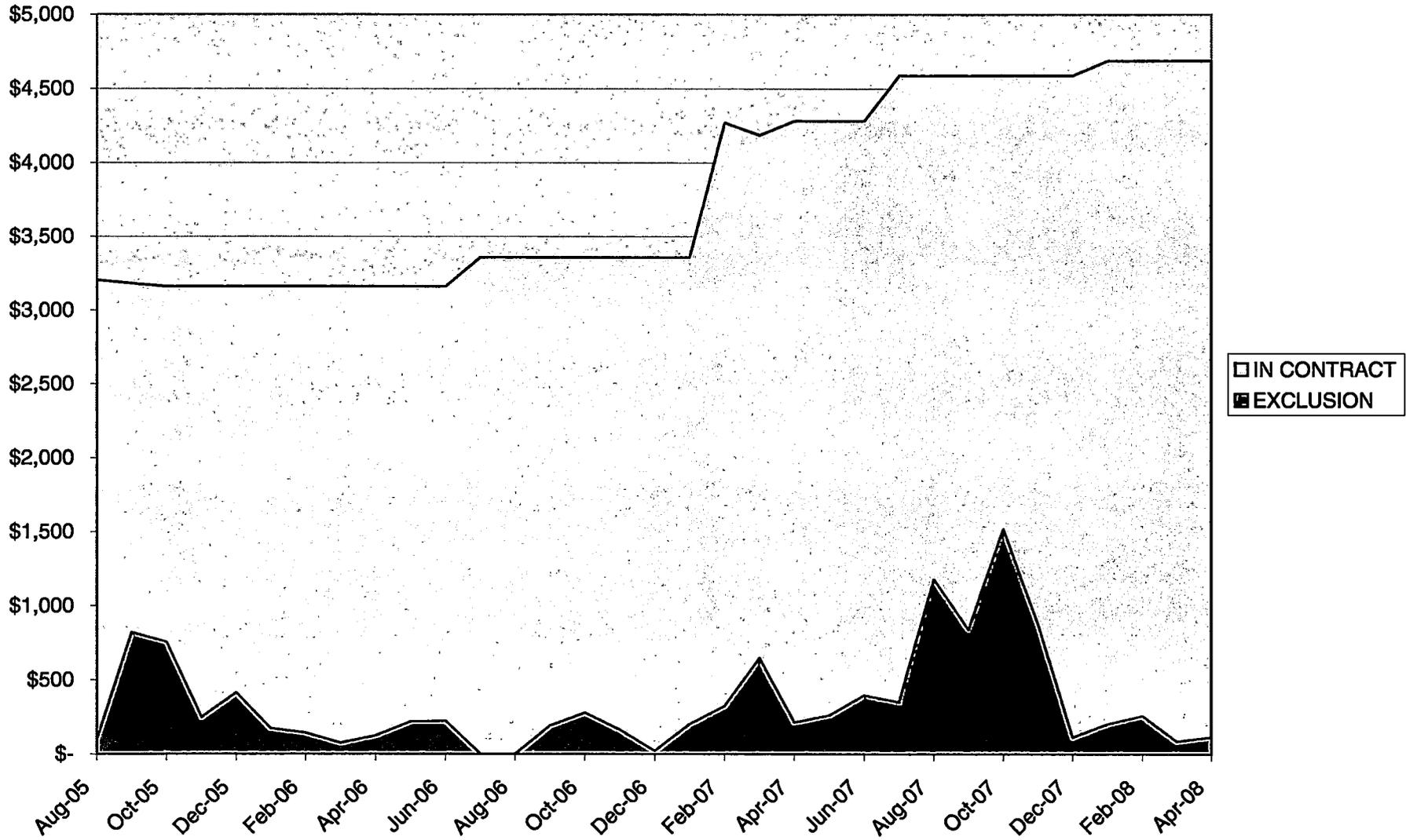
While we can control our in-contract costs on a limited basis through contract negotiation, our costs for excluded services are 100% in our control. As you can see from the attached pie graph, approximately 12% of our legal online research costs are due to

charges for excluded services. Infrequently, we receive excluded charges from Lexis-Nexis. However, excluded charges are frequent and costly with Westlaw online services.

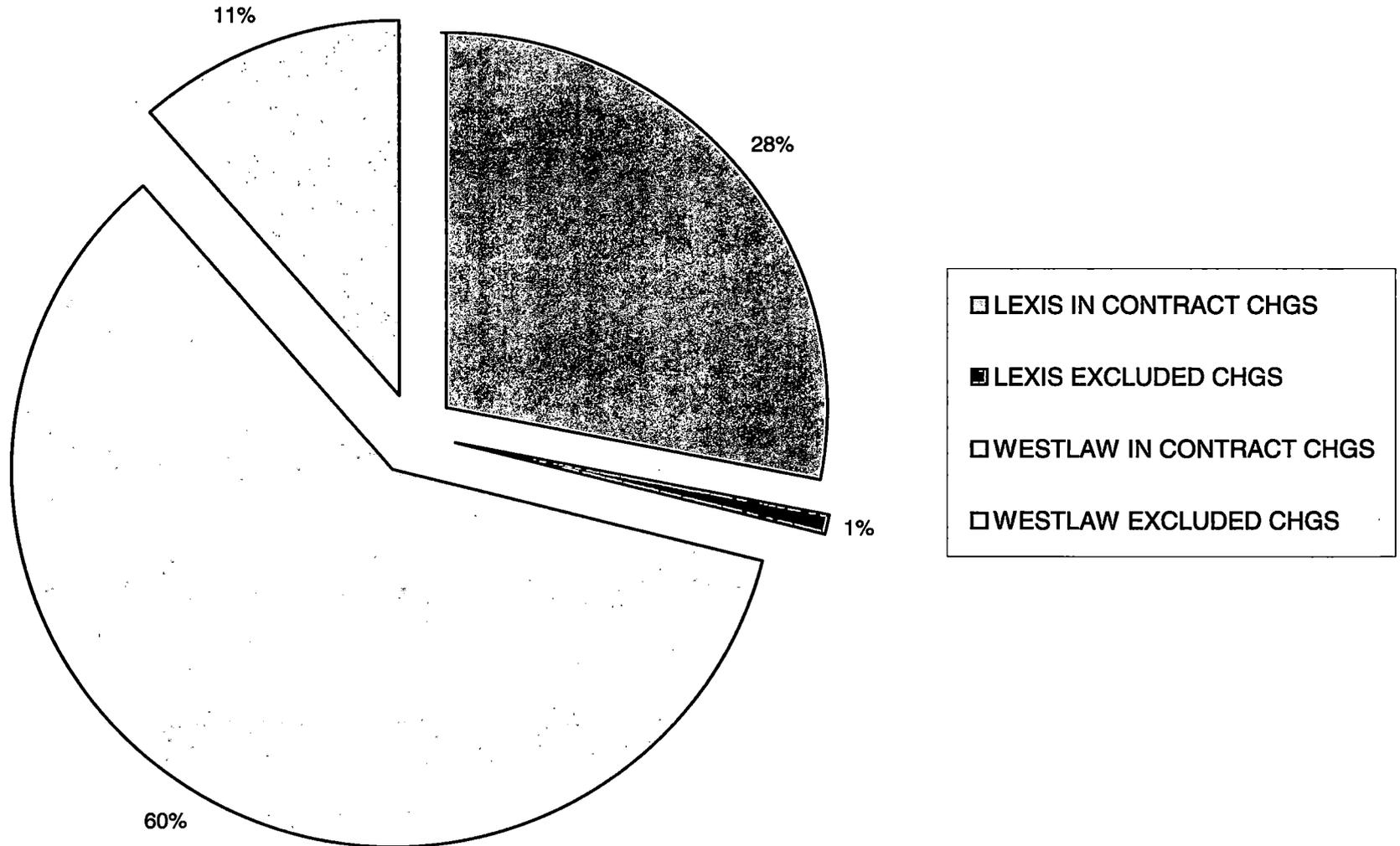
Please make sure your staff is aware of those services which are outside of our contract rate and will cause additional charges to be incurred. Also, please note that Lexis-Nexis is our preferred provider, since legal research is much less costly with this company.

cc: Bill Martin, Clerk of Court

# TOTAL LEGAL ONLINE

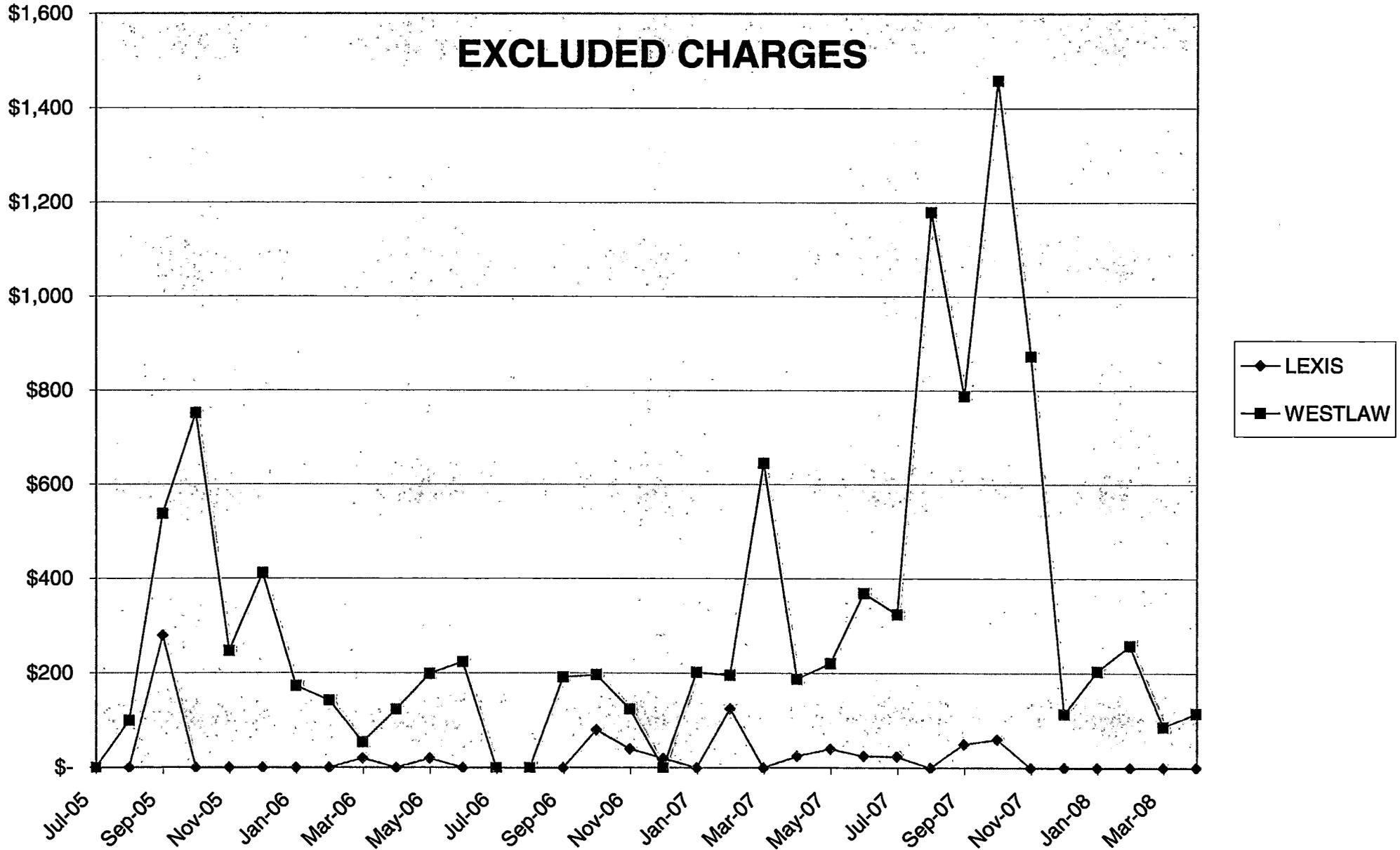


# COURT OF APPEALS OF GEORGIA LEGAL ONLINE RESEARCH COSTS



# COURT OF APPEALS OF GEORGIA ONLINE LEGAL RESEARCH

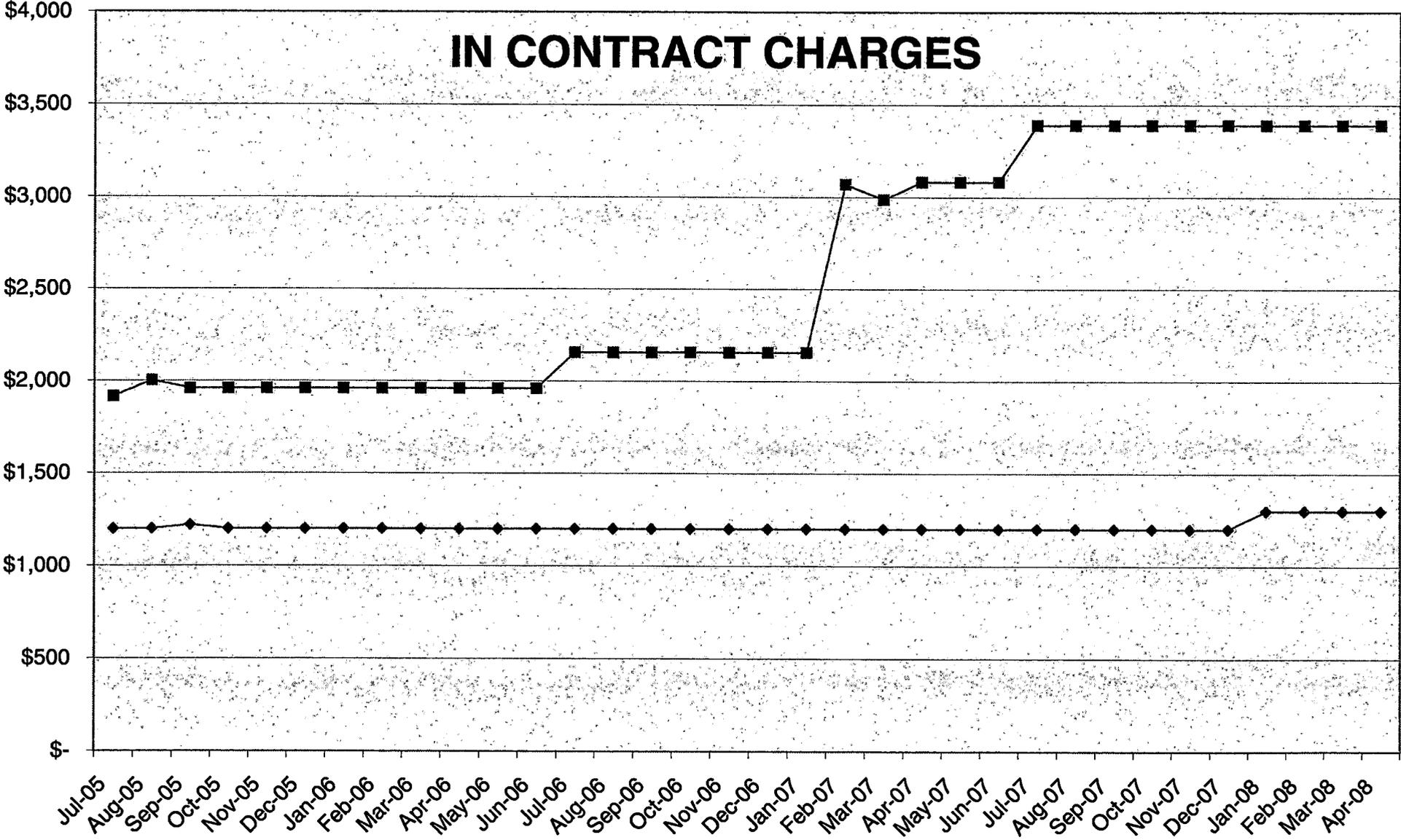
## EXCLUDED CHARGES



# COURT OF APPEALS OF GEORGIA ONLINE LEGAL RESEARCH



## IN CONTRACT CHARGES





# Court of Appeals

## Memorandum

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**To:** William L. Martin, III  
**From:** Crystal Willis  
**Subject:** Review of Banc Minutes  
**Date:** January 4, 2008

---

After reviewing the Banc minutes for 2007, I have found the following items were mentioned but not resolved:

In February, House Bill 309 and Senate Bill 112 were discussed. Since they did not pass, they were not mentioned again but I am sure will be a topic for discussion in the upcoming Banc meeting.

In April, John Ruggeri discussed upgrading batteries. In a later Banc meeting, monies were allocated for the purchase of the batteries. It is not noted if the batteries were purchased and installed. Also, was the IOM place on the S:\ drive as discussed?

In July, John Ruggeri gave a partial e-filing report because of time restraints. It was noted he would discuss the three phases of e-filing at the September Banc but I do not see where he did. Also discussed, budget enhancements for Security Officer/Bailiff, Public Information Officer,

Judicial Receptionist, and updates for Technical Services/E-filing. This could be an item placed on a future agenda.

In September, there was a discussion of selling the briefs to Thomson-West but the minutes never state whether the Court decided to sell them.

In November, there was a discussion of a Court Planning Session. There would be further discussion at a future Banc meeting in regard to date and location. I should have this information to you by the January Banc meeting. Also, Judge Ruffin stated he would prepare a report on the Court's relationship with Justice Served.

In December, Judge Mikell stated he would like to ask Central Staff the best way to deal with Hood. The Clerk was asked to place this item on the January Agenda. Also, the Clerk was asked to place on the January Agenda the item of Ethical Standards for Staff Attorneys. Lastly, there is a pending matter of relocating a smoking station to avoid smoke from entering Judge Ruffin's chambers. Has this been taken care of?

07 HB369/AP

House Bill 369 (AS PASSED HOUSE AND SENATE)

By: Representatives Rice of the 51<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Ehrhart of the 36<sup>th</sup>, Manning of the 32<sup>nd</sup>, Butler of the 18<sup>th</sup>, and others

A BILL TO BE ENTITLED

AN ACT

To provide for legislative findings; to amend Article 2 of Chapter 6 of Title 5, Code Section 9-11-133, and Chapter 9 of Title 19 of the Official Code of Georgia Annotated, relating to appellate practice, forms meeting requirements for civil case filing and disposition, and child custody proceedings, respectively, so as to provide for changes in child custody proceedings; to provide for direct appeals in certain domestic relations cases; to change certain provisions relating to cases requiring application for appeal; to add information to filing and dispositional forms in domestic relations cases; to provide for a parenting plan in child custody cases and the procedure therefor; to provide factors in determining the best interests of the child; to provide for written findings of fact in child custody proceedings; to provide for attorney's fees and expenses of litigation in child custody proceedings; to provide for binding arbitration; to amend Code Section 19-7-22 of the Official Code of Georgia Annotated, relating to petition for legitimation of child, so as to correct a cross-reference; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

The General Assembly of Georgia declares that it is the policy of this state to assure that minor children have frequent and continuing contact with parents who have shown the ability to act in the best interests of their children and to encourage parents to share in the rights and responsibilities of rearing their children after the parents have separated or dissolved their marriage or relationship.

## SECTION 2.

Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to appellate practice, is amended by revising subsection (a) of Code Section 5-6-34, relating to judgments and rulings deemed directly appealable, as follows:

"(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the following judgments and rulings of the superior courts, the constitutional city courts, and such other courts or tribunals from which appeals are authorized by the Constitution and laws of this state:

- (1) All final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35;
- (2) All judgments involving applications for discharge in bail trover and contempt cases;
- (3) All judgments or orders directing that an accounting be had;
- (4) All judgments or orders granting or refusing applications for receivers or for interlocutory or final injunctions;
- (5) All judgments or orders granting or refusing applications for attachment against fraudulent debtors;
- (6) Any ruling on a motion which would be dispositive if granted with respect to a defense that the action is barred by Code Section 16-11-184;
- (7) All judgments or orders granting or refusing to grant mandamus or any other extraordinary remedy, except with respect to temporary restraining orders;
- (8) All judgments or orders refusing applications for dissolution of corporations created by the superior courts;
- (9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a will;

and

(10) All judgments or orders entered pursuant to subsection (c) of Code Section 17-10-6.2;

and

(11) All judgments or orders in child custody cases including, but not limited to, awarding or refusing to change child custody or holding or declining to hold persons in contempt of such child custody judgment or orders."

### SECTION 3.

Said article is further amended by revising subsection (a) of Code Section 5-6-35, relating to cases requiring application for appeal, as follows:

"(a) Appeals in the following cases shall be taken as provided in this Code section:

- (1) Appeals from decisions of the superior courts reviewing decisions of the State Board of Workers' Compensation, the State Board of Education, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations;
- (2) Appeals from judgments or orders in divorce, alimony, ~~child custody~~, and other domestic relations cases including, but not limited to, granting or refusing a divorce or temporary or permanent alimony, ~~awarding or refusing to change child custody~~, or holding or declining to hold persons in contempt of such alimony ~~or child custody~~ judgment or orders;
- (3) Appeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;
- (4) Appeals from cases involving garnishment or attachment, except as provided in paragraph (5) of subsection (a) of Code Section 5-6-34;
- (5) Appeals from orders revoking probation;
- (6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;
- (7) Appeals, when separate from an original appeal, from the denial of an extraordinary motion for new trial;

(8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief upon a complaint in equity to set aside a judgment;

(9) Appeals from orders granting or denying temporary restraining orders;

(10) Appeals from awards of attorney's fees or expenses of litigation under Code Section 9-15-14; and

(11) Appeals from decisions of the state courts reviewing decisions of the magistrate courts by de novo proceedings so long as the subject matter is not otherwise subject to a right of direct appeal; and

(12) Appeals from orders terminating parental rights."

**SECTION 4.**

Code Section 9-11-133 of the Official Code of Georgia Annotated, relating to forms meeting requirements for civil case filing and disposition, is amended by revising subsections (c) and (e) as follows:

"(c) *Domestic Relations Case Filing Information Form.*

**DOMESTIC RELATIONS CASE FILING  
INFORMATION FORM**

Court

\_\_\_ Superior County \_\_\_\_\_ Date filed \_\_\_\_\_

mm-dd-yyyy

Docket no. \_\_\_\_\_

Plaintiff(s)

Defendant(s)

(last, suffix, first, middle initial, maiden)

(last, suffix, first, middle initial, maiden)

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

Plaintiff/Petitioner's attorney

\_\_\_\_\_

Pro Se

Bar #

\_\_\_\_\_

CONTEMPT

Contempt - Custody,

~~and/or~~ Visitation, or

Parenting Time

Contempt - Child

Support and Alimony

Contempt - Child Support

Contempt - Alimony

Other Domestic Contempt

CHECK CASE TYPE:

(one or more)

Divorce (includes

annulment)

Contested?  Yes  No

Child Custody

issue?  Yes  No

Child Support

issue?  Yes  No

Separate Maintenance

Adoption

Paternity (includes

legitimation)

Interstate Support

FAMILY VIOLENCE

Additional information -

Ex Parte Relief

\_\_\_\_\_ Did the initial pleading

include a request for

Enforcement Action

relief:

Domestication of

1. From alleged family

Foreign Custody Decree

violence?  Yes  No

Family Violence Act

2. Was ex parte relief

Petition

requested?  Yes  No

3. Was ex parte relief

granted?  Yes  No

MODIFICATION

OTHER

Modification - Custody,

Have the parties agreed to

~~and/or~~ Visitation, or

binding arbitration?  Yes  No

Parenting Time

Have the parties reached

Does the modification

a custodial agreement?  Yes  No

include a parent

If yes, is custody:

selection by a child

Joint custody

who is at least 14

Joint legal custody

years of age?  Yes  No

Joint physical custody

Modification - Child

Sole custody to: \_\_\_\_\_

Support and Alimony

Financial affidavit

\_\_ Modification - Child submitted? Yes No

Support Child support forms

\_\_ Modification - Alimony submitted? Yes No"

"(e) *Domestic Relations Case Final Disposition Information form.*

DOMESTIC RELATIONS CASE FINAL  
DISPOSITION INFORMATION FORM

Court

\_\_ Superior County \_\_\_\_\_ Date \_\_\_\_\_

disposed mm-dd-yyyy

Docket no. \_\_\_\_\_

Reporting party \_\_\_\_\_

(Name)

(Title)

Name of plaintiff/petitioner(s)

\_\_\_\_\_

Plaintiff/petitioner's attorney

\_\_\_\_\_

Pro Se

Bar #

\_\_\_\_\_

Name of defendant/respondent(s)

\_\_\_\_\_

Defendant/respondent's attorney

\_\_\_\_\_

Bar #

\_\_\_\_\_

\_\_\_ Pro Se

RELIEF GRANTED (Check all that apply)

1. \_\_\_ Ex Parte Relief

2. \_\_\_ Temporary Relief

3. \_\_\_ Final Relief

TYPE OF DISPOSITION

1. Dismissed Without

A. \_\_\_ Divorce/Annulment/

Final Order

Separate Maintenance

A. \_\_\_ Voluntary (by parties)

B. \_\_\_ Child Custody

(i) Parenting plan

B. \_\_\_ Involuntary (by court)

included? \_\_\_ Yes \_\_\_ No

(ii) Custodial arrangement:

2. \_\_\_ Pretrial Settlement

\_\_\_ Joint custody

3. \_\_\_ Judgment on the

\_\_\_ Joint legal custody

Pleadings

\_\_\_ Joint physical custody

4. \_\_\_ Summary Judgment

\_\_\_ Sole custody

5. \_\_\_ Trial

to: \_\_\_\_\_

A. Bench Trial

(iii) Fourteen year old

B. Jury Trial

made parental

1.  Dismissal after jury selected

selection?  Yes  No

2.  Settlement

during trial

C. Visitation or parenting time

Approximate percentage

of parenting time per

3.  Judgment on

year (or number of days)

Verdict

for:  Mother  Father

4.  Directed

Parenting time was

Verdict or

contested?  Yes  No

JNOV

D.  Child Support

(i) Forms attached?  Yes  No

E.  Legitimation/

Paternity

F.  Alimony

ADR

G.  Contempt

1. Was mediation utilized?

H.  Equitable Division

Yes  No

I.  ~~Restraining~~ Protective Order

2. If yes, was it (check if applicable):

~~Person~~  Property

court annexed?

Finding of family

violence?  Yes  No

court mandated?

J.  Adoption

3. Was there an agreement to

K.  Attorney's fees?  Yes  No



~~finding of family violence:~~

~~(A) The court shall consider as primary the safety and well-being of the child and of the parent who is the victim of family violence;~~

~~(B) The court shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person;~~

~~(C) If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child or children for the purposes of custody determination; and~~

~~(D) The court shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The court may, in addition to other appropriate actions, order supervised visitation pursuant to Code Section 19-9-7.~~

~~(3)(A) In all cases in which the child has reached the age of 14 years, the child shall have the right to select the parent with whom he or she desires to live. The child's selection shall be controlling, unless the parent so selected is determined not to be a fit and proper person to have the custody of the child.~~

~~(B) In all cases in which the child has reached the age of at least 11 but not 14 years, the court shall consider the desires, if any, and educational needs of the child in determining which parent shall have custody. The court shall have complete discretion in making this determination, and the child's desires are not controlling. The court shall further have broad discretion as to how the child's desires are to be considered, including through the report of a guardian ad litem. The best interest of the child standard shall be controlling.~~

~~(C) The desire of a child who has reached the age of 11 years but not 14 years shall not, in and of itself, constitute a material change of conditions or circumstances in any action seeking a modification or change in the custody of that child.~~

~~(D) The court may issue an order granting temporary custody to the selected parent for a trial period not to exceed six months regarding the custody of a child who has reached the~~

~~age of at least 11 years where the judge hearing the case determines such a temporary order is appropriate.~~

~~(b) In any case in which a judgment awarding the custody of a minor has been entered, on the motion of any party or on the motion of the court, that portion of the judgment effecting visitation rights between the parties and their minor children may be subject to review and modification or alteration without the necessity of any showing of a change in any material conditions and circumstances of either party or the minor, provided that the review and modification or alteration shall not be had more often than once in each two-year period following the date of entry of the judgment. However, this subsection shall not limit or restrict the power of the court to enter a judgment relating to the custody of a minor in any new proceeding based upon a showing of a change in any material conditions or circumstances of a party or the minor.~~

~~(e)(1) In any case in which a judgment awarding the custody of a minor has been entered, the court entering such judgment shall retain jurisdiction of the case for the purpose of ordering the custodial parent to notify the court of any changes in the residence of the child.~~

~~(2) In any case in which visitation rights have been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights.~~

~~(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights under this title or a court order. Such notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.~~

~~(d) In the event of any conflict between this Code section and Article 3 of this chapter, Article 3 shall apply.~~

(a) Except when a parent seeks emergency relief for family violence pursuant to Code Section 19-13-3 or 19-13-4, in all cases in which the custody of any child is at issue between the parents, each parent shall prepare a parenting plan or the parties may jointly submit a parenting plan. It shall be in the judge's discretion as to when a party shall be required to submit a parenting plan to the judge. A parenting plan shall be required for permanent custody and modification actions and in the judge's discretion may be required for temporary hearings. The final decree in any legal action involving the custody of a child, including modification actions, shall incorporate a permanent parenting plan.

(b)(1) Unless otherwise ordered by the judge, a parenting plan shall include the following:

(A) A recognition that a close and continuing parent-child relationship and continuity in the child's life will be in the child's best interest;

(B) A recognition that the child's needs will change and grow as the child matures and demonstrate that the parents will make an effort to parent that takes this issue into account so that future modifications to the parenting plan are minimized;

(C) A recognition that a parent with physical custody will make day-to-day decisions and emergency decisions while the child is residing with such parent; and

(D) That both parents will have access to all of the child's records and information, including, but not limited to, education, health, extracurricular activities, and religious communications.

(2) Unless otherwise ordered by the judge, or agreed upon by the parties, a parenting plan shall include, but not be limited to:

(A) Where and when a child will be in each parent's physical care, designating where the child will spend each day of the year;

(B) How holidays, birthdays, vacations, school breaks, and other special occasions will be spent with each parent including the time of day that each event will begin and end;

(C) Transportation arrangements including how the child will be exchanged between the parents, the location of the exchange, how the transportation costs will be paid, and any other matter relating to the child spending time with each parent;

(D) Whether supervision will be needed for any parenting time and, if so, the particulars

of the supervision;

(E) An allocation of decision-making authority to one or both of the parents with regard to the child's education, health, extracurricular activities, and religious upbringing, and if the parents agree the matters should be jointly decided, how to resolve a situation in which the parents disagree on resolution; and

(F) What, if any, limitations will exist while one parent has physical custody of the child in terms of the other parent contacting the child and the other parent's right to access education, health, extracurricular activity, and religious information regarding the child.

(c) If the parties cannot reach agreement on a permanent parenting plan, each party shall file and serve a proposed parenting plan on or before the date set by the judge. Failure to comply with filing a parenting plan may result in the judge adopting the plan of the opposing party if the judge finds such plan to be in the best interests of the child.

19-9-1.1.

In all proceedings under this article, it shall be expressly permissible for the parents of a child to agree to binding arbitration on the issue of child custody and matters relative to visitation, parenting time, and a parenting plan. The parents may select their arbiter and decide which issues will be resolved in binding arbitration. The arbiter's decisions shall be incorporated into a final decree awarding child custody unless the judge makes specific written factual findings that under the circumstances of the parents and the child the arbiter's award would not be in the best interests of the child. In its judgment, the judge may supplement the arbiter's decision on issues not covered by the binding arbitration.

19-9-1.2.

Pursuant to Code Section 9-11-3, and in addition to the filing requirements contained in Code Section 19-6-15, in all proceedings under this article the plaintiff shall file a domestic relations case filing information form as set forth in Code Section 9-11-133.

19-9-2.

Upon the death of either parent, the survivor is entitled to custody of the child; provided, however, that the ~~court~~ judge, upon petition, may exercise discretion as to the custody of the child, looking solely to the child's best interest and welfare.

19-9-3.

(a)(1) In all cases in which the custody of any ~~minor child or children~~ is at issue between the parents, there shall be no prima-facie right to the custody of the child ~~or children~~ in the father or mother. There shall be no presumption in favor of any particular form of custody, legal or physical, nor in favor of either parent. Joint custody may be considered as an alternative form of custody by the judge and the judge at any temporary or permanent hearing may grant sole custody, joint custody, joint legal custody, or joint physical custody as appropriate.

(2) The ~~court~~ judge hearing the issue of custody, ~~in exercise of its sound discretion, may~~ shall make a determination of custody of a child and such matter shall not be decided by a jury. The judge may take into consideration all the circumstances of the case, including the improvement of the health of the party seeking a change in custody provisions, in determining to whom custody of the child ~~or children~~ should be awarded. The duty of the ~~court~~ judge in all such cases shall be to exercise its discretion to look to and determine solely what is for the best interest of the child ~~or children~~ and what will best promote ~~their~~ the child's welfare and happiness and to make ~~its~~ his or her award accordingly.

(3) In determining the best interests of the child, the judge may consider any relevant factor including, but not limited to:

(A) The love, affection, bonding, and emotional ties existing between each parent and the child;

(B) The love, affection, bonding, and emotional ties existing between the child and his or her siblings, half siblings, and stepsiblings and the residence of such other children;

(C) The capacity and disposition of each parent to give the child love, affection, and guidance and to continue the education and rearing of the child;

(D) Each parent's knowledge and familiarity of the child and the child's needs;

- (E) The capacity and disposition of each parent to provide the child with food, clothing, medical care, day-to-day needs, and other necessary basic care, with consideration made for the potential payment of child support by the other parent;
  - (F) The home environment of each parent considering the promotion of nurturance and safety of the child rather than superficial or material factors;
  - (G) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
  - (H) The stability of the family unit of each of the parents and the presence or absence of each parent's support systems within the community to benefit the child;
  - (I) The mental and physical health of each parent;
  - (J) Each parent's involvement, or lack thereof, in the child's education, social, and extracurricular activities;
  - (K) Each parent's employment schedule and the related flexibility or limitations, if any, of a parent to care for the child;
  - (L) The home, school, and community record and history of the child, as well as any health or educational special needs of the child;
  - (M) Each parent's past performance and relative abilities for future performance of parenting responsibilities;
  - (N) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent, consistent with the best interest of the child;
  - (O) Any recommendation by a court appointed custody evaluator or guardian ad litem;
  - (P) Any evidence of family violence or sexual, mental, or physical child abuse or criminal history of either parent; and
  - (Q) Any evidence of substance abuse by either parent.
- (4) In addition to other factors that a ~~court~~ judge may consider in a proceeding in which the custody of a child or visitation or parenting time by a parent is at issue and in which the ~~court~~ judge has made a finding of family violence:

(A) The ~~court~~ judge shall consider as primary the safety and well-being of the child and

of the parent who is the victim of family violence;

(B) The ~~court~~ judge shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person;

(C) If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child ~~or children~~ for the purposes of custody determination; and

(D) The ~~court~~ judge shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The ~~court~~ judge may, in addition to other appropriate actions, order supervised visitation ~~or parenting time~~ pursuant to Code Section 19-9-7.

~~(4)~~(5) In all custody cases in which the child has reached the age of 14 years, the child shall have the right to select the parent with whom he or she desires to live. The child's selection for purposes of custody shall be ~~controlling~~ presumptive unless the parent so selected is determined not to be a fit and proper person to have the custody of the child in the best interests of the child. The parental selection by a child who has reached the age of 14 may, in and of itself, constitute a material change of condition or circumstance in any action seeking a modification or change in the custody of that child; provided, however, that such selection may only be made once within a period of two years from the date of the previous selection and the best interests of the child standard shall apply.

~~(4.1)~~(6) In all custody cases in which the child has reached the age of ~~at least~~ 11 but not 14 years, the ~~court~~ judge shall consider the desires and educational needs of the child in determining which parent shall have custody. ~~The child's selection shall not be controlling. The best interests of the child standard shall apply.~~ The judge shall have complete discretion in making this determination, and the child's desires shall not be controlling. The judge shall further have broad discretion as to how the child's desires are to be considered, including through the report of a guardian ad litem. The best interests of the child standard shall be controlling. The parental selection of a child who has reached the age of 11 but not

14 years shall not, in and of itself, constitute a material change of condition or circumstance in any action seeking a modification or change in the custody of that child. The judge may issue an order granting temporary custody to the selected parent for a trial period not to exceed six months regarding the custody of a child who has reached the age of 11 but not 14 years where the judge hearing the case determines such a temporary order is appropriate.

~~(5) Joint custody, as defined by Code Section 19-9-6, may be considered as an alternative form of custody by the court. This provision allows a court at any temporary or permanent hearing to grant sole custody, joint custody, joint legal custody, or joint physical custody where appropriate.~~

~~(6)~~(7) The court judge is authorized to order a psychological custody evaluation of the family or an independent medical evaluation. In addition to the privilege afforded a witness, neither a court appointed custody evaluator nor a court appointed guardian ad litem shall be subject to civil liability resulting from any act or failure to act in the performance of his or her duties unless such act or failure to act was in bad faith.

(8) If requested by any party on or before the close of evidence in a contested hearing, the permanent court order awarding child custody shall set forth specific findings of fact as to the basis for the judge's decision in making an award of custody including any relevant factor relied upon by the judge as set forth in paragraph (3) of this subsection. Such order shall set forth in detail why the court awarded custody in the manner set forth in the order and, if joint legal custody is awarded, a manner in which final decision making on matters affecting the child's education, health, extracurricular activities, religion, and any other important matter shall be decided. Such order shall be filed within 30 days of the final hearing in the custody case, unless extended by order of the judge with the agreement of the parties.

(b) In any case in which a judgment awarding the custody of a ~~minor child~~ has been entered, on the motion of any party or on the motion of the court judge, that portion of the judgment effecting visitation rights between the parties and their ~~minor children~~ child or parenting time may be subject to review and modification or alteration without the necessity of any showing of a change in any material conditions and circumstances of either party or the ~~minor child~~,

provided that the review and modification or alteration shall not be had more often than once in each two-year period following the date of entry of the judgment. However, this subsection shall not limit or restrict the power of the ~~court judge~~ to enter a judgment relating to the custody of a ~~minor~~ child in any new proceeding based upon a showing of a change in any material conditions or circumstances of a party or the ~~minor~~ child.

(c) In the event of any conflict between this Code section and any provision of Article 3 of this chapter, Article 3 shall apply.

(d) It is the express policy of this state to encourage that a ~~minor~~ child has continuing contact with parents and grandparents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their ~~children~~ child after such parents have separated or dissolved their marriage or relationship.

(e) Upon the filing of an action for a change of child custody, the ~~court judge~~ may in ~~its~~ his or her discretion change the terms of custody on a temporary basis pending final judgment on such issue. Any such award of temporary custody shall not constitute an adjudication of the rights of the parties.

(f)(1) In any case in which a judgment awarding the custody of a child has been entered, the court entering such judgment shall retain jurisdiction of the case for the purpose of ordering the custodial parent to notify the court of any changes in the residence of the child.

(2) In any case in which visitation rights or parenting time has been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation or parenting time, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights or parenting time.

(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights or parenting time under this title or a court order. Such

notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.

(g) Except as provided in Code Section 19-6-2, and in addition to the attorney's fee provisions contained in Code Section 19-6-15, the judge may order reasonable attorney's fees and expenses of litigation, experts, and the child's guardian ad litem and other costs of the child custody action and pretrial proceedings to be paid by the parties in proportions and at times determined by the judge. Attorney's fees may be awarded at both the temporary hearing and the final hearing. A final judgment shall include the amount granted, whether the grant is in full or on account, which may be enforced by attachment for contempt of court or by writ of fieri facias, whether the parties subsequently reconcile or not. An attorney may bring an action in his or her own name to enforce a grant of attorney's fees made pursuant to this subsection.

(h) In addition to filing requirements contained in Code Section 19-6-15, upon the conclusion of any proceeding under this article, the domestic relations final disposition form as set forth in Code Section 9-11-133 shall be filed.

19-9-4.

(a) On motion of either party in any action or proceeding involving determination of the award of child custody between parents of the child, when such motion contains a specific recitation of actual abuse, neglect, or other overt acts which have adversely affected the health and welfare of the child, the ~~court~~ judge may direct the appropriate family and children services agency or any other appropriate entity to investigate the home life and home environment of each of the parents. In any action or proceeding involving determination of the award of child custody between parents of the child when during such proceedings a specific recitation of actual abuse, neglect, or other overt acts which have adversely affected the health and welfare of the child has been made the ~~court~~ judge shall also have authority on ~~its~~ his or her own motion to order such an investigation if in the ~~court's~~ judge's opinion the investigation would be useful in determining placement or custody of the child. The ~~court~~ judge may also direct either party to pay to the agency the

reasonable cost, or any portion thereof, of the investigation. The report of the investigation will be made to the ~~court~~ judge directing the investigation. Any report made at the direction of the ~~court~~ judge shall be made available to either or both parties for a reasonable period of time prior to the proceedings at which any temporary or permanent custody is to be determined. Both parties shall have the right to confront and cross-examine the person or persons who conducted the investigation or compiled the report if adequate and legal notice is given.

(b) This Code section shall apply only with respect to actions or proceedings in which the issue of child custody is contested; and this Code section is not intended to alter or repeal Code Sections 49-5-40 through 49-5-44.

#### 19-9-5.

(a) In all proceedings under this article between parents, it shall be expressly permissible for the parents of a ~~minor~~ child to present to the ~~court~~ judge an agreement respecting any and all issues concerning custody of the ~~minor~~ child. As used in this Code section, the term 'custody' shall include, without limitation, joint custody as such term is defined in Code Section 19-9-6. As used in this Code section, the term 'custody' shall not include payment of child support.

(b) The ~~court~~ judge shall ratify the agreement and make such agreement a part of the ~~court's~~ judge's final judgment in the proceedings unless the ~~court~~ judge makes specific written factual findings as a part of the final judgment that under the circumstances of the parents and the child in such agreement that the agreement would not be in the best interests of the child. The ~~court~~ judge shall not refuse to ratify such agreement and to make such agreement a part of the final judgment based solely upon the parents' choice to use joint custody as a part of such agreement.

(c) In ~~its~~ his or her judgment, the ~~court~~ judge may supplement the agreement on issues not covered by such agreement.

#### 19-9-6.

As used in this article, the term:

- (1) 'Joint custody' means joint legal custody, joint physical custody, or both joint legal custody and joint physical custody. In making an order for joint custody, the ~~court~~ judge may order joint legal custody without ordering joint physical custody.
- (2) 'Joint legal custody' means both parents have equal rights and responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training; provided, however, that the ~~court~~ judge may designate one parent to have sole power to make certain decisions while both parents retain equal rights and responsibilities for other decisions.
- (3) 'Joint physical custody' means that physical custody is shared by the parents in such a way as to assure the child of substantially equal time and contact with both parents.
- (4) 'Sole custody' means a person, including, but not limited to, a parent, has been awarded permanent custody of a child by a court order. Unless otherwise provided by court order, the person awarded sole custody of a child shall have the rights and responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training, and the noncustodial parent shall have the right to visitation or parenting time. A person who has not been awarded custody of a child by court order shall not be considered as the sole legal custodian while exercising visitation rights or parenting time.

19-9-7.

(a) A ~~court~~ judge may award visitation by or parenting time to a parent who committed one or more acts involving family violence only if the ~~court~~ judge finds that adequate provision for the safety of the child and the parent who is a victim of family violence can be made. In a visitation or parenting time order, a ~~court~~ judge may:

- (1) Order an exchange of a child to occur in a protected setting;
- (2) Order visitation or parenting time supervised by another person or agency;
- (3) Order the perpetrator of family violence to attend and complete, to the satisfaction of the ~~court~~ judge, a certified family violence intervention program for perpetrators as defined in Article 1A of Chapter 13 of this title as a condition of the visitation or parenting time;

- (4) Order the perpetrator of family violence to abstain from possession or consumption of alcohol, marijuana, or any Schedule I controlled substance listed in Code Section 16-13-25 during the visitation or parenting time and for 24 hours preceding the visitation or parenting time;
- (5) Order the perpetrator of family violence to pay a fee to defray the costs of supervised visitation or parenting time;
- (6) Prohibit overnight visitation or parenting time;
- (7) Require a bond from the perpetrator of family violence for the return and safety of the child; and
- (8) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or another family or household member.
- (b) Whether or not visitation or parenting time is allowed, the ~~court~~ judge may order the address of the child and the victim of family violence to be kept confidential.
- (c) The ~~court~~ judge shall not order an adult who is a victim of family violence to attend joint counseling with the perpetrator of family violence as a condition of receiving custody of a child or as a condition of visitation or parenting time.
- (d) If a ~~court~~ judge allows a family or household member to supervise visitation or parenting time, the ~~court~~ judge shall establish conditions to be followed during visitation or parenting time."

#### SECTION 6.

Code Section 19-7-22 of the Official Code of Georgia Annotated, relating to petition for legitimation of a child, is amended by revising subsection (f.1) as follows:

"(f.1) The petition for legitimation may also include claims for visitation, parenting time, or custody. If such claims are raised in the legitimation action, the court may order, in addition to legitimation, visitation, parenting time, or custody based on the best interests of the child standard. In a case involving allegations of family violence, the provisions of paragraph (2) (4) of subsection (a) of Code Section ~~19-9-1~~ 19-9-3 shall also apply."

### SECTION 7.

Chapter 5 of Title 19 of the Official Code of Georgia Annotated, relating to divorce, is amended by striking subsection (a) of Code Section 19-5-1, relating to granting total divorces and referral for alternative dispute resolution, and inserting in lieu thereof the following:

"(a) Total divorces may be granted in proper cases by the superior court; provided, however, that the parties shall comply with Code Section 19-5-1.1 if it is applicable. Unless an issuable defense is filed as provided by law and a jury trial is demanded in writing by either party on or before the call of the case for trial, in all petitions for divorce and permanent alimony the judge shall hear and determine all issues of law and of fact and any other issues raised in the pleadings."

### SECTION 8.

This Act shall become effective on January 1, 2008, and shall apply to all child custody proceedings and modifications of child custody filed on or after January 1, 2008.

### SECTION 9.

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

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# Court of Appeals

## Memorandum

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**To:** CLIFF HEAD (CENTRAL STAFF)

**From:** CHIEF JUDGE BARNES

**Subject:** THE 2007 AMENDMENT TO OCGA § 5-6-35 (a) ADDING SUBPARAGRAPH (12).

**Date:** May 13, 2008

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Because Judge Phipps is out of town, he asked me to respond to Central Staff's questions and concerns about the effective date of this amendment. The Court has determined that the amendment became effective January 1, 2008, and this decision will be adopted formally at the next banc meeting. Therefore, all judgments terminating parental rights entered on after January 1, 2008, are subject to the amendment and must follow the discretionary appeals procedure in OCGA § 5-6-35 (b)-(d).

Accordingly, Central Staff should address the merits of applications filed in compliance with the amendment and should prepare memoranda as for all other discretionary applications. Termination cases filed as direct appeals from judgments entered after January 1, 2008, should be dismissed for failure to follow the discretionary appeals procedures.

Any questions should be addressed to Judge Phipps, or if he is unavailable, you may contact me. Please inform the other members of Central Staff of this decision.



# Court of Appeals

## Memorandum

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**To:** PRESIDING JUDGE ANDREWS, PRESIDING JUDGE JOHNSON, PRESIDING JUDGE BLACKBURN, PRESIDING JUDGE SMITH, JUDGE RUFFIN, JUDGE MILLER, JUDGE ELLINGTON, JUDGE PHIPPS, JUDGE MIKELL, JUDGE ADAMS, & JUDGE BERNES

**From:** CHIEF JUDGE BARNES *ARB*

**Subject:** EFFECTIVE DATE OF 2007 AMENDMENT TO OCGA § 5-6-35 (a) (12).

**Date:** March 18, 2008

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1. Attached is a memo from Janice Ward recommending denial of an application in a termination of parental rights case under OCGA § 5-6-35 (a) (12). OCGA § § 5-6-34 (a) and 5-6-35 (a) were amended in 2007 to provide that appeals from termination of parental rights shall be by application and appeals from custody decisions shall be by direct appeal. The issue is when the act becomes effective for termination cases. I am writing this memo because Debbie Wellborn also has expressed concern about the effective date of the amendment, and, in my opinion, it is time for the Court to resolve when the effective date of the 2007 amendment to OCGA § 5-6-35 (a) (12) should be.

2. Ga. L. 2007, p. 554, § 8, which was not expressly codified by the General Assembly, provides that "[t]his Act becomes effective on January 1, 2008, and shall apply to all child

custody proceedings and modifications filed on or after January 1, 2008.” Nothing in the Act provides a different effective date for the amendment regarding termination of parental right appeals codified at OCGA § 5-6-35 (a) (12). Termination cases are obviously not child custody proceedings, and thus the issue is when can we apply the amendment to termination of parental rights cases?

I disagree with the idea that we should treat them the same way as custody cases merely because the General Assembly did not specifically prescribe a different effective date for termination cases. In my opinion, the 2007 amendment is now applicable to all termination of parental rights cases that become appealable after January 1, 2008, regardless of when they were filed, because the statutory change is procedural, not substantive.

Our Supreme Court recently discussed a similar issue in *Nathans v. Diamond*, 282 Ga. 804, 808-809 (654 SE2d 121) (2007) regarding a change in expert witness requirements:

[T]he rule is that laws that affect substantive rights “may operate prospectively only.” [ *DaimlerChrysler Corp. v. Ferrante*, 281 Ga. 273, 273-274 (637 SE2d 659) (2006), quoting *Enger v. Erwin*, 245 Ga. 753, 754 (267 SE2d 25) (1980). See Art. I, Sec. I, Par. X of the Georgia Constitution (“no retroactive law shall be passed.”). “Substantive law is that law which creates rights, duties, and obligations. Procedural law is that law which prescribes the methods of enforcement of rights, duties, and obligations.” [ *DaimlerChrysler*, 281 Ga. at 273-274, quoting *Polito v. Holland*, 258 Ga. 54, 55 (365 SE2d 273) (1988).] In this regard, it has previously been held that OCGA § 9-11-9.1 is a procedural law that may be applied retroactively. [See *Kneip v. Southern Engineering Co.*, 260

Ga. 409, 410-411 (395 SE2d 809) (1990); *Precision Planning v. Wall*, 193 Ga. App. 331, 332 (387 SE2d 610) (1989).] The

requirement of submitting an expert's affidavit under OCGA § 9-11-9.1 along with the complaint did not affect the substantive right of action for professional malpractice; it alters neither the standard of care to be applied nor the measure of recovery. The statute merely prescribes a procedure for enforcing that right. [*Precision Planning*, 193 Ga. App. at 332. In *Kneip*, this Court cited this reasoning with approval. *Kneip*, 260 Ga. at 410-411].

This reasoning is applicable to the instant case, as OCGA § 24-9-67.1 (c) does not affect the appellants' substantive right of action, as it does not change the standard of care to be applied or the measure of the appellants' recovery. Other courts that have considered the issue have also concluded that statutes that set forth the qualifications for experts in malpractice actions are procedural in nature and may be applied retroactively. [*Gaynor v. Ob/Gyn Specialists*, 51 FSupp.2d 718, 721-724 (W.D. Va. 1999); *McGlothren v. Eastern Shore Family Practice*, 742 S2d 173, 177 (Ala. 1999).] (Punctuation and footnotes omitted.)

This is not the first time an issue like this has arisen concerning OCGA § 5-6-35 (a).

In 1984 the code section was amended to require applications in cases in which damages of \$2,500 or less were awarded. This court held that the appeals procedure in effect when judgment was entered governed the appeal of the case:

The Appellate Practice Act in OCGA § 5-6-38 specifically provides the judgment appealed from must have been entered before the appeal is taken and means the judgment can not be considered appealable until it is actually entered. That a judgment must be entered before an appeal is taken is a rule of reason which has long existed. There can be no effective appeal from anything but a

judgment -- a final judgment without a certificate, or an interlocutory judgment with a certificate or, by application under the discretionary provisions of OCGA § 5-6-35. Where applicable, the requirements of OCGA § 5-6-35 are jurisdictional and the appellate court has no authority to accept an appeal in the absence of compliance with these statutory provisions. Consequently, since judgment was not entered against appellants until after OCGA § 5-6-35 (a) (6) became effective and they failed to comply with the statutory requirements, the appeal must be dismissed.

(Citation and punctuation omitted.) *Crimminger v. Habib*, 174 Ga. App. 440, 440-441 (330 SE2d 164) (1985). Further, “[a] law which merely alters the procedure may, with perfect propriety, be made applicable to past as well as future transactions. No person has a vested right in any course of procedure, nor in the power of delaying justice, nor of deriving benefit from technical and formal matters of pleading.” *Darby v. Cook*, 201 Ga. 309, 311 (39 SE2d 665) (1946). This amendment does not eliminate a parent’s right to appeal in these cases; it merely changes the procedures used to effect the appeal.

3. Although I appreciate the views expressed in Welborn’s memo, I do not consider it our role to challenge the constitutionality or the wisdom of the amendment making these cases discretionary appeals. The purpose of the amendment is to avoid any and all unnecessarily delay in the processing of termination of parental rights cases, and although we expedite these appeals, they are delayed both while records and transcripts are assembled in the juvenile courts and also further delayed while full opinions are crafted in this court. It was clearly the

intent of the General Assembly to speed up the process.

I also appreciate the concern about how the applicants will support their applications in the absence of transcripts, but this problem will exist regardless of when the amendment is effective. We deal with similar situations in interlocutory applications every day.

4. In the case discussed in Ward's memo, the mother filed the petition against the father on January 19, 2007, the juvenile court granted the petition on July 20, 2007, the father filed a motion for new trial on July 20, 2007, the juvenile court denied the motion for new trial on January 31, 2008, and the father filed the application to appeal on February 22, 2008. Central Staff considered the application on the merits, and I believe this was appropriate. Little could have appealed the termination of his parental rights without an application if he had not filed a motion for new trial, but having filed such a motion, he delayed the final appealable judgment until after the 2007 amendment became effective.

Accordingly, the application was properly considered on its merits, and I agree that it should be denied.

5. Because of the importance of this issue to the processing of these appeals, and the divergence of Central Staff's views on this issue, I have provided copies of this memo and copies of Ward's and Welborn's memos to the judges on the Court, and seek their opinions on this issue for consideration. This subject will be on the agenda for the next banc meeting, but I solicit your immediate responses, comments, and thoughts on the matter of expediting

these cases.



# Court of Appeals

## Memorandum on Application for Discretionary Appeal

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**To:** Presiding Judge Johnson and Judge Phipps

**From:** Chief Judge Barnes (Ward)

**Style:** *A08D0246. WILLIAM C. LITTLE v. SHELLEY R. LITTLE.*

**Date:** March 7, 2008

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<b>Judgment type:</b>	OCGA § 5-6-35 (a) (12) (termination of parental rights)
<b>Lower court:</b>	Gwinnett Juvenile Court, Judge Phyllis Miller
<b>Short number:</b>	93-021
<b>Docketed:</b>	February 22, 2008
<b>Response:</b>	None filed
<b>Order Due:</b>	<b>MARCH 24, 2008</b>
<b>Recommendation:</b>	<b>DENY</b>

William C. Little seeks discretionary review of an order terminating his parental rights. William Little and Shelley R. Little were married on May 25, 2002 and divorced on July 7, 2004. (Tab 1, Final Judgment) Their only child, Alec Chase Little, was born on July 21, 2002. The final judgment and decree incorporated a settlement agreement that awarded Shelley Little primary custody of Alec and afforded Little the right to liberal visitation. (Tab 1, Settlement Agreement, p. 3) The final judgment obligated Little to pay \$550 each month in child support. (Tab 1, SA, p. 7 ¶ 4 (a))

On January 19, 2007, Shelley Little filed a petition to terminate Little's parental rights. (Tab 1, Petition) The termination petition alleged that Little had not paid any child support since May 18, 2004 despite being under court order to do so. (Tab 1, Petition ¶ 6) The petition also claimed that Little "has not seen the child in over two years." (Tab 1, Petition ¶ 7) The petition asserted that the termination of Little's parental rights would be in the best interests of the child. .

After a hearing on the petition, the juvenile court entered an order on July 20, 2007 terminating Little's parental rights. The court found that Little "through his own admissions in testimony, provided no support whatsoever for his minor child, ALEC CHASE LITTLE, for the period of time from May 18, 2004 through March 22, 2007." (Tab 6, Termination Order, ¶ 1) The juvenile court further found that "support payments were only made by [Little] after March 22, 2007, pursuant to an Order" entered by a state court judge "at the entry of [Little's] plea of guilty to a criminal charge of child abandonment and under threat of incarceration in the Gwinnett County Work Release Program." (Tab 6, Term. Order, ¶ 1) In addition, the court found that Little had "no contact of any nature" with Alec subsequent to March 13, 2004, including visits, cards, gifts, or notes and had not made contact with Alec through third parties either. (Tab 6, Term. Order, ¶ 2) The court noted that by his own admission, Little had not made any attempt to see Alec since July or August 2004 and further noted that Little's family members had no contact with Alec since March

13, 2004. (Tab 6, Term. Order, ¶ 2) The juvenile court also found that Little admitted that at all relevant times he had the child's correct address and phone number and that the address and phone number had not changed. The court also noted that Little had been gainfully employed for most of the time since the divorce and that even though he was incarcerated for several months on charges of DUI and probation violations, he "has been financially able to maintain his own lifestyle during this period of time." (Tab 6, Term. Order, ¶ 4) Finding the requirements of OCGA §§ 15-11-94 (b) (2) and (b) (3) were met, the juvenile court determined that it was in the best interest of the child to terminate Little's parental rights.

Little filed a motion for new trial. (Tab 8, MNT) After the hearing, the court denied the motion. (Tab 14, Order Denying MNT) This application followed. Little now contends that the juvenile court erred in finding abandonment, by failing to engage in the second step of the two-step analysis of OCGA § 15-11-94, and by finding it was in the child's best interest to terminate his parental rights.

On appeal, this Court determines whether, after reviewing the evidence in a light most favorable to the lower court's judgment, any rational trier of fact could have found by clear and convincing evidence that the natural parent's rights to custody have been lost. This Court neither weighs evidence nor determines the credibility of witnesses; rather, we

defer to the trial court's fact-finding and affirm unless the appellate standard is not met. *In the Interest of C. R. G.*, 272 Ga. App. 161, 161-162 (611 SE2d 784) (2005).

The Georgia Code contemplates a two-step process for termination of parental rights cases. First, the trial court determines "whether there is present clear and convincing evidence of parental misconduct or inability." OCGA § 15-11-94 (a). Four factors must be present to establish parental misconduct or inability: (1) the child is deprived; (2) the lack of proper parental care or control by the parent in question causes the deprivation; (3) the cause of the deprivation is likely to continue; and (4) continued deprivation causes the child serious physical, mental, emotional, or moral harm. OCGA § 15-11-94 (b) (4) (A). If the trial court finds these four factors exist, then the court determines whether termination of parental rights is in the best interest of the child, "after considering the physical, mental, emotional, and moral condition and needs of the child . . . , including the need for a secure and stable home." OCGA § 15-11-94 (a).

Viewed in the light most favorable to the juvenile court's judgment, the evidence supports the court's fact-finding and decision. At the hearing, the court-appointed guardian ad litem recommended the termination of Little's parental rights. (Tab 11, T.8) Also, Shelley Little testified that Little's use of alcohol and drugs "was a major concern in our marriage." (Tab 11, T.29) She voiced concern about Little's "continuous drinking and driving" and his use of alcohol and marijuana. (Tab 11, T.29) She testified that at the time

of the divorce she and Alec moved in with her parents and have lived there continuously since then. (Tab 11, T.23) She and her mother testified that the grandparents were helping raise Alec and that Alec refers to his grandfather as “Daddy.” (Tab 11, T.26) She testified that her husband “does special things with [Alec].” (Tab 11, T.33) Alec’s grandmother testified that with one exception, Little had not phoned their home or sent any letters there. (Tab 11, T.34) She testified that the lone telephone call occurred in 2004 at about 1:00 a.m., when Little “in a drunken stupor” called to say he “wanted to see his goddamn kid” and “was cussing and carrying on.” (Tab 11, T.34)

The undisputed evidence shows that Little did not pay any child support between May 18, 2004 until March 22, 2007 and then only when ordered to do so by the state court in a criminal proceeding. (Tab 11, T.4, 10, 22) More significantly, the evidence establishes without dispute that Little had no contact whatsoever with Alec between March 13, 2004, and July 19, 2007, the date of the hearing, and had made virtually no effort to have any relationship with him. (Tab 11, T.11-16) Nor did any member of Little’s family attempt to form a bond with Alec. (Tab 11, T.24) During that entire period, Little admittedly knew where his ex-wife and Alec lived and knew her phone number but did not call or make arrangements to visit Alec or to send Alec any birthday or Christmas cards or presents. (Tab 11, T.11-16,18) As Shelley Little testified, “There was never any initiative to see the child

except for the one where he called and said, you know, I'd like visitation this weekend, and the very next day called and cancelled that." (Tab 11, T.30)

Although Little testified that in August 2004 he had sent a certified letter notifying Shelley Little of his intent to pick Alec up for a weekend visit, he admitted that he had neither called nor shown up for the requested visitation. (Tab 11, T.14) Little confirmed that he entered a guilty plea to abandonment in state court and revealed that even after the reinstatement of his driver's license, he made no effort to see his son. The juvenile court found and the record supports that finding that Little had the financial wherewithal to pay child support during part of the period at issue but did not do so. (Tab 11, T.20-22)

In determining that the termination of parental rights is in the best interests of the child, "[t]he same factors which show the existence of parental misconduct or inability can also support a finding that termination of parental rights would be in the best interest of the child." *In the Interest of R. M.*, 232 Ga. App. 727, 729 (503 SE2d 635) (1998). Little appears to have a history of drinking and driving, an unstable employment background, instability of residency, and a criminal history which includes, at a minimum, a guilty plea to a misdemeanor abandonment charge, a DUI, and a violation of probation. (Tab 11, T.11, 14, 18, 19) Other evidence shows that Alec is living in a stable, loving and nurturing home with his mother and grandparents; all three adults have maintained gainful employment;

and Alec thinks of his grandfather, an electrical engineer for the CDC, as his “Daddy.”

(Tab 11, T.27, 33)

Little has not shown the existence of error in the trial court’s ruling. Therefore, it is recommended that his application for discretionary appeal be DENIED.



# Court of Appeals

## Memorandum

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To: Presiding Judge Smith, Judge Ruffin and Judge Ellington

From: Debbie Wellborn

Subject: A08D0221, A08D0222, A08D0227, and A08D0232

Date: February 21, 2008

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Each of the subject applications involves an appeal of an order of the juvenile court either terminating parental rights or refusing to terminate parental rights. In each case, I have prepared an order granting the application pursuant to OCGA § 5-6-35 (j). Act 264, H. B. 369 ("Act") purports to affect appeal rights in termination of parental rights and custody cases. It is my reading of the Act that it would be inapplicable to the subject cases as the petition in each case was *filed* prior to January 1, 2008.<sup>1</sup> See copy of new legislation attached. Section 8 of H. B. 369 (pg. 24) sets out that the "Act shall become effective on January 1, 2008, and shall apply to all child custody proceedings and modifications of child custody filed on or

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<sup>1</sup>It is further noted that A08D0232 involves the trial court's denial of a petition to terminate the mother's parental rights. Such order would not be subject to discretionary appeal under any circumstances as the new statutory language only applies to "[a]ppeals from orders terminating parental rights." OCGA § 5-6-35 (a) (12). Since the application seeks to appeal the order denying the petition to terminate parental rights, the amendment would be inapplicable and the case therefore directly appealable.

after January 1, 2008.” The Act adds a provision to OCGA § 5-6-35 (a) to include appeals from orders terminating parental rights. OCGA § 5-6-35 (a) (12). Although termination of parental rights cases are not specifically mentioned in Section 8 of the Act, since there is no other language in the Act which would create a different effective date for termination of parental rights cases, it appears the legislature also intended the same effective date to apply to all cases affected by the new Act.

The interpretation of this Act is in uncharted waters. Central Staff would appreciate any guidance from the Court as to how it would like to handle these cases. Central Staff has concerns as to whether including changes to both termination of parental rights cases and child custody cases refers to two subject matters and is therefore unconstitutional. Ga. Const. of 1983 Art. III, Sec. V, Par. III. We also question whether the change only affects termination of parental rights in domestic relations cases (which would never occur as termination of parental rights are not domestic relations cases -- which is why they have been directly appealable despite OCGA § 5-6-35 (a) (2)). There is also the issue of whether the attempt to make child custody cases directly appealable failed as the addition of OCGA § 5-6-34 (a) (11) would still be subject to OCGA § 5-6-35 (a) (2), which still includes “other domestic relations cases including, but not limited to, . . . .” An argument could be made that the statutory change did not accomplish what it attempted and custody cases must still be by application and termination of parental rights cases are still directly appealable. Although these issues are

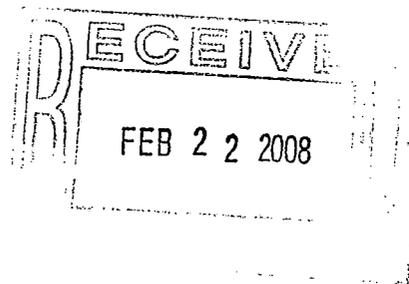
not ripe at this time, they will need to be considered by the Court at some point and Central Staff would appreciate any guidance for when these issues do become ripe for jurisdictional consideration.

If you have any questions concerning these cases, please do not hesitate to contact me.

cc: Chief Judge Barnes  
Judge Phipps



## Court of Appeals



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cc: Chief Judge Barnes  
Judge Phipps