

# **E-Filing/New Docket Policy Issues**

## 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. The same route of circulation would occur if the case required a 7-judge or 12 judge decision, i.e., after judge 3 reviewed the opinion, it would be routed to judge 4, 5, 6 and so on. This circulation process would change the current 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.

**Staff recommendation: The electronic voting circulation path described above (judge 1 to judge 2 to judge 3, etc.) be approved.**

to whole  
Post panel at same time.

Circulate record 1 to 2 to 3  
Vote 1 to 2 to 3

AA input judge vote.

## **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 electronic opinion tracking report if the judges' offices enter the necessary data. See the attached proposal from Judge Phipps.

### **Staff Recommendation:**

- 1) Have Trivir create an electronic tracking report similar to our old report;**
- 2) Adopt a policy to require each Administrative Assistant to input the voting and circulation information for her judge on each case assigned to the judge and each case in which her judge votes; and**
- 3) Support enhancements to the new docket which include electronic circulation and voting which will reduce the amount of information that the AAs would need to enter for opinion tracking purposes.**



# 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.

### 3. Transmission of Docketing Notices and Court Actions to both Electronic and Paper Filers

Court actions electronically sent to the clerk's office after 1:00 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 dated 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 after 1:00 p.m.

**Staff Recommendation: The new docket system will date outgoing court actions which are received by the Clerk's office after 1:00 p.m. for the next business day. These court actions will immediately be emailed to e-filers and the appropriate judicial offices, but paper filers' copies will be posted on the next business day.**

*Approved Putman  
E-filing Rules*

#### 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. Few briefs 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. The Clerk's office will accept the brief which requires a cite check from an e-filer and attach a flag to the electronic brief which will be forwarding to the judge's office and staff attorney. The staff attorney will determine if cites are required and draft an order if necessary for the judge.

**Staff Recommendation: If the Clerk's office flags a brief for a cite check, a staff attorney in the judge's office to which a case is assigned will perform a cite check and draft an order, if needed.**

Approved

**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 electronically by means of a standard order. 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.

**Staff Recommendation: Change the rules to require that a motion for extension to file a brief must state in the motion a specific deadline date for the brief.**

Approved

put on rejection list if not put date  
specific

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10 day order to file

## 6. Automatic Rejection of Documents E-Filed

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. It is possible that converting some file formats to a .pdf file might cause a document to be slightly different in appearance than in its original format.

**Staff Recommendation:** Approve the entire list of reasons for an automatic rejection of an e-filed document with one exception. The exception is that a brief will not be rejected for exceeding the page limit unless it is more than three pages over the limit since formatting a brief to a .pdf file for e-filing may in some instances change the page numbering.

*Approved - internal policy only*

## E-Filing Policy Proposal

### Reasons for Automatic Rejection of Documents

1. The clerk clicks on the rejection button and selects a rejection code from the drop down list.

- Your Appellant's Brief was not accompanied by the \$80.00 filing fee or sufficient evidence of indigency. OCGA §5-6-4 and Rule 5
- A Request for Oral Argument must be filed as a separate document. Rule 28(a)(1)
- Your document(s) was (were) not signed by counsel (who has been admitted to this Court or granted courtesy appearance) or the pro se party. Rule 1(a)
- No Certificate of Service or an improper Certificate of Service accompanied your document(s). Rule 6
- Your Certificate of Service did not include the complete name and mailing address of each opposing counsel and pro se party. Rule 6
- Your document exceeds page limits. Rules 24(f) and 27(a)
- Your document was submitted without permission to file (Supplemental Brief or Second Motion for Reconsideration). Rules 27(a) and 37(d)
- Letter briefs and letter cites are not permitted. Rule 27(b)
- Your request for Court Action must be submitted in motion form. Rule 41(a)
- Your motions were submitted in an improper form (joint, compound or alternative motions in one document). Rule 41(b)
- Type font was smaller than 10 characters per inch; and/or the type was not double-spaced. Rules 24(c), 37(a), 41(b) and Rule 1(c).
- The pages were not sequentially numbered with Arabic numerals. Rule 24(e)
- Cases and/or record citations were not made in the proper form. Rules 24(d) and 25(c)(3)
- Margins were too small or paper size incorrect. Rules 1(c), 24(c), 37(a) and 41(b)
- Other

*If violate two or more, get both reasons*

## **7. Changing Judges or the Positions of Judges on Panels**

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.

**Staff Recommendation: Establish a policy that the court will not change judges on a panel or the positions on a panel for a term once that term has begun.**

*Approved*