



Court of Appeals

Memorandum

To: Chief Judge Marion T. Pope

From: Dorothy Beasley *DBS*

Subject: Options for improving the disposition of growing caseload

Date: May 19, 1994

At the close of the docket for the July calendar call, we had approximately 210 direct appeals per judge, an increase of nearly 20 over last year's 191. We cannot continue on this path with the current complement of persons handling the workload, if there is to be proper legal analysis in each case. Even at our current caseload, and really for quite some time, we have not had opportunity to develop law or consider the evolving law elsewhere, as a means of meeting new conditions and needs in a rapidly changing society. Product liability is one area.

In any event, we are at a crisis level and cannot survive as a strong court, clearly articulating the law of Georgia and writing opinions which explain ~~the~~ ^{the} ramifications for the wider context. Our opinions, and not merely the bottom line decisions in cases, must be followed in subsequent situations; it is our responsibility to give guidance which can be applied without great debate about its meaning. That takes time and attention, which we cannot afford with even the current caseload.

Options:

1. Add another panel of additional judges and full staffs.
2. Add one more judge, with full staff, leaving the chief judge to be administrative and to handle a reduced caseload.
3. Add another panel but use senior judges and give them each 1 law assistant. Each member of that panel would be assigned 1/3 of a sitting judge's caseload. (They would thus have time for their own pursuits as well, and for appellate settlement.)
4. Assign fast track and appellate settlement to senior judges.
5. Institute fast track for substantial numbers of civil and criminal cases, to be decided by current judges. Use central staff attorneys for these fast track cases.
6. Increase categories and dollar amounts for discretionary appeals.
7. Create appellate districts among the superior courts, as provided for in the Ga. Const., Art. VI, Sec. IV, Par. I: "The superior courts shall have such appellate jurisdiction, either alone or by circuit or district, as may be provided by law." Certain categories of appeals, such as workers' compensation, misdemeanors, etc. would be decided by a rotating panels of 3 superior court judges, in the manner of sentence review. There could be 10 districts, or 3, or some other number, along geographic lines. Certiorari would lie to the Supreme Court of Georgia. Opinions would be published, as a check on uniformity.
8. To cut workload as opposed to caseload, persuade Supreme Court to change rule so that motion for reconsideration in this court is not prerequisite for petition for certiorari in that Court.

9. Compel appellate settlement conferences in all civil cases.

10. Increase number of law assistants per judge, take law school externs, hire all summer clerks for which funds are available, increase central staff attorneys.

SYNOPSIS OF SUGGESTIONS AND IDEAS

THE FOLLOWING IS A SYNOPSIS OF SOME OF THE SUGGESTIONS AND IDEAS THAT HAVE BEEN PROPOSED TO ADDRESS THE PROBLEM OF THE INCREASED CASE LOAD OF THE COURT OF APPEALS. ONE DRAWBACK TO MOST IF NOT ALL THESE PROPOSALS IS THAT THE STARTING POINT IS OUR APPELLATE COURT SYSTEM AS IT PRESENTLY EXISTS--IN OTHER WORDS, THESE PROPOSALS DO NOT ADDRESS THE PROBLEM FROM THE GROUND UP. IN THE PAST, LIMITED RESOURCES (TIME AND MONEY) HAVE PROHIBITED THAT KIND OF COMPREHENSIVE STUDY.

1. ADD JUDGES TO EXISTING COURT OF APPEALS.

(A) ADD JUDGES, BUT MAKE NO JURISDICTIONAL CHANGES. EXHIBIT A SHOWS THE EFFECT ON INDIVIDUAL JUDGE CASELOAD WHEN JUDGES ARE ADDED TO THE COURT. YOU WILL NOTE THAT IT WOULD REQUIRE THE ADDITION OF BETWEEN 18 AND 19 JUDGES TO BRING EACH JUDGES CASELOAD TO APPROXIMATELY 100. SEE EXHIBIT B FOR A COMPARISON OF NUMBER OF OPINIONS AUTHORED BY OTHER STATES' INTERMEDIATE APPELLATE COURTS.

SOME HAVE EXPRESSED CONCERN THAT CONTINUING TO ADD JUDGES WILL EVENTUALLY RESULT IN DE-CENTRALIZATION OF THE COURT, I.E. COURT OF APPEALS JUDGES WOULD BE FORCED TO SIT IN DIVISIONS THROUGHOUT THE STATE.

(B) ADD JUDGES AND CREATE CRIMINAL AND CIVIL DIVISIONS. EXHIBIT C SHOWS THE PERCENTAGE OF CRIMINAL AND CIVIL FILINGS OVER THE PAST 5 YEARS. BASED ON THESE FIGURES, IT WOULD APPEAR THAT THE CIVIL DIVISION OF THE COURT WOULD NEED TO BE SLIGHTLY LARGER THAN THE CRIMINAL DIVISION. BASED ON 1995 FIGURES, THE NUMBER OF CASES ASSIGNED TO EACH INDIVIDUAL JUDGE ON A 9-JUDGE CIVIL DIVISION WOULD BE APPROXIMATELY 200, AND THE NUMBER OF CASES PER INDIVIDUAL JUDGE FOR A 7-JUDGE CRIMINAL DIVISION WOULD BE APPROXIMATELY 157. IT HAS BEEN SUGGESTED THAT THE JUDGES WOULD ROTATE BETWEEN THE CIVIL AND CRIMINAL DIVISIONS.

2. ESTABLISH DISTRICT COURTS OF APPEAL AS A SECOND TIER OF INTERMEDIATE APPELLATE REVIEW IN BOTH CRIMINAL AND CIVIL CASES. THIS PROPOSAL CALLS FOR THE CREATION OF A NEW COURT. SEE EXHIBIT D FOR A DETAILED DISCUSSION OF THIS PROPOSAL, INCLUDING PROPOSED JURISDICTION AND ESTIMATED START UP AND OPERATING COSTS.

3. CREATE AN APPELLATE DIVISION OF THE SUPERIOR COURT. SUPERIOR COURT JUDGES WOULD HAVE APPELLATE JURISDICTION IN SPECIFIED CASES (LIKELY CLASSES WOULD INCLUDE WORKERS' COMPENSATION, MISDEMEANOR, AND ADMINISTRATIVE APPEALS, SEE EXHIBIT E FOR THE NUMBER OF THOSE CASES FILED IN COURT OF APPEALS FOR PAST 5 YEARS) AND WOULD SIT IN PANELS OF THREE.

4. REVISE DISCRETIONARY APPEAL PROVISIONS. SEE EXHIBIT F FOR THE PRESENT PROVISIONS.

(A) INCREASE AMOUNT STATED IN OCGA § 5-6-35 (a) (6)

FROM \$10,000. TO \$25,000.

(B) PRESENTLY ALL CRIMINAL CONVICTIONS ARE DIRECTLY APPEALABLE. RETAIN THE PRESENT SYSTEM IN ROBBERY, KIDNAPPING, RAPE, AGGRAVATED SODOMY, AGGRAVATED SEXUAL BATTERY AND AGGRAVATED CHILD MOLESTATION CASES, SEE OCGA § 17-10-6.1., AND MAKE ALL OTHER CRIMINAL CONVICTION APPEALS DISCRETIONARY.

5. REPEAL OCGA § 9-11-56 (h), EXHIBIT G. THAT CODE SECTION CURRENTLY AUTHORIZES DIRECT APPEAL OF A GRANT OF PARTIAL SUMMARY JUDGMENT, WHICH OTHERWISE WOULD REQUIRE INTERLOCUTORY APPEAL PROCEDURES. THIS CODE SECTION INCREASES COURT OF APPEALS WORKLOAD AND CONFUSES MANY APPELLATE LITIGANTS AND THEIR COUNSEL.

Division of Jurisdiction Among Appellate Courts

1. Under Ga. Const. 1983, Art. VI, Sec. VI, Par. II, the Supreme Court has exclusive appellate jurisdiction over cases involving an attack on a statute's constitutionality, the construction of the a treaty of constitution of the State or the United States, and election cases. However, this exclusivity does not extend to cases that involve application as opposed to construction of constitutional provisions. See White v. State, 196 Ga. 847 (27 SE2d 695) (1943).

This constitutional provision should remain intact.

2. The Supreme Court is a court of finality, representing the most authoritative court, and the regulator of the law and bar, in the state. See OCGA § 15-2-8.

Consistent with that role as final authority on state law, under OCGA § 15-2-9 only the Supreme Court has jurisdiction to answer questions certified to it by the federal appellate courts. This function likewise should remain uncahnged.

3. Ga. Const. 1983, Art. VI, Sec. VI, Par. III delineates several types of cases over which the Supreme Court has appellate jurisdiction unless otherwise provided by law. Jurisdiction over these types of cases thus may be assigned to another court by legislation. Taylor v. Stovall, 155 Ga. 894 (118 SE2d 715) (1923).

The various types of cases in this constitutional provision include cases involving title to land, equity cases, wills,

habeas corpus, extraordinary remedies, divorce and alimony, cases certified by the Court of Appeals, and all cases in which a sentence of death was imposed or could be imposed. The Supreme Court has previously determined that it shall exercise exclusive jurisdiction over direct appeals from all murder cases. State v. Thornton, 253 Ga. 524 (322 SE2d 711) (1984). In deciding the jurisdiction for all appellate courts upon the establishment of District Courts of Appeal, the Supreme Court's preference for murder cases should be honored, but all other types of cases in Paragraph III may be subject to reassignment.

There is some perception that since all other state courts are inferior to the Supreme Court, then the cases over which the latter exercises jurisdiction are the "more important" appeals. However, the list of cases in Paragraph III more likely are assigned to the Supreme Court out of an interest of quicker finality in those types of cases. These are the types of cases in which our society is best served by settling the matter as soon as possible. The General Assembly will have the task of determining whether change is indicated.

For example, one currently popular proposal is that the Supreme Court should have exclusive jurisdiction over appeals in all domestic cases, including divorce and alimony cases, child custody and visitation matters, contempt actions in domestic relations cases (including property settlements), and termination of parental rights cases. That popular sentiment may be so great that the legislature could decide to leave jurisdiction over alimony and divorce cases with the Supreme Court and to place the

other domestic relations cases under the exclusive jurisdiction of the Supreme Court.

There is nothing about the remaining types of cases listed in Paragraph III so exalted that only the highest court in the state should decide the appeals in such. The interest of prompt finality could be just as well served by shifting the jurisdiction over those cases to the District Courts of Appeal.

The following is the number of cases the Court of Appeals heard in the years indicated involving misdemeanors, workers compensation and administrative appeals.

<u>Year</u>	<u>Misdemeanors</u>	<u>Worker's Compensation</u>	<u>Administrative</u>
1995	123	59	23
1994	119	37	26
1993	140	39	69
1992	94	46	52
1991	95	45	46
TOTAL	571	226	216

June 25, 1996

Court of Appeals
Case Management System

Total Filings Worker's Compensation

<u>YEAR</u>	<u>TOTAL DISCRETIONARY APPLICATIONS FILED</u>	<u>TOTAL DISCRETIONARY APPLICATIONS GRANTED</u>
1995	184	59
1994	199	37
1993	142	39
1992	212	46
1991	<u>142</u>	<u>45</u>
TOTAL	879	226

Exhibit E

EFFECT OF CASELOAD REDUCTION

BY INCREASING THE NUMBER OF JUDGES ON THE COURT OF APPEALS

YEAR	# OF DIRECT APPEALS	NUMBER OF JUDGES USED ON THE COURT OF APPEALS									
		9	10	11	12	13	14	15	16	17	18
1995	2884	320	288	262	240	222	206	192	180	170	160
1994	2842	316	284	258	237	219	203	189	178	167	158
1993	2601	289	260	236	217	200	186	173	163	153	145
1992	2455	273	246	223	205	189	175	164	153	144	136
1991	2265	252	227	206	189	174	162	151	142	133	126

YEAR	# OF DIRECT APPEALS	NUMBER OF JUDGES USED ON THE COURT OF APPEALS										
		19	20	21	22	23	24	25	26	27	28	29
1995	2884	152	144	137	131	125	120	115	111	107	103	99
1994	2842	149	142	135	129	123	118	113	109	105	101	98
1993	2601	137	130	124	118	113	108	104	100	96	-	-
1992	2455	129	123	117	112	107	102	98	-	-	-	-
1991	2265	119	113	108	103	98	-	-	-	-	-	-

<u>YEAR</u>	<u>DISCRETIONARY APPLICATIONS</u>	<u>NUMBER OF JUDGES USED ON THE COURT OF APPEALS</u>									
		<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>
1995	532	59	53	48	44	41	38	35	33	31	30
1994	611	68	61	56	51	47	44	41	38	36	34
1993	475	53	48	43	40	37	34	32	30	28	26
1992	471	52	47	43	39	36	34	31	29	28	26
1991	430	48	43	39	36	33	31	29	27	25	24

<u>YEAR</u>	<u>INTERLOCUTORY APPLICATIONS</u>	<u>NUMBER OF JUDGES USED ON THE COURT OF APPEALS</u>									
		<u>9</u>	<u>10</u>	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	<u>15</u>	<u>16</u>	<u>17</u>	<u>18</u>
1995	417	46	42	38	35	32	30	28	26	25	23
1994	458	51	46	42	38	35	33	31	29	27	25
1993	450	50	45	41	38	35	32	30	28	26	25
1992	486	54	49	44	41	37	35	32	30	29	27
1991	450	50	45	41	38	35	32	30	28	26	25

TABLE 6: Opinions Reported by State Appellate Courts, 1994

State/Court name:	Opinion count is by:		Composition of opinion count:			Total dispositions by signed opinion	Number of authorized justices/judges	Number of lawyer support personnel
	case	written document	signed opinions	per curiam opinions	memos/orders			
States with one court of last resort and one intermediate appellate court								
ALASKA								
Supreme Court	X	O	X	O	O	145	5	11
Court of Appeals	X	O	X	O	O	77	3	8
ARIZONA								
Supreme Court	X	O	X	X	O	71	5	16
Court of Appeals	X	O	X	X	some	236	21	48
ARKANSAS								
Supreme Court	X	O	X	X	X	448	7	15
Court of Appeals	X	O	X	X	O	558	6	16
CALIFORNIA								
Supreme Court	X	O	X	X	some	99	7	50
Courts of Appeal	X	O	X	X	some	12,090	88	206
COLORADO								
Supreme Court	X	O	X	X	O	192	7	14
Court of Appeals	X	O	X	O	some	442	16	32
CONNECTICUT								
Supreme Court	X	O	X	X	some	185	7	12
Appellate Court	X	O	X	X	some	454	9	12
FLORIDA								
Supreme Court	X	O	X	X	O	187	7	15
District Courts of Appeal	X	O	X	X	O	301	61	102
GEORGIA								
Supreme Court	X	O	X	X	O	401	7	17
Court of Appeals	X	O	X	O	O	2,315	9	28
HAWAII								
Supreme Court	X	O	X	X	some	167	5	14
Intermediate Court of Appeals	X	O	X	X	X	141	4	8
IDAHO								
Supreme Court	O	X	X	X	X	NA	5	11
Court of Appeals	O	X	X	X	O	NA	3	6
ILLINOIS								
Supreme Court	X	O	X	X	O	138	7	24
Appellate Court	X	O	X	X	some	1,678	52	88
IOWA								
Supreme Court	O	X	X	O	O	NA	9	16
Court of Appeals	X	O	X	O	O	537	6	6
KANSAS								
Supreme Court	X	O	X	X	some	210	7	7
Court of Appeals	X	O	X	X	some	1,234	10	21
KENTUCKY								
Supreme Court	X	O	X	X	some	100	7	13
Court of Appeals	X	O	X	X	some	1,565	14	22

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Exhibit B

TABLE 6: Opinions Reported by State Appellate Courts, 1994 (continued)

State/Court name:	Opinion count is by:		Composition of opinion count:			Total dispositions by signed opinion	Number of authorized justices/judges	Number of lawyer support personnel
	case	written document	signed opinions	per curiam opinions	memos/orders			
LOUISIANA								
Supreme Court	O	X	X	X	some	150	8	32
Courts of Appeal	O	X	X	X	X	3,604	54	158
MARYLAND								
Court of Appeals	X	O	X	O	O	NA	7	14
Court of Special Appeals	X	O	X	O	O	216	13	29
MASSACHUSETTS								
Supreme Judicial Court	O	X	X	O	O	234	7	20
Appeals Court	O	X	X	X	X	270	14	31
MICHIGAN								
Supreme Court	X	O	X	X	O	108	7	15
Court of Appeals	X	O	X	X	some	6,332	24	84
MINNESOTA								
Supreme Court	X	O	X	O	O	156	7	10
Court of Appeals	X	O	X	O	O	1,381	16	36
MISSOURI								
Supreme Court	X	O	X	X	some	NA	7	15
Court of Appeals	X	O	X	X	some	2,039	32	54
NEBRASKA								
Supreme Court	X	O	X	X	X	276	7	14
Court of Appeals	X	O	X	X	X	459	6	9
NEW JERSEY								
Supreme Court	O	X	X	O	O	111	7	24
Appellate Div. of Super. Ct.	X	O	X	X	X	3,927	32	60
NEW MEXICO								
Supreme Court	X	O	X	O	some	90	5	10
Court of Appeals	O	X	X	O	O	747	10	20
NORTH CAROLINA								
Supreme Court	X	O	X	O	some	126	7	15
Court of Appeals	X	O	X	O	X	1,378	12	28
NORTH DAKOTA								
Supreme Court	X	O	X	X	O	292	5	11
Court of Appeals	X	O	O	O	O	6	3	1
OHIO								
Supreme Court	X	O	X	O	X	NA	7	20
Courts of Appeals	X	O	X	O	X	7,462 B	65	Varies
OREGON								
Supreme Court	X	O	X	X	O	94	7	10
Court of Appeals	X	O	X	O	O	591	10	18
SOUTH CAROLINA								
Supreme Court	X	O	X	X	O	503	5	19
Court of Appeals	X	O	X	X	O	475	6	11

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TABLE 6: Opinions Reported by State Appellate Courts, 1994 (continued)

State/Court name:	Opinion count is by:		Composition of opinion count:			Total dispositions by signed opinion	Number of authorized justices/judges	Number of lawyer support personnel
	case	written document	signed opinions	per curiam opinions	memos/orders			
UTAH								
Supreme Court	X	O	X	X	O	95	5	12
Court of Appeals	X	O	X	X	O	106	7	5
VIRGINIA								
Supreme Court	X	O	X	X	O	166	7	23
Court of Appeals	X	O	X	X	O	712	10	15
WASHINGTON								
Supreme Court	X	O	X	X	some	151	9	23
Court of Appeals	X	O	X	X	some	1,628	18	32
WISCONSIN								
Supreme Court	X	O	X	X	O	88	7	10
Court of Appeals	X	O	X	O	O	944	16	25
States with no intermediate appellate court								
DELAWARE								
Supreme Court	X	O	X	O	O	66	5	5
DISTRICT OF COLUMBIA								
Court of Appeals	X	O	X	X	O	294	9	27
MAINE								
Supreme Judicial Court	O	X	X	O	O	431	7	11
MISSISSIPPI								
Supreme Court	X	O	X	O	X	236	9	38
MONTANA								
Supreme Court	X	O	X	O	O	368	7	14
NEVADA								
Supreme Court	O	X	X	X	O	164	5	22
NEW HAMPSHIRE								
Supreme Court	X	O	X	X	O	144	5	13
RHODE ISLAND								
Supreme Court	X	O	X	O	O	NA	5	17
SOUTH DAKOTA								
Supreme Court	X	O	X	X	O	196	5	8
VERMONT								
Supreme Court	X	O	X	O	O	108	5	8
WEST VIRGINIA								
Supreme Court of Appeals	X	O	X	X	some	275	5	20
WYOMING								
Supreme Court	X	O	X	X	some	167	5	12

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TABLE 6: Opinions Reported by State Appellate Courts, 1994 (continued)

State/Court name:	Opinion count is by:		Composition of opinion count:			Total dispositions by signed opinion	Number of authorized justices/judges	Number of lawyer support personnel
	case	written document	signed opinions	per curiam opinions	memos/orders			
States with multiple appellate courts at any level								
ALABAMA								
Supreme Court	X	O	X	X	some	501	9	18
Court of Civil Appeals	X	O	X	X	X	479	3	6
Court of Criminal Appeals	X	O	X	O	some	374	5	15
INDIANA								
Supreme Court	X	O	X	X	O	147	5	13
Court of Appeals	X	X	X	X	X	1,933	15	10
Tax Court	X	X	X	X	X	0	1	2
NEW YORK								
Court of Appeals	O	X	X	O	O	128	7	28
Appellate Div. of Sup. Ct.	O	X	X	X	some	NA	48	25
Appellate Terms of Sup. Ct.	O	X	X	X	some	NA	15	171
OKLAHOMA								
Supreme Court	X	O	X	X	O	1,543	9	16
Court of Criminal Appeals	X	O	X	X	O	NA	5	12
Court of Appeals	X	O	X	X	X	1,360	12	12
PENNSYLVANIA								
Supreme Court	X	O	X	O	O	165	7	NA
Superior Court	X	O	X	X	X	529	15	NA
Commonwealth Court	O	X	X	X	X	1,840	9	58
TENNESSEE								
Supreme Court	X	O	X	X	some	254	5	12
Court of Criminal Appeals	X	O	X	X	some	827	9	9
Court of Appeals	X	O	X	X	some	777	12	12
TEXAS								
Supreme Court	O	X	X	O	O	146	9	44
Court of Criminal Appeal	X	O	X	O	O	156	9	30
Courts of Appeals	X	O	X	O	O	5,634	80	217

CODES:

- X - Court follows this method when counting opinions.
- O - Court does not follow this method when counting opinions.
- NA - Data are not available.

QUALIFYING FOOTNOTES:

- B: The following courts' data are overinclusive:
Ohio—Courts of Appeals—Signed opinions include decisions.

Now is a report of the number and the percent of civil and criminal filings in the Court of Appeals from 1995 through 1991.

<u>Year</u>	<u>Civil Filings</u>	<u>Criminal Filings</u>	<u>% Civil</u>	<u>% Criminal</u>
1995	1805	1103	62%	38%
1994	1613	1123	59%	41%
1993	1532	1086	58%	42%
1992	1429	1020	59%	41%
1991	1305	960	58%	42%
TOTAL	7684	5292	59%	41%

DISTRICT COURTS OF APPEAL

General Overview

The following provides one outline for the establishment of District Courts of Appeal as a second tier of intermediate appellate review in both criminal and civil cases. District Courts of Appeal would have appellate jurisdiction over some matters presently within the subject matter jurisdiction of the Court of Appeals and the Supreme Court, and other matters presently within the limited appellate jurisdiction of the county superior courts. Establishment of such District Courts of Appeal could alleviate the current onerous workload borne by the Court of Appeals and the superior courts and make the appellate process more accessible to litigants and the bar.

The number of districts should be determined by the General Assembly based on considerations of geographical area, population, and volume of litigation. Each District Court of Appeal should have at least one panel of three judges, whose qualifications would be the same as that of Court of Appeals judges. Each District Court of Appeals judge should be entitled to employ one law assistant and one administrative assistant. Each district should have a district clerk/court administrator and sufficient staff to administer the district court's business.

The District Courts of Appeal would operate in a fashion similar to that of the Court of Appeals, and would be subject to the same terms of court and constitutional deadlines for

disposition of appeals before the Court of Appeals and Supreme Court. The District Courts of Appeal should have uniform court rules governing the administration of such courts and the disposition of cases before the various district courts.

For any cases pending before a District Court of Appeal, a quorum would consist of two judges. Oral argument should be available. Although the sites where oral argument is heard may rotate throughout a district, oral argument could be held in county courthouses or judicial centers, or such other facilities as may be approved by the District Courts of Appeal. Cases before a District Court of Appeal would be decided by majority vote of the panel, and decisions would be written. Dissents, special concurrences, and concurrences in the judgment only may be filed with the written majority opinion, but in no event should any case go before the other district courts for "whole court" consideration. In the event no quorum can be obtained or no majority vote on the disposition of an appeal can be reached, the case should be transferred to the Supreme Court [or the Court of Appeals]. The decisions of the District Courts of Appeal may be appealed to the Supreme Court by writ of certiorari.

District Courts of Appeal would be bound by the decisions of the Court of Appeals and the Supreme Court. Opinions in cases decided by the District Courts of Appeal should not be published. Such opinions would not constitute, and may not be cited as, precedential authority in any other matter before the District Courts of Appeal.

Jurisdiction

Setting the jurisdiction for the District Courts of Appeal would require amendment of several statutes pertaining to appellate review.

1. Initially, it is noted that under Georgia Constitution Art. VI, Sec. VI, Para. II, the Supreme Court has exclusive appellate jurisdiction over direct appeals in cases involving the construction of a treaty or the state or United States constitutions, in cases in which the constitutionality of a law, ordinance, or constitutional provision has been contested, and in cases of election contest. The Supreme Court should retain such exclusive appellate jurisdiction in those matters. Ga. Const. 1983, Art. VI, Sec. VI, Par. III delineates other types of cases over which the Supreme Court has general appellate jurisdiction unless otherwise provided by law, but in practice the Supreme Court has also exercised exclusive appellate jurisdiction over such cases.

However, although the General Assembly may not alter the Supreme Court's jurisdiction set forth in Ga. Const. 1983, Art. VI, Sec. VI, Par. II, it may transfer jurisdiction over the types of cases listed in Art. VI, Sec. VI, Par. III to other courts. See Collins v. State, 239 Ga. 400 (236 SE2d 759) (1977); Taylor v. Stovall, 155 Ga. App. 894 (118 SE2d 715) (1923). There is no constitutional impediment to conferring upon the District Courts of Appeal the appellate jurisdiction over the types of cases

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delineated in the latter constitutional provision. Inasmuch as the Supreme Court has previously ordered that it shall exercise exclusive jurisdiction over direct appeals in all murder cases, the Supreme Court should retain that jurisdiction. See State v. Thornton, 253 Ga. 524 (322 SE2d 711) (1984). But jurisdiction over the other types of cases in Par. III should be conferred upon the District Courts of Appeal [or divided between the Court of Appeals and the District Courts of Appeal].

Any appeal of the District Courts of Appeal in such cases would be directed to the Supreme Court by petition for writ of certiorari. That avenue of appeal would be a sufficient safeguard for uniformity of District Court of Appeals decisions.

2. Perhaps the most significant assignment of jurisdiction to the District Courts of Appeal would involve the elimination of the discretionary appeal statute, OCGA § 5-6-35. Generally, jurisdiction over cases for which an application for discretionary appeal is currently required under OCGA § 5-6-35 would be shifted from the Supreme Court and the Court of Appeals to the District Courts of Appeal, and those cases would be subject to direct appeal. Further, the jurisdictional threshold amount for appeals in actions for damages, as set forth in OCGA § 5-6-35 (a) (6), could be increased.

At present, approximately 600 applications for discretionary appeal are filed with the Court of Appeals each year and 244 applications are filed with the Supreme Court. The legislative changes proposed above thus would result in an assignment of

approximately 844 appeals for the District Courts of Appeal. (These figures do not take into account transfers of applications from the two appellate courts.) In the event a increased jurisdictional threshold is implemented, that number of direct appeals before the District Courts of Appeal will be greater, but with the statistics available at this time, we are unable to estimate the actual number.

3. The superior courts currently have some appellate jurisdiction over decisions of various administrative agencies and lower courts. See, e.g., OCGA §§ 5-3-1 et seq. and §§ 5-4-1 et seq.; OCGA § 50-13-19. The superior courts would retain jurisdiction over such appeals that are de novo under OCGA § 5-3-29, but would be divested of its jurisdiction over all other appeals seeking review of the decisions of administrative agencies and lower courts. The District Courts of Appeals instead would be assigned jurisdiction over such appeals, thus alleviating the workload of the superior courts. Appeals from district court decisions reviewing decisions of administrative agencies and lower courts would be directed to the Supreme Court by petition for writ of certiorari.

4. The District Courts of Appeal would also be assigned jurisdiction over appeals from all misdemeanor criminal matters, and possibly other criminal cases. Appeals from such decisions of the District Courts of Appeal in such cases would also be directed to the Supreme Court by certiorari.

5. The District Courts of Appeal would have original appellate jurisdiction over any appeal arising from the decision of a juvenile court or a probate court.

6. The legislation creating the District Courts of Appeal would indicate the effective date of the transfer of appellate jurisdiction from the Supreme Court, the Court of Appeals, and the superior courts to the District Courts of Appeal. The General Assembly could provide either that appeals pending in the Supreme Court, Court of Appeals, or superior courts on the effective date would still be decided by those courts, or that those courts would transfer the pending appeals to the District Courts of Appeals on the effective date. Appeals filed in the incorrect appellate court would be transferred to the appropriate court, rather than being dismissed. For purposes of the two-term rule for case disposition, the deciding court would have two terms from the date the appeal is docketed with that court in which to dispose of the appeal.

Goals

In 1994, the Court of Appeals docketed 2842 direct appeals, 611 applications for discretionary appeal, and 458 applications for interlocutory appeal. The Supreme Court docketed 531 direct appeals, 244 discretionary applications, 51 interlocutory applications, and 726 petitions for certiorari. Based on the comparative statistics prepared by the National Center of State Court in 1993, the Georgia Court of Appeals issued far more opinions per judge (278) at the intermediate appellate court level than any other state appellate court in the United States. The second busiest intermediate state appellate court (California) produced less than half that number of opinions per judge (137). When that volume of appellate work in Georgia is considered along with the state constitutional two-term rule for disposition of appeals (Ga. Const. 1983, Art. VI, Sec. IX, Par. II), the need to redistribute the burden on the Court of Appeals is apparent.

The District Courts of Appeal represent a novel solution of the expanding workload of the Court of Appeals. Review of other states' appellate judicial systems reveals no comparable structure. See The American Bench: Judges of the Nation (Forster-Long, Inc. 1993/94). A few states, such as Texas and Tennessee, utilize two intermediate appellate courts, with one designated for appeals in criminal cases and one for appeals in civil cases. Pennsylvania has two intermediate appellate courts with both civil and criminal jurisdiction, but the jurisdiction of one of those courts over

criminal matters is extremely limited. The proposed District Courts of Appeal, however, will be unique in that they will be complete appellate courts with jurisdiction over both criminal and civil matters.

However, the workload of the Georgia appellate judiciary also appears to be unique, and the novelty of a system of District Courts of Appeal should not defeat its consideration as a solution. Establishment of such District Courts of Appeal could likely bring about significant, positive results. Such a system could greatly relieve the pressure currently frustrating the appellate judiciary. It could make the appellate process locally more accessible and convenient to the bench, bar, and litigants. And it would better equip the judicial system to meet the future court needs that arise from a growing state population and economy.

IMPLEMENTATION

1. Exhibit "A" is an example of a breakdown of the State's judicial circuits into four districts. The numbers show the number of direct appeals, discretionary applications and interlocutory applications filed in the circuits composing the districts from 1991 - 1995.

2. Exhibits "B" - "E" show the circuit makeup of the Northern, Middle, Eastern and Southern District Courts of Appeal with the number of direct appeals, discretionary applications and interlocutory applications filed with the Court of Appeals from 1991 - 1995 in each circuit. Exhibit "F" shows the geographical makeup of the state of the four District Courts of Appeal.

3. Exhibit "G" shows the estimated initial costs to establish the office of one Judge of the District Courts of Appeal and the annual continuation cost of such office. Exhibit "H" shows the estimated initial cost for the establishment of one panel (consisting of three judges and staff) of the District Courts of Appeal and shows the estimated annual continuation cost of a panel. The comparative cost of adding a single judge and a panel of judges to the existing Court of Appeals is attached as Exhibits "O" and "P", respectively.

4. Exhibit "I" reflects the initial start up cost of the establishment of one District Court of Appeal Clerk's Office and the start up and continuation cost for four District Clerk's Offices. Exhibit "J" compares the cost of establishing one panel

of judges and one clerk's office and four panels and four clerk's offices.

5. Exhibit "K" is a comparison of cases filed in the Court of Appeals from 1985 through 1995 by direct appeals, discretionary applications and interlocutory applications. The number of discretionary and interlocutory applications for 1995 are lower than 1994. This is because in 1995 the number of applications include only applications filed from January 1, 1995 through September 15, 1995, only 9 1/2 months as compared to 12 months in 1994. This is because the applications are now docketed on the same docket year as direct appeals.

6. Exhibits "L" and "M" show the appeals docketed in the Court of Appeals by civil and criminal classification, respectively. Exhibit "N" reflects the case type breakdown of the Supreme Court for 1994.

These exhibits are provided for general information. Any legislative efforts to establish the District Courts of Appeal should be preceded by a complete study of the possible caseload, jurisdiction, district boundaries, the number of panels necessary and the locations of such panels. These are legislative and political decisions which the Court respectively defers to the legislative and executive departments.

TOTAL APPEALS AND APPLICATIONS

FILED BY DISTRICT

1991 - 1995

	<u>Direct</u>	<u>Disc</u>	<u>Interl</u>
Northern District	3255	632	491
Eastern District	3321	588	545
Southern District	3242	610	482
Middle District	3221	571	654

EXHIBIT "A"

TOTAL APPEALS AND APPLICATIONS

FILED BY CIRCUIT

1991 - 1995

<u>Northern District</u>	<u>Direct</u>	<u>Disc</u>	<u>Interl</u>
Lockout Mtn.	198	30	34
Conasauga	194	45	8
Cherokee	206	48	17
Rome	189	52	23
Tallapoosa	153	38	22
Cobb	753	138	170
Douglas	135	26	23
Appalachian	90	16	12
Blue Ridge	215	49	37
Gwinnett	747	127	114
Northeastern	219	21	12
Mountain	90	28	12
Enotah	66	14	7
	<hr/>	<hr/>	<hr/>
	3255	632	491

EXHIBIT "B"

TOTAL APPEALS AND APPLICATIONS

FILED BY CIRCUIT

1991 - 1995

<u>Middle District</u>	<u>Direct</u>	<u>Disc</u>	<u>Interl</u>
Atlanta	2626	496	611
Clayton	<u>595</u>	<u>75</u>	<u>43</u>
	3221	571	654

EXHIBIT "C"

TOTAL APPEALS AND APPLICATIONS

FILED BY CIRCUIT

1991 - 1995

<u>Eastern District</u>	<u>Direct</u>	<u>Disc</u>	<u>Interl</u>
Stone Mtn.	1272	195	205
Rockdale	141	18	13
Alcovy	113	26	14
Piedmont	104	18	15
Northern	92	32	18
Western	265	59	23
Toombs	54	6	5
Augusta	339	44	21
Middle	105	22	11
Ogeechee	72	15	36
Dublin	82	4	10
Ocmulgee	185	34	25
Eastern	<u>497</u>	<u>115</u>	<u>149</u>
	3321	588	545

EXHIBIT "D"

TOTAL APPEALS AND APPLICATIONS

FILED BY CIRCUIT

1991 - 1995

<u>Southern District</u>	<u>Direct</u>	<u>Disc</u>	<u>Interl</u>
Coweta	288	75	51
Griffin	259	56	31
Flint	189	37	24
Chattahoochee	236	51	36
Macon	358	85	27
Houston	100	27	10
Southwestern	78	19	10
Pataula	33	11	7
Cordele	93	14	12
Dougherty	210	37	30
South Georgia	98	8	7
Southern	323	32	47
Tifton	125	14	21
Alapaha	71	16	31
Waycross	208	59	49
Brunswick	286	43	57
Oconee	84	12	9
Atlantic	<u>203</u>	<u>14</u>	<u>23</u>
	3242	610	482

EXHIBIT "E"

Blue--Northern District
 White--Middle District
 Green--Eastern District
 Yellow--Southern District

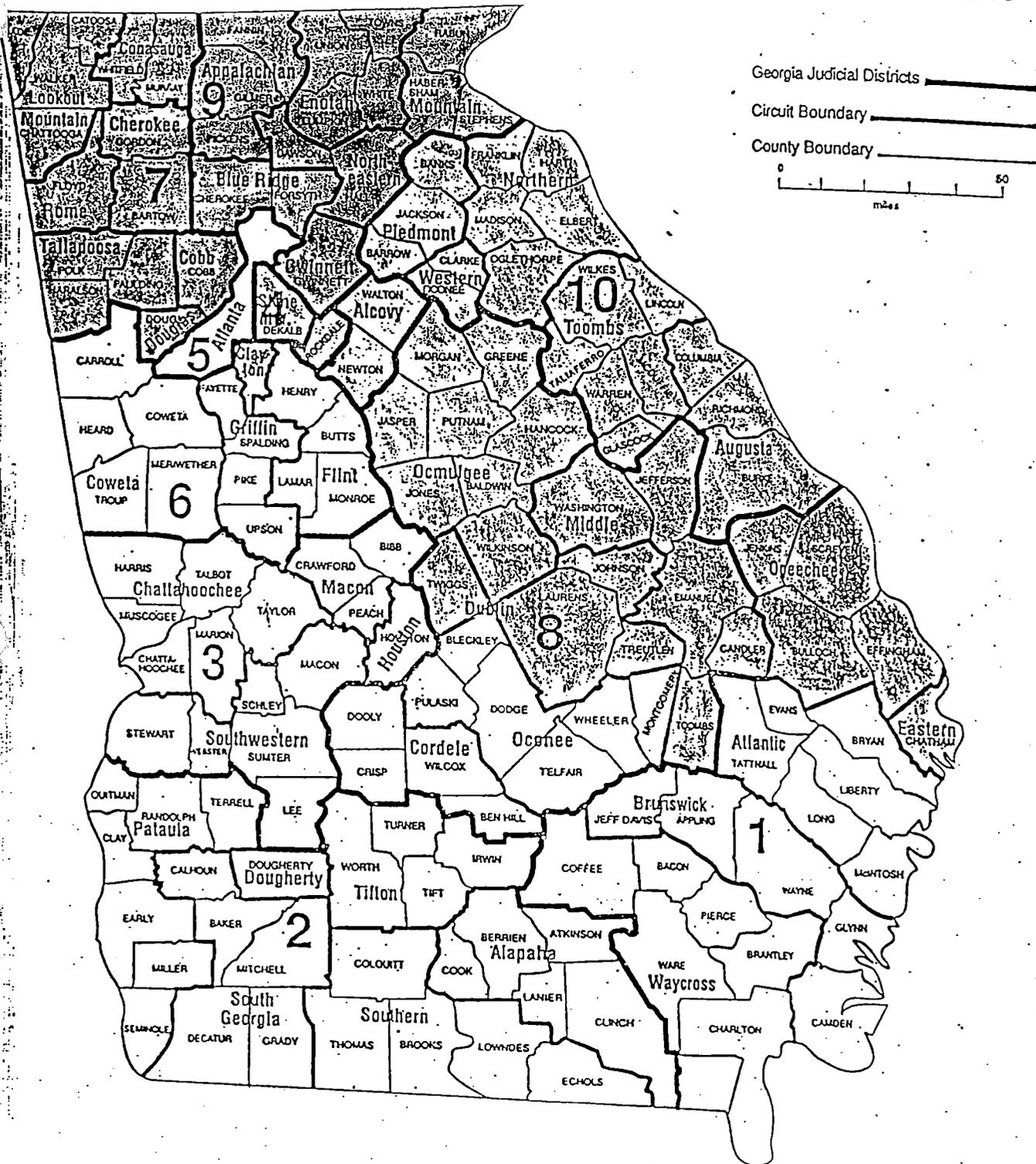


EXHIBIT F (MAP)

COST TO SET UP ONE DISTRICT APPEALS JUDGE'S OFFICE

Personal Services

Judge @ \$102,782 (90% of a Court of Appeals Judge's Salary) plus fringe benefits	\$ 140,258.00
Administrative Assistant @ \$30,000 plus fringe benefits	40,737.00
Staff Attorney @ \$ 28,638 plus fringe benefits	38,888.00
Total Personal Services Continuation	\$ 219,883.00

Operating Costs

Telecommunications	\$ 1,625.00
Rent (based on \$11/sq. ft. on comparable Court of Appeals space)	11,000.00
Supplies & Materials	1,500.00
Registration fees, dues, etc.	1,500.00
Travel	4,000.00
Lexis/Westlaw	1,500.00
Lawbook Updates	600.00
Total Operating Costs Continuation	\$ 21,725.00

Initial Office Set-up

Furniture and computer for Judge	\$ 10,165.00
Furniture and computer for Adm. Asst.	4,103.00
Furniture and computer for Staff Atty	3,750.00
Law Books	11,030.00
Phone Equipment & installation	1,827.00
Stationery	2,200.00
Total Set-up Costs	\$ 33,075.00

TOTAL FIRST YEAR COSTS FOR DISTRICT APPEALS JUDGE	\$ 274,683.00
ANNUAL CONTINUATION COSTS OF NEW JUDGESHIP	\$ 241,608.00

EXHIBIT "G"

COST TO SET UP ONE PANEL OF DISTRICT APPEALS JUDGES

Personal Services

3 Judges @ \$102,782 plus fringe benefits	\$ 420,774.00
3 Administrative Assistants @ \$30,000 plus fringe benefits	122,211.00
3 Staff Attorneys @ \$ 28,638 plus fringe benefits	116,664.00
Total Personal Services Continuation	\$ 659,649.00

Operating Costs

Telecommunications	\$ 4,875.00
Rent (based on \$11/sq. ft. on comparable Court of Appeals space)	33,000.00
Supplies & Materials	4,500.00
Registration fees, dues, etc.	4,500.00
Travel	12,000.00
Lexis/Westlaw	4,500.00
Lawbook Updates	1,800.00
Total Operating Costs Continuation	\$ 65,175.00

Initial Office Set-up

Furniture and computer for Judges	\$ 30,495.00
Furniture and computer for Adm. Assts.	12,309.00
Furniture and computer for Staff Attys	11,250.00
Law Books	33,090.00
Phone Equipment & installation	5,481.00
Stationery	6,600.00

Total Set-up Costs \$ 99,225.00

Set-up Costs for four panels \$ 396,900.00

TOTAL FIRST YEAR COSTS FOR ONE PANEL OF DISTRICT COURT JUDGES \$ 824,049.00

ANNUAL CONTINUATION COSTS OF ONE PANEL \$ 724,824.00

TOTAL FIRST YEAR COSTS FOR FOUR DISTRICT APPEALS PANELS \$ 3,296,196.00

ANNUAL CONTINUATION COSTS OF FOUR PANELS \$ 2,899,296.00

EXHIBIT "H"

COST TO SET UP ONE DISTRICT CLERK'S OFFICE

Personal Services

1 Clerk @ \$ 40,000 plus fringe benefits	\$ 54,316.00
3 Deputy Clerks @ \$ 20,000 plus fringes Orders Clerk/Calendar Clerk/Docket Clerk/Records-Docketing-Remittitur Clerk/File Clerk/Mail Clerk	81,474.00
1 Computer Technician/Programmer @ \$ 35,000 plus fringe benefits	47,526.00
Total Personal Services Continuation	\$ 183,316.00

Operating Costs

Telecommunications	\$ 6,740.00
Rent (2500 sq ft. @ \$11/sq.)	27,500.00
Supplies & Materials	10,000.00
Miscellaneous	1,500.00
Travel	4,000.00
Copier Costs	2,500.00
Total Operating Costs Continuation	\$ 52,240.00

Initial Office Set-up

Furniture and computers for clerks	\$ 15,000.00
Furniture for Public Areas	2,000.00
Furniture and computer for Computer Tech.	4,833.00
Misc. Clerk's office equipment such as copier, fax, carts, postage meter, etc.	35,000.00
Phone Equipment & installation	3,045.00
Stationery	2,000.00
Total Set-up Costs	\$ 61,878.00

TOTAL FIRST YEAR COSTS FOR ONE DISTRICT CLERK'S OFFICE \$ 297,434.00

ANNUAL CONTINUATION COSTS OF ONE OFFICE \$ 235,556.00

TOTAL FIRST YEAR COSTS FOR FOUR DISTRICT CLERK'S OFFICES \$ 1,189,736.00

ANNUAL CONTINUATION COSTS OF FOUR OFFICES \$ 942,224.00

EXHIBIT "I"

TOTAL COSTS TO OPERATE DISTRICT APPEALS COURTS

One Panel of Judge and Staff First Year Costs	\$ 824,049.00
One Panel of Judge and Staff Annualization	\$ 724,824.00
One Clerk's Office First Year Costs	\$ 297,434.00
One Clerk's Office Annualization	\$ 235,556.00
Four Panels of Judges and Staff First Year Costs	\$ 3,296,196.00
Four Panels of Judges and Staff Annualization	\$ 2,899,296.00
Four Clerk's Offices - First Year Costs	\$ 1,189,736.00
Four Clerk's Offices Annualization	\$ 942,224.00
Four Panels and four Clerk's Offices First Year Costs	\$ 4,485,932.00
Four Panels and four Clerk's Offices Annualization	\$ 3,841,520.00

EXHIBIT "J"

C A S E L O A D S U M M A R Y

HISTORY SET =	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986	1985
DIRECT APPEALS:	2884	2842	2601	2455	2265	2384	2360	2306	2071	2666	1946
% VARIANCE:	1.4	8.5	5.6	7.7	5.3-	1.0	2.3	10.2	28.7-	27.0	9.7-
AVG. CASES PER JUDGE:	320.4	0315	0289	0272	0251	0264	0262	0256	0230	0296	0216
¹ DISCRETIONARY APPL.:	0421	0611	0475	0471	0430	0394	0408	0356	0342	0313	0298
% VARIANCE:	31.0-	22.3	.8	8.7	8.4	3.6-	12.7	3.9	8.5	4.8	5.4-
AVG. CASES PER JUDGE:	46.7	0067	0052	0052	0047	0043	0045	0039	0038	0034	0033
¹ INTERLOCUTORY APPL.:	0330	0458	0450	0486	0450	0400	0401	0361	0391	0313	0343
% VARIANCE:	27.9-	1.7	7.4-	7.4	11.1	.3-	10.0	8.3-	19.9	9.6-	4.7
AVG. CASES PER JUDGE:	36.6	0050	0050	0054	0050	0044	0044	0040	0043	0034	0038
TOTAL MATTERS DOCT:	3635	3911	3526	3412	3145	3178	3169	3023	2804	3292	2587
AVG. CASES PER JUDGE:	403.8	0434	0391	0379	0349	0353	0352	0335	0311	0365	0287

¹ Discretionary and interlocutory applications represent filings from January 1, 1995 through September 15, 1995. In 1994 the application filings were from January 1 - December 31, 1994. The change was made in 1995 to put applications on the same docket year as direct appeals, i.e., September 15 to September 15 each year.

SUPREME COURT OF GEORGIA
APPEALS FILED BY JURISDICTION IN 1994

DIRECT APPEALS

Murder	147	28%
Death Penalty	10	2%
Granted Interim Review	2	*
Interlocutory Criminal	1	*
Constitutional Question	57 ⁸	11%
Equity	59 ⁹	11%
Title to Land	25	5%
Wills	14	3%
Election Contest	2	*
Public Revenue	0	*
Domestic Relations	40	8%
Transferred to Court of Appeals	120	23%
Mandamus	33	6%
Writ of Prohibition	2	*
Quo Warranto	2	*
Habeas corpus	13	2%
Other	3	*
Judicial Qualifications Commission	1	*

TOTAL 531

PETITIONS FOR CERTIORARI

Civil	548	75%
Criminal	178	25%

TOTAL 726

DISCRETIONARY APPLICATIONS

Domestic Relations	194	80%
Misc.	38	16%
Criminal	7	2%
Interim(Death Penalty)	5	2%

TOTAL 244

⁸ Includes 21 criminal appeals.

⁹ Includes only those equity cases retained by this Court.

SUPREME COURT OF GEORGIA
CASELOAD REPORT FOR CALENDAR YEAR 1994

BY DISPOSITION

WRITTEN OPINION	401 ²
AFFIRMED WITHOUT OPINION	43
ALLOWED WITHDRAWN	36
STRICKEN FROM DOCKET	8
TRANSFERRED TO THE COURT OF APPEALS OF GEORGIA	141
APPEALS DISMISSED	84
PETITIONS FOR CERTIORARI	
Granted	25 ³
Denied	609
Dismissed	9
Withdrawn	6
Writ vacated	10
APPLICATIONS FOR APPEAL	
Habeas corpus:	
Granted	3
Denied	139
Dismissed	4

² In 1994, 331 appeals and 70 granted writs of certiorari were disposed of by 355 written opinions.

³ Includes 1 writ granted and remanded to the Court of Appeals.

CCST TO SETUP ONE COURT OF APPEALS JUDGE S OFFICE

Personal Services	
Judge @ \$ 114,203 plus fringes	\$ 155,421.00
Administrative Asst @ \$ 41,274 plus fringes	56,170.00
Staff Atty @ \$ 71,705 plus fringes (10 more yrs)	96,717.00
Staff Atty @ \$ 71,705 plus fringes (10 more yrs)	96,717.00
Staff Atty @ \$ 67,902 plus fringes (6-8 yrs)	91,789.00
Summer intern @ \$ 3,000 plus fringes (10 weeks)	3,419.00
TOTAL ANNUAL PERSONAL SERVICES CONTINUATION	\$ 500,233.00
Operating Costs	
Telecommunications	\$ 1,625.40
Rent (based on \$11 sq.ft. on comparable existing space)	14,539.00
Supplies and materials	2,000.00
Registration fees, dues, etc.	2,000.00
Travel	2,300.00
Lexis/Westlaw	2,400.00
Lawbook updates	1,200.00
TOTAL OPERATING EXPENSES CONTINUATION	\$ 26,064.40
Initial Setup of Office	
Furniture and computer equipment for Judge	\$ 10,615.00
Furniture and computer equipment for Adm. Asst	4,103.00
Furniture and computer equipment for 3 Staff Attorneys	11,226.00
Furniture and computer equipment for Library (would also be used by intern/externs)	3,700.00
Lawbooks	22,060.00
Phone equipment and installation	3,045.00
Stationery (personal and whole court)	2,200.00
TOTAL SETUP COSTS	\$ 56,949.00
TOTAL FIRST YEAR COSTS FOR NEW JUDGESHIP	\$ 583,246.40
ANNUAL CONTINUATION COSTS OF NEW JUDGESHIP	\$ 526,297.40

* DOES NOT include the cost of any needed renovation of newly acquired space

COSTS TO SETUP ONE PANEL OF COURT OF APPEALS JUDGES

Personal Services	
3 Judges @ \$ 114,203 plus fringes	\$ 466,263.00
4 Administrative Assts. @ \$ 41,274 plus fringes	224,680.00
7 Staff Attys. @ \$ 71,705 plus fringes 10/more yrs)	677,019.00
3 Staff Attys. @ \$ 67,902 plus fringes 5-8 yrs)	275,367.00
3 Summer interns @ \$ 3,000 plus fringes (10 weeks)	10,257.00
File Clerk position @ \$ 15,000 plus fringes	20,369.00
Jr. Programmer position @ \$35,000 plus fringes	47,526.50
TOTAL ANNUAL PERSONAL SERVICES CONTINUATION	\$ 1,721,481.50
Operating Costs	
Telecommunications	\$ 5,576.20
Rent (based on \$11 sq.ft. on comparable existing space)	45,267.00
Supplies and materials	8,000.00
Registration fees, dues, etc.	6,500.00
Travel	6,900.00
Lexis/Westlaw	7,200.00
Lawbook updates	3,600.00
TOTAL OPERATING EXPENSES CONTINUATION	\$ 83,043.20
Initial Setup of Office	
Furniture and computer equipment for Judges	\$ 31,845.00
Furniture and computer equipment for Adm. Assts.	16,412.00
Furniture and computer equipment for 11 Staff Attorneys	37,420.00
Furniture and computer equipment for 3 Libraries (would also be used by intern/externs)	11,100.00
Furniture and computer equipment for Jr. Programmer position	4,833.00
Lawbooks	66,180.00
Phone equipment and installation	9,385.00
Stationery (personal and whole court)	6,200.00
Furniture and terminal for File Clerk	1,000.00
TOTAL SETUP COSTS	\$ 184,375.00
TOTAL FIRST YEAR COSTS FOR ONE NEW PANEL	\$ 1,988,899.70
ANNUAL CONTINUATION COSTS OF ONE NEW PANEL	\$ 1,804,524.70

* DOES NOT include cost of any needed renovation to newly acquired space.

SYNOPSIS OF SUGGESTIONS AND IDEAS

THE FOLLOWING IS A SYNOPSIS OF SOME OF THE SUGGESTIONS AND IDEAS THAT HAVE BEEN PROPOSED TO ADDRESS THE PROBLEM OF THE INCREASED CASE LOAD OF THE COURT OF APPEALS. ONE DRAWBACK TO MOST IF NOT ALL THESE PROPOSALS IS THAT THE STARTING POINT IS OUR APPELLATE COURT SYSTEM AS IT PRESENTLY EXISTS--IN OTHER WORDS, THESE PROPOSALS DO NOT ADDRESS THE PROBLEM FROM THE GROUND UP. IN THE PAST, LIMITED RESOURCES (TIME AND MONEY) HAVE PROHIBITED THAT KIND OF COMPREHENSIVE STUDY.

1. ADD JUDGES TO EXISTING COURT OF APPEALS.

(A) ADD JUDGES, BUT MAKE NO JURISDICTIONAL CHANGES. EXHIBIT A SHOWS THE EFFECT ON INDIVIDUAL JUDGE CASELOAD WHEN JUDGES ARE ADDED TO THE COURT. YOU WILL NOTE THAT IT WOULD REQUIRE THE ADDITION OF BETWEEN 18 AND 19 JUDGES TO BRING EACH JUDGES CASELOAD TO APPROXIMATELY 100. SEE EXHIBIT B FOR A COMPARISON OF NUMBER OF OPINIONS AUTHORED BY OTHER STATES' INTERMEDIATE APPELLATE COURTS.

SOME HAVE EXPRESSED CONCERN THAT CONTINUING TO ADD JUDGES WILL EVENTUALLY RESULT IN DE-CENTRALIZATION OF THE COURT, I.E. COURT OF APPEALS JUDGES WOULD BE FORCED TO SIT IN DIVISIONS THROUGHOUT THE STATE.

(B) ADD JUDGES AND CREATE CRIMINAL AND CIVIL DIVISIONS. EXHIBIT C SHOWS THE PERCENTAGE OF CRIMINAL AND CIVIL FILINGS OVER THE PAST 5 YEARS. BASED ON THESE FIGURES, IT WOULD APPEAR THAT THE CIVIL DIVISION OF THE COURT WOULD NEED TO BE SLIGHTLY LARGER THAN THE CRIMINAL DIVISION. BASED ON 1995 FIGURES, THE NUMBER OF CASES ASSIGNED TO EACH INDIVIDUAL JUDGE ON A 9-JUDGE CIVIL DIVISION WOULD BE APPROXIMATELY 200, AND THE NUMBER OF CASES PER INDIVIDUAL JUDGE FOR A 7-JUDGE CRIMINAL DIVISION WOULD BE APPROXIMATELY 157. IT HAS BEEN SUGGESTED THAT THE JUDGES WOULD ROTATE BETWEEN THE CIVIL AND CRIMINAL DIVISIONS.

2. ESTABLISH DISTRICT COURTS OF APPEAL AS A SECOND TIER OF INTERMEDIATE APPELLATE REVIEW IN BOTH CRIMINAL AND CIVIL CASES. THIS PROPOSAL CALLS FOR THE CREATION OF A NEW COURT. SEE EXHIBIT D FOR A DETAILED DISCUSSION OF THIS PROPOSAL, INCLUDING PROPOSED JURISDICTION AND ESTIMATED START UP AND OPERATING COSTS.

3. CREATE AN APPELLATE DIVISION OF THE SUPERIOR COURT. SUPERIOR COURT JUDGES WOULD HAVE APPELLATE JURISDICTION IN SPECIFIED CASES (LIKELY CLASSES WOULD INCLUDE WORKERS' COMPENSATION, MISDEMEANOR, AND ADMINISTRATIVE APPEALS, SEE EXHIBIT E FOR THE NUMBER OF THOSE CASES FILED IN COURT OF APPEALS FOR PAST 5 YEARS) AND WOULD SIT IN PANELS OF THREE.

4. REVISE DISCRETIONARY APPEAL PROVISIONS. SEE EXHIBIT F FOR THE PRESENT PROVISIONS.

(A) INCREASE AMOUNT STATED IN OCGA § 5-6-35 (a) (6)

FROM \$10,000. TO \$25,000.

(B) PRESENTLY ALL CRIMINAL CONVICTIONS ARE DIRECTLY APPEALABLE. RETAIN THE PRESENT SYSTEM IN ROBBERY, KIDNAPPING, RAPE, AGGRAVATED SODOMY, AGGRAVATED SEXUAL BATTERY AND AGGRAVATED CHILD MOLESTATION CASES, SEE OCGA § 17-10-6.1., AND MAKE ALL OTHER CRIMINAL CONVICTION APPEALS DISCRETIONARY.

5. REPEAL OCGA § 9-11-56 (h), EXHIBIT G. THAT CODE SECTION CURRENTLY AUTHORIZES DIRECT APPEAL OF A GRANT OF PARTIAL SUMMARY JUDGMENT, WHICH OTHERWISE WOULD REQUIRE INTERLOCUTORY APPEAL PROCEDURES. THIS CODE SECTION INCREASES COURT OF APPEALS WORKLOAD AND CONFUSES MANY APPELLATE LITIGANTS AND THEIR COUNSEL.