



Court of Appeals

Memorandum

To: Judge Ellington
From: Holly Sparrow
Subject: Policies in Clerk's Office and Central Staff
Date: November 30, 2010

Past and current practice of Clerk's office.

Submission of a Notice of Appeal to this office.

Document is sent back with directions to file in the trial court from which you are appealing. NOA is not docketed. See return form or Bill's letters.

Central staff suggests NOA should be transferred to trial court under Ga. Const. Art. VI, § I, Para. VIII. See attachment. Should the clerk's office docket any civil case NOA and submit to Central Staff to draft order to transfer for judge's offices?

Since we return before docketing there is no case to transfer. Sometimes this means that the appeal will be untimely filed in the Superior Court.

On the other hand, if we do what is suggested by the Central staff, we have to determine

that the NOA is not just a copy and was not filed with the Superior Court, we have to take the time to docket the case and central staff will have to draft a transfer order for the court.

Current situation with cases filed here from magistrate court, but should have come from state or superior court? Recently have transferred a few of these case, but Court has also dismissed. Should there be a uniform treatment of these cases.

Applications - no or improper certificate of service, no signature on application or cert of service, no order, no filing fee or pauper's affidavit, no notary on pauper's affidavit, no account listing on pauper's affidavit on civil by inmate,

How does Hood v. State affect reasons Clerk's office has been sending back applications.

4. The clerk/court administrator shall cause each oral argument to be audio recorded. The clerk/court administrator shall maintain a file of the recordings of oral argument to be made available to the panel which heard the oral argument, to any judge absent from the original oral argument, or for review by a staff attorney of the original panel, or for review by a 7 or 12 judge court or a staff attorney of a 7 or 12 judge court.

The clerk/court administrator shall cause the record and file folder to be appropriately marked to indicate that the Court heard oral argument on the appeal. The audio recording of the oral argument shall be maintained until the remittitur issues on the particular appeal at which time the clerk/court administrator shall destroy or record other arguments over that recording.

The oral argument audio recording shall be for the use and benefit of the Court only, and shall not be made available to attorneys, parties or the public. (Source: January 2001 Banc Meeting.)

F. BENCH DOCKET

The clerk/court administrator shall maintain a list of cases which will be argued. The bench docket shall include the names of the attorneys and the identification of any pro se parties. The docket shall be maintained in the clerk's office and shall be brought into the courtroom during oral arguments.

G. DOCKETING SYSTEM

1. The clerk's office shall maintain a computerized docketing system which shall be approved by the court.
2. The system shall also be backed-up daily to a hard disc and weekly to a magnetic tape stored off site. The system shall also be backed up with a hard copy maintained in the clerk's office.
3. The court shall review the docketing system periodically, making changes where appropriate and after consultation with the court data processing personnel and the clerk/court administrator.
4. The clerk's office shall provide a view only terminal in the public area of the clerk's office for public access and viewing of the court's docket. (Source: Minutes, February 1996 Banc meeting).

H. COURT MINUTES AND INDEX

The Minute Book of the court shall be kept in the office of the clerk/court administrator. The minutes shall be generated by the data processing personnel on an annual basis or more often if required by the court. (Everything that goes into the system, that is, the computerized docket, is printed out and maintained in a hard copy in the clerk's office or a compact disc.) (Source: November 18, 2009 Banc Meeting)

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

copy available

6. If the decision on a Motion for Reconsideration would result in the overruling of a prior case, then the Motion for Reconsideration should be circulated to all the judges of the Court in the manner as described above. (Source: November 18, 2009 Banc Meeting.)

Y. REFERRING TO THE WHOLE COURT

1. 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.

5 majority
after 3 judge
2. Panel

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.)

Z. REBRIEFING

When Rule 24 of the Rules of this Court is not complied with, any member of the panel may initiate through the assigned judge, a request for a corrected brief which shall comply with the Rule. Failure of the appellant to comply may result in dismissal of the appeal and/or the finding of appellant's attorney in contempt of Court. Failure of the appellee to comply may result in the non-consideration of appellee's brief and the finding of the appellee's attorney in contempt of this Court. If a rule complying brief is not submitted as ordered by the Court, the case may be dismissed. (Source: November 15, 2005 Banc Meeting.)

AA. FORMAT

1. Opinion shall be double-spaced when the opinion goes to the clerk's office for mailing out. (Effective: All cases docketed on or after September 15, 1991; all other pending cases, January 1, 1992.)
2. Margins shall be justified.
3. If a drafter uses "held," only the "H" will be capitalized.
4. "In the Court of Appeals of Georgia" shall not be centered or capitalized. The Judge's name and the case name shall be capitalized.
5. When opinions are released, they will not bear the judge's personal number or the words "affirmed or reversed" at the top of the first page, but the court's short number will appear. The judge's personal number and "affirmed or reversed" will appear only for circulating purposes.
6. "In the Court of Appeals of Georgia" will appear from the left margin rather than centered.

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

Wednesday, June 15, 2011

10:30 A.M.

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

AGENDA

- | | | |
|------|--|---|
| I. | Call Meeting to Order - Ascertainment of Quorum | Chief Judge Ellington |
| II. | Approval of April 18, 2011 Banc Meeting Minutes | Chief Judge Ellington |
| III. | Progress of Project on New Docket | Presiding Judge Phipps
John Ruggeri |
| IV. | Old Business | |
| | A. Record Appendix | Chief Judge Ellington |
| | B. Photocopying Records in Clerk's Office | Presiding Judge Phipps
Holly Sparrow |
| | C. Clerk's Office Policy on Inmate Application-
Pauper Status - Transfer from Supreme Court | Presiding Judge Phipps
Holly Sparrow |
| | D. Recusal Rule & IOM Language Approval | Chief Judge Ellington
Holly Sparrow |
| V. | New Business | Chief Judge Ellington
Holly Sparrow |
| | A. Clerk's Office Personnel Matter | |
| | B. Uniform Rules -Conflicts and Oral Argument Schedule | |
| VI. | Announcements | |
| VII. | Adjournment | |

Draft Amendment to:

XX. DISQUALIFICATIONS AND RECUSALS

Rule 44. Disqualifications and Recusals.

- (a) Any motion to disqualify or recuse a judge in a particular case shall be filed in writing, and shall contain such evidence and affidavits which shall fully assert the facts upon which the motion is founded. Such motion shall be filed within 20 days of the date of docketing, unless good cause is shown for failure to meet such time requirements.
- (b) The affidavit shall clearly state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons and circumstances which demonstrate either bias in favor of any adverse party or prejudice against the moving party or systematic pattern of prejudicial conduct. Allegations consisting of conclusions and opinions are not legally sufficient to support the motion or warrant further proceedings.
- (c) The determination of the recusal motion to disqualify or for recusal shall be made upon the written record and no hearing or oral argument shall be permitted.
- (d) A motion to disqualify or recuse shall be decided by the remaining two judges on the divisions and the presiding judge of the next division. A judge may, however, voluntarily disqualify himself or herself prior to the matter being decided by the other judges. The criteria for disqualification are set forth in statutory law, case law and the Code of Judicial Conduct.
- (e) If the three judges designated to determine a motion to disqualify or recuse a judge, do not agree on the decision, the matter shall be decided by majority of the other judges on the Court not named in the motion to disqualify or recuse.
- (f) Any motion for disqualification or recusal of multiple judges in which the above process will be unsuitable will be dealt with by the Court as required in that particular situation.

Draft Amendment to:

XXXIII. Protocol on Disqualification and Recusal of Judges

B. RECUSALS

When a motion to recuse a judge from a particular case is filed, the following protocol shall be used.

1. Whenever a judge is presented with a motion to recuse or disqualify, accompanied by an affidavit, the judge shall immediately determine the timeliness of the motion and the legal sufficiency of the affidavit, and make a determination, assuming the facts in the affidavit are true, whether recusal is warranted.
2. If it is found that the motion is timely, the affidavit sufficient and the recusal would be authorized if some or all of the facts set forth in the affidavit are true, the judge shall report that fact to the Chief Judge, who shall assign the remaining members of that judge's panel and the presiding judge of the next division another judge to pass on the motion to recuse.
3. If the three judges assigned to decide the motion find ~~assigned judge finds~~ that sufficient facts are presented which would authorize the recusal of the judge from the case, the ~~assigned judge~~ judges shall so notify, by memorandum, the Chief Judge and the judge against whom the motion was filed.
4. In the event of recusal, the Chief Judge shall notify the Clerk's Office, and the clerk shall assign another judge to the matter according to the protocol on disqualification of judges.
5. If the assigned ~~judges find~~ ~~judge finds~~ there are insufficient facts before the court to authorize a recusal of the judge against whom the motion is filed, that fact shall be made known to the Chief Judge by memorandum with a copy to the judge against whom the motion to recuse was filed. If the three assigned judges cannot agree, the issue will be decided by a majority of all of the judges on the Court excluding the judge against who the motion was filed.
6. Whether the judge against whom the motion was filed is recused or is not recused, an order shall issue from the Clerk's Office granting or denying the motion to recuse, as appropriate.
7. If the Chief Judge is the judge against whom the motion to recuse is filed, then the judge next in line for Chief Judge shall make the assignment.

UNIFORM RULES FOR THE SUPERIOR COURTS
RULE 17. CONFLICTS -- STATE AND FEDERAL COURTS

Ga. Unif. Super. Ct. 17.1 (2011)

Rule 17.1. Method of resolution.

(A) An attorney shall not be deemed to have a conflict unless:

(1) the attorney is lead counsel in two or more of the actions affected; and,

(2) the attorney certifies that the matters cannot be adequately handled, and the client's interest adequately protected, by other counsel for the party in the action or by other attorneys in lead counsel's firm; certifies that in spite of compliance with this rule, the attorney has been unable to resolve these conflicts; and certifies in the notice a proposed resolution by list of such cases in the order of priority specified by this rule.

(B) When an attorney is scheduled for a day certain by trial calendar, special setting or court order to appear in two or more courts (trial or appellate; state or federal), the attorney shall give prompt written notice as specified in (A) above of the conflict to opposing counsel, to the clerk of each court and to the judge before whom each action is set for hearing (or, to an appropriate judge if there has been no designation of a presiding judge). The written notice shall contain the attorney's proposed resolution of the appearance conflicts in accordance with the priorities established by this rule and shall set forth the order of cases to be tried with a listing of the date and data required by (B)(1)-(4) as to each case arranged in the order in which the cases should prevail under this rule. In the absence of objection from opposing counsel or the courts affected, the proposed order of conflict resolution shall stand as offered. Should a judge wish to change the order of cases to be tried, such notice shall be given promptly after agreement is reached between the affected judges. Attorneys confronted by such conflicts are expected to give written notice such that it will be received at least seven (7) days prior to the date of conflict. Absent agreement, conflicts shall be promptly resolved by the judge or the clerk of each affected court in accordance with the following order of priorities:

(1) Criminal (felony) actions shall prevail over civil actions. Criminal actions in which a demand for speedy trial has been timely filed pursuant to O.C.G.A. §§ 17-7-170 and/or 17-7-171 shall automatically take precedence over all other actions unless otherwise directed by the Court in which the speedy trial demand is pending;

(2) Jury trials shall prevail over non-jury matters, including trials and administrative proceedings;

(3) Within the category of non-jury matters, the following will have priority: (a) parental terminations, (b) trials, (c) all other non-jury matters including appellate arguments, hearings and conferences;

(4) Within each of the above categories only, the action which was first filed shall take precedence.

(C) Conflict resolution shall not require the continuance of the other matter or matters not having priority. In the event any matter listed in the letter notice is disposed of prior to the scheduled time set for any other matter listed or subsequent to the scheduled time set but prior to the end of the calendar, the attorney shall immediately notify all affected parties, including the court affected, of the disposal and shall, absent good cause shown to the court, proceed with the remaining case or cases in which the conflict was resolved by the disposal in the order of priorities as set forth heretofore.

NOTES: EDITOR'S NOTES. -- This rule was amended effective March 9, 1989, October 9, 1997, January 17, 2008, and October 23, 2008.

LAW REVIEWS. -- For article, "Criminal Law," see 53 Mercer L. Rev. 209 (2001).

II. Attorneys

Rule 9. (f) The Court of Appeals does not recognize, nor grant, leaves of court or leaves of absence.

**MINUTES OF THE BANC MEETING
OF THE
COURT OF APPEALS OF GEORGIA
Banc Room
Wednesday, April 20, 2011
10:30 a.m.**

A Banc Meeting of the Court of Appeals was called and held in the Court of Appeals Banc Room at 10:30 a.m. on Wednesday, April 20, 2011. Those present were:

Chief Judge John J. Ellington
Presiding Judge J.D. Smith
Presiding Judge Anne Elizabeth Barnes
Presiding Judge M. Yvette Miller
Presiding Judge Herbert E. Phipps
Judge Gary B. Andrews
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Sara L. Doyle
Judge Keith R. Blackwell
Judge Stephen Louis A. Dillard
Judge Christopher J. McFadden

Also attending were: Jan Kelley, Fiscal Officer
 Lola Diamond - Administrative Assistant, Recorder for the Minutes

I. CALL TO ORDER - ASCERTAINMENT OF QUORUM

Chief Judge Ellington called the meeting to order at 10:33 a.m. He announced a quorum was present.

II. APPROVAL OF BANC MEETING MINUTES

Chief Judge Ellington asked for a motion to approve the Minutes of February 16, 2011. The motion was made by Judge Dillard and seconded by Presiding Judge Smith. The Minutes were unanimously approved.

III. RECUSAL RULE AMENDMENT

Chief Judge Ellington called on Presiding Judge Smith regarding the provisions to how recusals are being handled. Judge Doyle suggested two on a panel with a Presiding Judge. Presiding Judge Smith explained that the issue was there were no provisions for a disagreement among three judges. In the Rules, there is a specific need to provide a mechanism for a 2-1 decision. We will need to add the other eleven judges, if there is a disagreement. Judge McFadden moved to adopt the motion, Judge Dillard seconded and it passed unanimously.

IV. INTERNAL OPERATIONS MANUAL AMENDMENTS

a. DISMISSAL - DISAGREEMENT OF PANEL

After review of the previous discussion on the Dismissal - Disagreement of a Panel, Judge Doyle moved to adopt the procedure and Presiding Judge Phipps seconded the motion. The Amendment to Chapter XV, IOM, paragraph P, passed unanimously.

b. RECORD RETENTION OF RECORD APPENDICES

Chief Judge Ellington asked if the Banc wanted to insert the language "Record Appendix". Judge McFadden moved to insert the language, Judge Dillard seconded the motion and the motion was adopted unanimously.

c. PHOTOGRAPHING RECORDS IN THE CLERK' OFFICE

Judge McFadden stated he understands the issue with food but did not object to the photographing of the records. Judge Doyle explained that she could see that the costs for photocopying are not collected. Presiding Judge Smith suggested the decision about photographing records not only be a part of the IOM but posted and a rule of this Court. Ms. Kelley stated that approximately \$150,000 in revenues come from copying costs. Judge Doyle stated she could see the allowance of attorneys to photocopy the first three pages of the record. The matter was tabled to adopt better language.

V. BUDGET FY 2011 AND FY 2012

Chief Judge Ellington stated the good news is they will not have to have any more furloughs in 2011 and an overage of \$200,000. He stated that he would listen to suggestions on how to use the money. Judge Doyle stated there was a need to step up in salary; a specific employee has about \$8,000 a year in missed salary increases. Increases in salary is something we can start thinking about. Chief Judge Ellington stated that in 2012, we may need to fluid the \$200,000 hit through January to make it through July. He asked Ms. Kelley to address the judges with the budget information.

Ms. Kelley stated as a recap of the 2011 budget, there is a \$260,000 access in the budget. Health benefits took a \$52,000 administrative cut; we could spend IT funds and get supplies or things the Court needs. Ms. Kelley continued that as to the 2012 budget; \$825,000 added and a \$936,000 expense increase. Small adjustments would be needed such as Workers' Comp and administrative help. An appropriation of \$10,750 will be needed for e-filing to the next level after the docket upgrade. Raises are not addressed until 2013.

Judge Andrews stated the Supreme Court is giving bonuses. Jan stated the Supreme Court's staff attorneys are not at the level our staff attorneys are. The bonuses were done because staff attorneys were not in the budget. That was proposed before.

Chief Judge Ellington stated next year would be more acceptable. Judge Andrews stated the money would be spent on computers and not people. Presiding Judge Miller stated the Supreme Court is getting step increases for their people. Ms. Kelley stated their pay scale was adopted; longevity step increases were not included. Judge Doyle added that on the new scale it is a pay grade and not a salary increase.

Chief Judge Ellington asked if anyone felt similar to the comments made by Judge Andrews. Judge Doyle stated some of the examples were a loss of increases and furloughs on top. Chief Judge Ellington stated increases were dangerous this year and he was glad we will not be furloughing throughout the remainder of the year. The money has been put back in and now we do not need them to say we didn't need it.

Ms. Kelley stated the 2013 budget was due September 1. They would be looking for COLA as an earmark to say raises are being started again.

Chief Judge Ellington remarked about the \$50,000 to \$60,000 suggested for shared services and the use of outside agencies to do payroll which has been abandoned and to not show any deficiencies.

Judge McFadden asked what to do with \$260,000? Chief Judge Ellington said to go ahead and pay bills for IT. We are as prepared as we can be. Ms. Kelley stated Mr. Ruggeri has given Fiscal about \$300,000 for servers, etc. Chief Judge Ellington reminded the judges that the IT budget was raided in the past.

Ms. Kelley stated that if the judges do not plan to use their travel funds to let her know so the money can be put back in the budget.

Judge Mikell stated in 2013, he would favor the judges be mindful of the money flow and rehire people for Central Staff, as a long range thing.

The Chief Judge added that if any of the judges have any individual budget questions or concerns to please see him or Ms. Kelley.

VI. OLD BUSINESS

PORTRAIT LOCATION SCHEME

Chief Judge Ellington turned the floor over to Judge Mikell. Judge Mikell stated it would be nice to have a portrait of all the chief judges, some are missing. Right now, there is an inflexible way of rotating the portraits and what happens when there are 15 portraits? Judge Mikell was asking for a flexibility change in the IOM and record the circulation changes to the IOM. Chief Judge Ellington stated the Portrait Location Scheme gives a great deal of authority to the Chairman of the Portrait Committee and he has two concerns, someone to be in charge and the appellate process. Judge McFadden commented that he would like to see the photographs in the hall. Presiding Judge Phipps made a motion which was seconded by Presiding Judge Miller that Judge Mikell be the Chairman of the Portrait Committee.

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

VII. NEW BUSINESS

CLERK'S OFFICE POLICY ON INMATE APPEAL - SUPREME COURT AND PAUPER'S AFFIDAVIT

Chief Judge Ellington stated there were no consistencies. The Supreme Court would take the filing and if it is transferred, we are stuck with the problem with time lines and deadlines. Paragraph 3 of Ms. Sparrow's memo states the adoption of a new policy. Presiding Judge Phipps stated we should adopt the Supreme's Court's policy by addressing the issues and moving on. Judge Doyle stated she cannot imagine ten days as a long enough period of time to submit the pauper's affidavit. Chief Judge Ellington questioned, at what point do we get the affidavit? Presiding Judge Phipps stated as a general rule, time involved and effort of work in the clerk's office is worth it. It should be based on merits. Presiding Judge Barnes questioned what is Ms. Sparrow or Mr. Martin's objection to doing it that way. Judge Andrews responded that if he were a state officer, a pauper's affidavit must be in the file. Judge Doyle commented to continue the appeal without the pauper's affidavit.

Chief Judge Ellington tabled the matter until the next meeting.

VIII. ANNOUNCEMENTS

Presiding Judge Phipps stated he had passed out a copy of a Resumè for Ms. Elizabeth Lee and recommend that she be hired in Central Staff or Dirk's position, to begin no sooner than June 20, 2011. She is currently an employee of the Eleventh Circuit Court of Appeals and they have a two-year rule; extension or raise used as an incentive to stay. Presiding Judge

Phipps has offered the position to Ms. Lee. He further stated that in the meantime he would like to hire Bob DeMetz for the months of May and June. Judge McFadden moved in agreement and Judge Dillard seconded. The matter was approved with no opposition.

Presiding Judge Phipps stated that when a person leaves the Court of Appeals, Ms. Sparrow sends an email announcing the person's departure. He would like to see a notice announcing the arrival of new people when they are hired. Judge Blackwell suggested an email with photographs as an idea. Chief Judge Ellington stated he would make the recommendation to Ms. Sparrow that an email be sent to notify the Court when there has been a new hire including the person's photograph.

Judge Doyle announced the Atlanta Bar Show which takes place May 19, 20 and 21st at the Fourteenth Street Playhouse. Tickets are \$25.00. She and Judge McFadden will be singing and dancing.

LEGISLATION OF INTEREST 2011

Chief Judge Ellington stated the cost from \$10 to \$1 per page has put the attorneys in a better position and extended through June 30, 2011. Thank you for your interest.

Chief Judge Ellington covered House Bill 158 in which over half of the Court is up for re-election. It is going back to the way it use to be.

CLERK'S OFFICE ISSUES

Chief Judge Ellington commented that newly admitted practicing attorneys will no longer be required to sign a roll book. All Attorney Admission Applications are now scanned. The forms will be signed.

Check the Docket Summary, recusals create a problem in the clerk's office.

Ask your staff attorneys to watch for tapes and CDs that are missing. Please review and check. Observe Judge Andrews' rule of internal distress.

IX. ADJOURNMENT

Judge Andrews made the motion to adjourn which was seconded by Judge Doyle and approved unanimously. The meeting adjourned at 11:20 a.m.

Respectfully submitted,

Minutes approved by the Court
En Banc on the _____ day of
_____, 2011

HOLLY K.O. SPARROW
Clerk/Court Administrator
Court of Appeals of Georgia

UNIFORM RULES FOR THE SUPERIOR COURTS
RULE 17. CONFLICTS -- STATE AND FEDERAL COURTS

Ga. Unif. Super. Ct. 17.1 (2011)

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(2) the attorney certifies that the matters cannot be adequately handled, and the client's interest adequately protected, by other counsel for the party in the action or by other attorneys in lead counsel's firm; certifies that in spite of compliance with this rule, the attorney has been unable to resolve these conflicts; and certifies in the notice a proposed resolution by list of such cases in the order of priority specified by this rule.

(B) When an attorney is scheduled for a day certain by trial calendar, special setting or court order to appear in two or more courts (trial or appellate; state or federal), the attorney shall give prompt written notice as specified in (A) above of the conflict to opposing counsel, to the clerk of each court and to the judge before whom each action is set for hearing (or, to an appropriate judge if there has been no designation of a presiding judge). The written notice shall contain the attorney's proposed resolution of the appearance conflicts in accordance with the priorities established by this rule and shall set forth the order of cases to be tried with a listing of the date and data required by (B)(1)-(4) as to each case arranged in the order in which the cases should prevail under this rule. In the absence of objection from opposing counsel or the courts affected, the proposed order of conflict resolution shall stand as offered. Should a judge wish to change the order of cases to be tried, such notice shall be given promptly after agreement is reached between the affected judges. Attorneys confronted by such conflicts are expected to give written notice such that it will be received at least seven (7) days prior to the date of conflict. Absent agreement, conflicts shall be promptly resolved by the judge or the clerk of each affected court in accordance with the following order of priorities:

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LAW REVIEWS. -- For article, "Criminal Law," see 53 Mercer L. Rev. 209 (2001).

II. Attorneys

Rule 9. (f) The Court of Appeals does not recognize, nor grant, leaves of court or leaves of absence.

Key card Adams
Barnes
JB to 47 Tyin
not work

Banc Meeting 6/15/2011

Miller not here
Dillard phone conf.

John - about
transfer - took
w judge -
Want to be there

I Phipps move minutes
McFadden 2nd
man

II New Docket
not meet June 30 deadline thru summer now
1 to 4 developers, delivery ea. week
mid July reach Chambers for testing
CJ meet w ~~XXXXXX~~ Jan, HS, JR, right rather than fast
talk w Trivix on phone

(a3)

III D. ^{add} Multiple Judges ^{not} Adams 2nd Phipps man

follow Sup Ct determination.
C. Phipps ^{not} McKell 2nd - Transfers only Blackwell
all rest favor - opposed

McFadden adopt procedure for all inmates
amend - ~~not~~ fails

B.

- Court Reporter
- Copy costs
- disruption
- Dayle not need reason
- McFadden protest at reporter + disruption
- bright light rule
- Barnes
- Blackwell 2nd
- McFadden oppose

Rules
A. Record Appendix expires 6/30/2011

W ask McFadden about Bar Committee
now workload - adjust

Smith emergency measure emergency over
CT. SC is going to continue it's on '6 our problem

Mikeel always opposed Rec Appendix
statute say clerks should do - mandamus
is solution to few countries

Mikeel met Andrews and let rules expire

Barnes allow do it on mat & ask support
why? prob. NOA & docketing

John R. electronic problems if have to
~~although~~ accept atty records

assume Bar Com ask to continue

Smith not our responsibility to cure trial courts.

Mikeel directed to sophisticate groups - prob. pro se
& curmudgeon atty

Barnes if no exception, legislature may order us to do something we would like worse
if want to legislature oppo. to oppose

Dillard concern clerk's office
not need anything for cut to educate

Blackwell approach favor
brief extension but need to end
NS?

Doyle great improvement
What proposal State Bar has?

Blackwell short extend to
bill's proposal
John R. — electronic maybe whole new
Project
It is yes or no, now not see how
ed. would change anything

Andrews — need to end now
always Bar can propose something
work better

McFadden — impression of com
more time to consider
will feel undercut

Dillard — Blackwell's idea good

Doyle agree w Blackwell

Blackwell ⁱⁿ expire Sept. last opportunity
to submit

C.J. no banc until Oct 1 - absolute deadline
extend re. until banc meeting - 20th end
proposal from banc by Oct. 1
Oct. 19 banc meeting final vote
unanimous

V. (A.)

Barnes met. Smith and
unanimous
\$6000

B. Just a comment

Other Business

Doyle — Staff attorney retirements
Directory update — John responds

McKell portrait —
3 portraits adding labels

Barnes — NA not atty — new
~~_____~~ &

Phypps move to adjourn

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

DRAFT AGENDA

Wednesday, April 20, 2011

10:30 A.M.

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

- | | | |
|-------|---|---|
| I. | Call Meeting to Order - Ascertainment of Quorum | Chief Judge Ellington |
| II. | Approval of February 2011 Banc Meeting Minutes | Chief Judge Ellington |
| III. | Recusal Rule Amendment | Presiding Judge Smith |
| IV. | Internal Operations Manual Amendments | Chief Judge Ellington,
Presiding Judge Smith |
| | • A. Dismissal - Disagreement of Panels | |
| | • B. Record Retention of Record Appendices | |
| | • C. Photographing Records in Clerk's Office | |
| V. | Budget FY2011 and FY2012 | Chief Judge Ellington,
Jan Kelley |
| VI. | Old Business
Portrait Location Scheme | Judge Mikell,
Jan Kelley |
| VII. | New Business
• Clerk's Office Policy on Inmate Appeal -Supreme Court and Pauper's Affidavit | Chief Judge Ellington |
| VIII. | Announcements | |
| | A. Clerk's office is now scanning attorney admissions forms. Application forms will be on line in the future. No longer a separate paper roll book. | |
| | B. Please check docketing summary sheet and report as early as possible to determine if you will recuse in an appeal. | |
| | C. Please have staff attorneys check record in cases assigned to your chambers as soon as possible for essential missing tapes, CDs, etc so the record can be supplemented rather than the case being remanded at the end of the distress term. | |

X. Adjournment

Handout - Legislation of Interest in 2011 General Assembly

**COURT OF APPEALS OF GEORGIA
FY 2011 BUDGET**

CURRENT BUDGET STATUS

	EFFECTIVE DATE			EQUIVALENT FURLOUGH DAYS
REMAINING NEEDED AFTER OPERATING CUTS			\$447,193	14.34
PROPOSED BUDGET CUTS - PERSONNEL				
CLERK RETIREMENT	8/1/10	\$137,828		
			\$137,828	
REMAINING NEEDED/FURLOUGH DAYS			\$309,365	10.14
EST. REVISED SAVINGS P/FURLOUGH DAY	\$30,504			
FURLOUGH DAYS				
FURLOUGH DAYS TAKEN- SEP, OCT, NOV, JAN	4	\$30,504	\$122,016	3.91
			\$187,349	6.14
SCHEDULED DAY - FEB	1	\$30,504	\$30,504	0.98
			\$156,845	5.14

**COURT OF APPEALS OF GEORGIA
FY 2011 BUDGET**

APPROVED REDUCTIONS

	EFFECTIVE DATE		FURLOUGH DAYS
FY 2011 SHORTFALL		\$558,993	17.92
PROPOSED BUDGET CUTS - OPERATING			
I.T. EXPENSES	7/1/10	\$62,000	1.99
OFFICE EXPENSES	7/1/10	\$25,000	0.80
NON-JUDGE TRAVEL	7/1/10	\$10,000	0.32
REDUCE OUTSIDE EMPLOYEE TRAINING	7/1/10	\$10,000	0.32
RELEASE UNUSED PARKING SPACES	7/1/10	\$4,800	0.15
		<u>\$111,800</u>	<u>0.00</u>
REMAINING NEEDED		\$447,193	14.34
PROPOSED BUDGET CUTS - PERSONNEL			
CLERK RETIREMENT	8/1/10	\$137,828	
		<u>\$137,828</u>	
REMAINING NEEDED/FURLOUGH DAYS		\$309,365	10.14
EST. REVISED SAVINGS P/FURLOUGH DAY	\$30,504		
APPROVED FURLOUGHS			
SEP, OCT, NOV, JAN, FEB	5	\$152,520	
		<u>\$152,520</u>	<u>4.89</u>
		<u>\$156,845</u>	<u>5.14</u>
OTHER POTENTIAL OPERATING CUTS			
I.T. EXPENSES - REDUCE EQUIPMENT BUDGET		\$60,564	
		<u>\$60,564</u>	<u>1.99</u>
		\$96,281	3.16
PROJECTED PERSONNEL CHANGES AFFECTING BUDGET			
ESTIMATED CHANGES IN PERSONNEL			
ESTIMATED PENDING ANNUAL LEAVE/FORFEITED LEAVE		\$16,277	
		<u>\$16,277</u>	<u>0.53</u>
		\$112,558	3.69
PROJECTED CHANGES IN OPERATING EXP			
ESTIMATED FUNDS AVAILABLE FROM OPERATING EXPENSE		-\$6,833	
PER DIEM & MILEAGE EXP-SENIOR JUDGES		\$3,215	
INCREASE IN JUDGES' COMMUTE EXP - NEW JUDGE		\$4,592	
		<u>\$974</u>	<u>0.03</u>
		\$113,532	
REMAINING REDUCTIONS/FURLOUGHS NEEDED			3.72

**COURT OF APPEALS OF GEORGIA
FY 2011 BUDGET**

POTENTIAL BUDGET CUTS

			POTENTIAL FURLOUGH		
			DAYS	CURRENT	TOTAL
FY 2011 STATE FUNDS	\$ 12,531,853	\$30,504			
<u>4% REDUCTION W/JUDGES SALARIES</u>		\$501,274	16.43	3.72	20.15
LESS: JUDGES SALARIES	\$ 2,887,020				
<u>4% REDUCTION W/O JUDGES SALARIES</u>	\$ 9,644,833	\$385,793	12.65	3.72	16.37

To reach \$500,000 through staff cuts outside the chambers:

If all of Central Staff and all Floating A.A.s were let go on 2/1/2011, the Court would only save \$308,893.

If all of the Clerk's Office, the Fiscal Office and IT Staff were let go on 2/1/2011, the Court would only save \$328,721.

From FY 2009 to date, the Court has lost 3 Clerk's Office personnel, 1 Fiscal Office employee, 2 Floating A.A.s, and 5 Central Staff Attorneys. The loss of the Floating A.A.s have impacted the Clerk's Office as well as the Judges since any time the Floating AA's were not assigned to a Judge's Office they assisted the Clerk's Office.

Potential Reductions through staff cuts both in and out of chambers:

Central Staff Position Not Filled	Effective 2/1/2011 (Vacant 2/1/2011-6/30/2011)	\$66,190
32 hr Week - Judges A.A.s	Effective 2/1/2011	\$78,009
Elimination of Floating A.A.s	Effective 2/1/2011	\$58,788
		\$202,987

NOTE: All Support Personnel - (Central Staff/Clerk's Office/Fiscal/IT) account for 24.62% of Staff Positions. Personnel in chambers account for 75.38% of the staff personnel costs. There are currently 4 filled positions in Central Staff: Amy Doyle, Kathryn Mattuch, Jule Felton, and Dirk Christensen.

Proposed Legislation of Interest

2/15/2011

HB27. This bill would clarify that natural persons may represent themselves pro se in administrative proceedings and that corporations may be represented by officers, directors and employees. This contrasts decision in *Eckles d/b/a/ Atlanta Technology Group v. Atlanta Technology Group Inc.* that a corporation must be represented in courts by an attorney. The status of this bill on February 15th was that it had been tabled by the House Judiciary Civil Lane Subcommittee.

HB41. This bill was intended to correct an increase in appellate record preparation fee. It reduces the per page rate charged by superior court clerks from \$10 to \$1. Representative Willard asked for a rewrite of Section 1 to make sure that the bill would apply to current cases before the courts. A substitute was passed by the House Judiciary Civil Committee on February 8, 2011 which eliminated charges for a copy of a record in a capital felony case for the Department of Law. HB41 is now in the House Rules Committee.

HB100. Provides for the creation of a Georgia Tax Court with judges to be paid at the rate of judges of the Court of Appeals of Georgia.

HB158. Changes nonpartisan election timing for filing of Notice of Candidacy and the date of the nonpartisan election from the General to the Primary Election.

HB 160. Amends OCGA 5-6-48 relating to grounds for dismissal of appeals to add that an appeal shall be dismissed or considered invalid if the appeal was filed as a Notice of Appeal, but should have been filed as an Application for Appeal. This bill received a DO PASS recommendation from the House Judiciary Civil Jacobs Subcommittee.



Court of Appeals

Memorandum

To: Chief Judge John J. Ellington

From: Holly Sparrow *HS*

Subject: Draft Administrative Banc Meeting Minutes
Wednesday, April 20, 2011

Date: May 2, 2011

Please find attached the Draft Administrative Banc Meeting Minutes for Wednesday, April 20, 2011, for your approval.

/ld

Enclosures

**MINUTES OF THE BANC MEETING
OF THE
COURT OF APPEALS OF GEORGIA
Banc Room
Wednesday, April 20, 2011
10:30 a.m.**

D R A F T

A Banc Meeting of the Court of Appeals was called and held in the Court of Appeals Banc Room at 10:30 a.m. on Wednesday, April 20, 2011. Those present were:

Chief Judge John J. Ellington
Presiding Judge J.D. Smith
Presiding Judge Anne Elizabeth Barnes
Presiding Judge M. Yvette Miller
Presiding Judge Herbert E. Phipps
Judge Gary B. Andrews
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Sara L. Doyle
Judge Keith R. Blackwell
Judge Stephen Louis A. Dillard
Judge Christopher J. McFadden

Also attending were: Jan Kelley, Fiscal Officer
 Lola Diamond - Administrative Assistant, Recorder for the Minutes

I. CALL TO ORDER - ASCERTAINMENT OF QUORUM

Chief Judge Ellington called the meeting to order at 10:33 a.m. He announced a quorum was present.

II. APPROVAL OF BANC MEETING MINUTES

Chief Judge Ellington asked for a motion to approve the Minutes of February 16, 2011. The motion was made by Judge Dillard and seconded by Presiding Judge Smith. The Minutes were unanimously approved.

III. RECUSAL RULE AMENDMENT

Chief Judge Ellington called on Presiding Judge Smith to discuss the recusal rule and IOM provisions. Presiding Judge Smith explained that the Court needed to determine how a motion for recusal would be decided if there was a disagreement among three panel judges who had been designated to decide the motion. It was suggested that if there is a disagreement the decision should be made by the eleven judges not named in the motion. Judge McFadden moved to adopt that procedure as a motion, Judge Dillard seconded and it passed unanimously.

IV. INTERNAL OPERATIONS MANUAL AMENDMENTS

a. DISMISSAL - DISAGREEMENT OF PANEL

After discussion of the proposed amendment to the Internal Operations Manual prepared by the Clerk concerning Dismissal - Disagreement of a Panel, Judge Doyle moved to adopt the procedure and Presiding Judge Phipps seconded the motion. The Amendment to Chapter XV, IOM, paragraph P, passed unanimously.

b. RECORD RETENTION OF RECORD APPENDICES

Chief Judge Ellington asked if the Banc wanted to insert the language "Record Appendix" into the Court Record Retention Schedule. Judge McFadden moved to insert the language, Judge Dillard seconded the motion and the motion was adopted unanimously.

c. PHOTOGRAPHING RECORDS IN THE CLERK' OFFICE

Judge McFadden stated he understands the issue with food in the attorney workroom and microfilm room, but he did not object to the photographing of the records by the public or parties. Judge Doyle said she could see that such a policy would reduce the fees collected for photocopying. Ms. Kelley stated that approximately \$150,000 in revenues come from copying costs. Presiding Judge Smith suggested the decision about photographing records not only be added to the Internal Operations Manual, but posted in the Clerk's office and adopted as a rule of the Court. Judge Doyle stated she could perhaps approve an allowance permitting photocopies of the first three pages of the record for free. After this discussion, this matter was tabled until the next meeting.

V. BUDGET FY 2011 AND FY 2012

Chief Judge Ellington stated the good news that after the General Assembly approved the final FY2011 appropriations, there is approximately \$200,000 more in the Court's budget than we expected. That means that there will not have to be any more furloughs for 2011, and he stated that he would listen to suggestions on how to use any of the rest of this money. Judge Doyle stated the Court should start thinking about step increases in the salaries of employees. Chief Judge

Ellington pointed out that although there is a current surplus in funds expected for the remainder of FY2011, the Court's FY2012 budget was reduced by about \$200,000. He then asked Ms. Kelley to address the judges with more detail about the budget.

Ms. Kelley gave a recapitulation of the 2011 budget stating that in the final FY2011 budget approximately \$160,000 was added to the original appropriation. She stated that this additional money could be most effectively used to purchase supplies and needed information technology upgrades that would prepare the Court for the cut the Court will have in the FY2012 budget.

Ms. Kelley then continued to the FY2012 budget explaining that although \$825,000 was added to the budget, there was a \$936,000 expense increase. State adjustments of expenses included Health Benefits, Workers' Compensation and Georgia Technology Authority service expenses. An appropriation of \$102,750 was added to initiate a project to receive electronic records from the trial courts. She explained that this is the next step in the Court's technology plan after the new docket project. The operations budget was reduced by approximately \$210,000. Ms. Kelley also opined that due to the state economic situation salary increases would not be politically advisable until at least FY2013.

Judge Andrews stated that he had heard the Supreme Court is giving bonuses. Jan explained the staff attorneys of the Supreme Court are paid at a level below the Court of Appeals staff attorneys. Perhaps bonuses are being considered because the Supreme Court did not receive from the legislature the appropriation requested to raise their staff attorneys to the same level as the Court of Appeals.

Chief Judge Ellington stated he believed that salary increases would be more feasible in FY2013. Ms. Kelley explained that the FY2013 budget requests are due to be submitted by September 1, 2011. She said that she will be looking to see if a cost of living increase is proposed by the state in FY2013, which should give an indication that pay raises may or will be resumed.

Chief Judge Ellington remarked that initially the budget had been reduced by about \$50,000 to \$60,000 because the legislature proposed the Court of Appeals use some of the fiscal services, particularly payroll, of either the Administrative Office of the Courts or the State Accounting Office. This proposal was abandoned for FY2012.

After additional discussion, Chief Judge Ellington stated that in these circumstances, the Court will proceed to spend the uncommitted funds on Information Technology purchases that will upgrade the Court systems and protect the data. He pointed out that in the last few years due to the reduced appropriations, the Court has decreased the IT budget dramatically in order to fund the general operations. Ms. Kelley stated Mr. Ruggeri has given the Fiscal Office a list of priority purchases which will be the basis for the FY2011 expenditures.

Ms. Kelley asked that if the judges do not plan to use their travel funds to let her know so the money can be returned to the budget.

Judge Mikell said that in FY2013 he will be asking the judges to consider the need to rehire employees for the lost positions in Central Staff.

The Chief Judge added that if any of the judges have any individual budget questions or concerns to please contact him or Ms. Kelley.

VI. OLD BUSINESS

PORTRAIT LOCATION SCHEME

Chief Judge Ellington asked Judge Mikell to address this topic. Judge Mikell discussed his memorandum of April 15, 2011 which proposes a change in the Internal Operations Manual on this topic. Presiding Judge Phipps made a motion to adopt the policy set out in the memorandum of Judge Mikell and to make Judge Mikell the Chairman of the Portrait Committee. This motion was seconded by Presiding Judge Miller and approved unanimously by the judges.

VII. NEW BUSINESS

CLERK'S OFFICE POLICY ON INMATE APPEAL - SUPREME COURT AND PAUPER'S AFFIDAVIT

Chief Judge Ellington asked the judges to consider the Clerk's request on this issue. He stated the Supreme Court takes an inmate's application without a pauper's affidavit and if the application is transferred, the Court of Appeals is stuck with the problem of timeliness and disposition deadlines. Paragraph 3 of Ms. Sparrow's memorandum proposes the adoption of a new policy.

Presiding Judge Phipps asked if the Court should just adopt the policy of the Supreme Court. Judge Doyle, commenting on the Clerk's memorandum, stated she cannot imagine ten days as a sufficient period of time for the inmate to submit a pauper's affidavit. Judge Andrews expressed his view that a pauper's affidavit must be in the file. Judge Doyle thought the appeal should continue without the pauper's affidavit. Since there was no consensus, Chief Judge Ellington tabled the matter until the next meeting.

VIII. ANNOUNCEMENTS

Presiding Judge Phipps announced his offer of employment to Ms. Elizabeth Lee for the open position in Central Staff with a beginning date no sooner than June 20, 2011. He noted that he had passed out her resume and that she is currently employed by the Eleventh Circuit Court of Appeals. The hiring date results from the Eleventh Circuit's two-year clerkship rule. He also announced that in the meantime former staff attorney, Bob DeMetz, would be employed for the months of May and June, 2011. Judge McFadden made a motion to accept Presiding Judge Phipps action which was seconded by Judge Dillard. The matter was approved with no opposition.

Presiding Judge Phipps stated that when a person leaves the Court of Appeals, an e-mail announcing the person's departure is sent to the whole Court. He suggested that a similar notice announcing the arrival of new employees be sent when they are hired. Judge Blackwell suggested the e-mail include a photograph. Chief Judge Ellington said he would make the recommendation to Ms. Sparrow that an email including a photograph be sent to notify the Court when there has been a new hire.

Judge Doyle invited the judges to attend the Atlanta Bar show schedule for May 19, 20 and 21 at the Fourteenth Street Playhouse. Tickets are \$25.00. She and Judge McFadden will be singing and dancing.

LEGISLATION OF INTEREST 2011

Chief Judge Ellington stated that HB41 which reduced the appellate record preparation fee from \$10 to \$1 per page should be a benefit to the attorneys, parties and the appellate courts. The Court also approved the extension of the Record Appendix rule through June 30, 2011. He thanked the judges for their interest in this subject.

Chief Judge Ellington summarized House Bill 158 noting that over half of the judges on the Court are up for re-election, and they will be affected by this change.

CLERK'S OFFICE ISSUES

Chief Judge Ellington commented that newly admitted practicing attorneys will no longer be required to sign a physical roll book. All attorney admission applications are now scanned by the Clerk's office, and the forms will serve as the roll book.

Chief Judge Ellington reminded the judges to review their cases as soon as possible to determine if there are any reasons to recuse so that this matter can be resolved quickly. He also asked the judges to remind their staff attorneys to identify as quickly as possible missing record parts such as tapes or CDs so that they can be timely secured by the Clerk's office for chambers. Lastly,

he emphasized that all chambers should strive to meet the artificial distress date for drafting decisions.

IX. ADJOURNMENT

Judge Andrews made the motion to adjourn which was seconded by Judge Doyle and approved unanimously. The meeting adjourned at 11:20 a.m.

Respectfully submitted,

Minutes approved by the Court
En Banc on the _____ day of
_____, 2011

HOLLY K.O. SPARROW
Clerk/Court Administrator
Court of Appeals of Georgia



Court of Appeals

Memorandum

To: All Judges
From: Judge Mikell *Charlie*
Subject: Amend IOM
Date: April 15, 2011

I recommend amendment of the IOM as shown on attached pages. I recommend this for two reasons. (1) The IOM is ambiguous because it dictates that retired portraits be hung in the "by way" and hallway and also dictates that retired portraits be offered for purchase by the family, and (2) more flexibility is needed in deciding where to hang portraits, especially the older paintings of deceased judges.

A long-term goal will be to acquire, perhaps on loan from families or the state archives, portraits of all former chief judges for display in the courtroom or in other public spaces in the Court's premises.

IOM Section III C is amended to remove the present subsections C (2) and C (3) and Appendix 9, and to substitute the following draft subsections C (2), C (3) and C (4).

C. Portraits

2. The portrait shall remain in the courtroom until it is retired to a corridor in the judicial building on the 4th or 3rd floor or to the Conference Room in the Clerk's office or elsewhere in the Clerk's office. The time of retirement and the new place to display the portrait shall be determined by the chairman of the portrait committee.

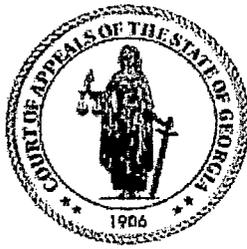
Portraits having special artistic and historical importance may be retained by the Court of Appeals after retirement and displayed in office space assigned to the Court of Appeals as discussed above. Portraits without special artistic or historical importance may be offered to the family if purchased with private funds. If purchased with state funds, such portraits may be offered for purchase to the family at the cost of the portrait to the state. Under no circumstances shall a portrait be sold, given away, loaned or otherwise removed from the premises of the Court of Appeals without notice to all judges and a vote of approval by the Court in banc.

3. Any judge of this Court, or any retired judge of this Court, who feels himself or herself aggrieved by a decision of the chairman of the portrait committee may appeal from that decision to the Executive Committee by means of a letter to the Chief Judge. A judge of this court or a retired judge of this court who remains aggrieved, may appeal from the

Executive Committee to the Court in banc, again by means of a letter to the Chief Judge. A decision by the Court in banc shall be final

4. The court may accept for display in the hallway or Clerk's office appropriate oil paintings of former judges who were not chief judge. However, only portraits of former chief judges may be displayed in the courtroom.

The annual assessment for the Flower Fund shall be increased by twenty dollars (\$20.00) per year, per judge to provide for incidental expenses of the portrait collection, e.g., brass labels with identifying data. Testamentary or *inter vivos* endowment gifts are welcome.



Court of Appeals

Memorandum

To: Chief Judge John J. Ellington

From: Holly Sparrow *HS*

Subject: Draft Administrative Banc Meeting Minutes
Wednesday, February 16, 2011

Date: February 28, 2011

Please find attached the Draft Administrative Banc Meeting Minutes for Wednesday, February 16, 2011, for your approval.

/ld

Enclosure

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

Wednesday, February 16, 2011, 2:30 p.m.

D R A F T

A Banc Meeting of the Court of Appeals was called and held in the Court of Appeals Robing Room, Sixth Floor of the Judicial Building at 2:30 p.m. on Wednesday, February 16, 2011. Those present were:

Chief Judge John J. Ellington
Presiding Judge J.D. Smith
Presiding Judge Anne Elizabeth Barnes
Presiding Judge M. Yvette Miller
Presiding Judge Herbert E. Phipps
Judge Gary B. Andrews
Judge Charles B. Mikell
Judge A. Harris Adams
Judge Sara L. Doyle
Judge Keith R. Blackwell
Judge Stephen Louis A. Dillard
Judge Christopher J. McFadden

Also attending were: Holly Sparrow, Clerk and Court Administrator
Jan Kelley, Fiscal Officer

I. CALL TO ORDER - ASCERTAINMENT OF QUORUM

Chief Judge Ellington called the meeting to order at 2:25 p.m. He announced a quorum was present.

II. APPROVAL OF BANC MEETING MINUTES

Chief Judge Ellington asked for a motion to approve the Minutes of January 19, 2011. The motion was made by Presiding Judge Barnes and seconded by Judge McFadden. The Minutes were unanimously approved.

III. BUDGET UPDATE AND JOB VACANCIES

The Chief Judge pointed out that HB41 had been introduced to return the per page fee of preparing the appellate record from \$10.00 to \$1.50. He said a substitute has been introduced in the House of Representative to reduce the amount to \$1.00 and it is expected to pass. By

affirmation, the judges continued the prior decision at the last meeting to delete the amendment to Rule 17 permitting record appendices to be filed if the cost of preparing the appellate record is returned to its level prior to the 2010 amendment.

IV. BUDGET AND POSITION VACANCY UPDATE

Chief Judge Ellington reminded the judges that as the Court nears the end of the fiscal year, they may wish to donate funds from their travel/dues budget allotment that are unspent to reduce the potential furloughs and other budget cuts the Court will need to take. He indicated the Fiscal Office could provide the form to any judge who wished to reduce his or her travel/dues budget allotment. Presiding Judge Barnes pointed out that some travel/dues money should be retained if the judges intend to attend the State Bar Conference and for State Bar Membership Dues which are usually paid in June.

Chief Judge Ellington then asked Ms. Kelley to explain the status of the 2011 budget in the legislature. She noted the FY2011 budget changes from the House of Representatives targeted elimination of funds for the floating administrative assistants and operational cuts of about \$210,000 which are largely balanced with funds coming back to the Court for employer health benefit expenses. The cuts do mean the Court will probably have to continue staff furloughs through March 2011.

Ms. Kelley also distributed a chart showing a comparison of recent budget cuts in the Supreme Court and the Court of Appeals as previously requested by Judge Andrews. She noted the two Courts have made similar cuts except the Court of Appeals has a larger IT budget and has retained the two floating administrative assistants (There are none in the Supreme Court.). The Court of Appeals has taken more furlough days.

Ms. Kelley mentioned the Senate has made an inquiry to the Court asking for the number of employees providing fiscal services and the possibility of shifting some of the payroll, account receivable and accounts payable functions to another agency such as the State's Auditor Office (SAO) or the Administrative Office of the Courts (AOC). She said the Court has provided information about the number of these transactions and the costs of these services. Ms. Kelley explained that the Senate is seeking this information to determine if shared fiscal services, which would include shifting these services from the Supreme Court, the Court of Appeals and the Superior Courts to SAO or AOC, would be less expensive to the State. Since the fiscal staff in both appellate courts have additional duties and it would probably cost more money if some of the services were shifted, the Court is opposing these changes.

Presiding Judge Phipps announced the job vacancy in Central Staff has been filled by La'Sean Brant, who was a staff attorney for Judge Mikell. By the end of the month Ms. Brant will be leaving Judge Mikell's office and be housed in the Central Staff offices. Judge Mikell is now advertising and interviewing for a staff attorney replacement.

V. RECUSAL RULE

Presiding Judge Smith distributed the new Supreme Court rule on recusal and the current Court of Appeals rule. He pointed out the canons in the Judicial Code of Conduct contain specific rules regarding limits on contributions and that does not need to be addressed in the Court of Appeals rules. On the other hand, the Recusal Committee of the Supreme Court has asked the other Courts to consider changing their rules to make the process more transparent. He stated the current Court of Appeals rule, Rule 44, does not address how the Court will decide a Motion for Recusal. Judge Doyle presented a motion that the rule be amended to state that the two other judges on the panel of the judge requested to be recused and the presiding judge of the next panel determine the motion and the language of the Supreme Court rule concerning voluntary recusal be adopted by the Court of Appeals. The motion was seconded by Presiding Judge Smith and adopted unanimously.

VI. NEW BUSINESS

Presiding Judge Phipps proposed the Court should consider whether the individual judges rather than the Court should bear the burden of the individual photographs used by the Court in light of the budget reductions. Chief Judge Ellington stated he thought that the Court should pay for the photographs of the new judges on the Court. Chief Judge Ellington proposed a resolution that for this year, excepting the new judges, Judges Blackwell, Dillard and McFadden, all judges will pay the cost of any new individual photographs. This resolution was adopted unanimously.

VII. ANNOUNCEMENTS - SEPTEMBER 2010 DISTRESS CASES

The Chief Judge announced for the benefit of the new judges that Banc Meetings are tentatively set for the third Wednesday of each month, and they should plan their calendars accordingly. The next Banc Meeting is tentatively scheduled for March 16, 2011.

The Chief Judge also reminded the judges that the decision distress for September 10, 2010 cases is March 30, 2011. He stated it is very important to move these cases forward to disposition as soon as possible. The Court has never missed the two-term Constitutional deadline for disposing of its cases.

VIII. ADJOURNMENT

Judge Andrews made a motion to adjourn which was seconded by Judge Mikell and approved unanimously.

Respectfully submitted,

Minutes approved by the Court
En Banc on the ____ day of
_____, 2011

HOLLY K.O. SPARROW
Clerk/Court Administrator
Court of Appeals of Georgia

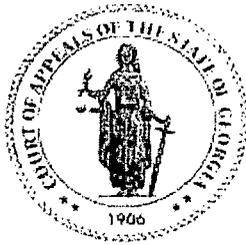
**COURT OF APPEALS OF GEORGIA
ADMINISTRATIVE BANC MEETING**

Wednesday, January 19, 2011
10:30 A.M.

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

A G E N D A

- | | | |
|-------|---|---|
| I. | Call Meeting to Order - Ascertainment of Quorum | Chief Judge Ellington |
| II. | Approval of October 2010 Banc Meeting Minutes | Chief Judge Ellington |
| III. | Budget Update and Vacant Central Staff Position | Chief Judge Ellington
Presiding Judge Phipps |
| IV. | Extensions | Presiding Judge Phipps |
| V. | Recusal Committee | Presiding Judge Smith |
| VI. | Record Appendix | Presiding Judge Smith |
| VII. | Internal Operations Manual Amendments | |
| | A. Dismissal of Appeal | Presiding Judge Smith |
| | B. Retention of the Record Appendices | Clerk Holly Sparrow |
| VIII. | Court Car | Chief Judge Ellington |
| IX. | Old Business | Chief Judge Ellington |
| X. | New Business | Chief Judge Ellington |
| XI. | Announcements | |
| XII. | Adjournment | |



Court of Appeals

Memorandum

To: Chief Judge M. Yvette Miller

From: Holly Sparrow *HS*

Subject: Draft Administrative Banc Meeting Minutes
Wednesday, October 20, 2010

Date: October 27, 2010

Please find attached the Draft Administrative Banc Meeting Minutes for Wednesday, October 20, 2010, for your approval.

/ld

Enclosure

D R A F T

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

Wednesday, October 20, 2010, 10:30 a.m.

A 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, October 20, 2010. Those present were:

Chief Judge M. Yvette Miller
Presiding Judge Gary B. Andrews
Presiding Judge J. D. Smith
Presiding Judge Anne Elizabeth Barnes
Presiding Judge Herbert E. Phipps
Judge Edward H. Johnson
Judge John J. Ellington
Judge A. Harris Adams
Judge Sara L. Doyle

Not in attendance was: Judge Charles B. Mikell

Also attending was: Ms. Holly Sparrow, Clerk and Court Administrator

I. CALL MEETING TO ORDER - ASCERTAINMENT OF QUORUM

Chief Judge Miller called the meeting to order at 10:30 a.m. She announced that a quorum was present..

II. APPROVAL OF BANC MEETING MINUTES

Chief Judge Miller asked for a motion to approve the September 15, 2010 Banc Meeting Minutes. The motion was made by Judge Ellington and seconded by Judge Phipps. The Minutes were unanimously approved.

III. SELECTION OF NEW CLERK

Ms. Sparrow was asked to temporarily leave the meeting while this issue was discussed. The Committee to select a clerk gave a summary of the interviews of the candidates and recommended that the Court appoint Ms. Sparrow as the new Clerk/Court Administrator

The salary of the new clerk was then discussed. Presiding Judge Andrews made a motion that the provision for the prior clerk's pay to be 90% of a judge's salary be repealed. The motion was seconded by Judge Adams and approved by the judges.

Judge Ellington then made a motion to hire Holly Sparrow as the Clerk/Court Administrator with a \$5,000 increase in her current salary. Presiding Judge Phipps seconded the motion and it carried.

IV. OLD BUSINESS

Presiding Judge Smith reminded the judges that at the last meeting they had appointed Presiding Judge Phipps and him to communicate to the legislators and Bar leaders the Court's concern over the Record Appendix process set up under the Supreme Court rules. He said the Record Appendix process was created by the Supreme Court after the passage of HB1055 in the last General Assembly increasing the page rate for appellate record preparation. Presiding Judge Smith suggested that the Court consider sun-setting the Court's Rule 17 amendment which permitted Record Appendices. Presiding Judge Andrews proposed a motion to sunset the rule on March 1, 2011, Judge Ellington seconded the motion, and the judges voted unanimously in favor of the motion.

V. NEW BUSINESS

Chief Judge Miller asked Ms. Sparrow to mention the case, S1100182. Citizens for Ethics in Government, LLC et al v. the Court of Appeals of Georgia filed in the Supreme Court of Georgia. Ms. Sparrow stated that each judge had been distributed a copy of the petition, the response filed by the Attorney General's office (representing the Court of Appeals) and the opinion about which the appellant was complaining. She indicated that the appellant was attempting to have the opinion overruled by means of his mandamus petition.

Judge Ellington then brought up the Court car under new business. He stated that when he becomes Chief Judge in January 2011, he will be asking the judges to vote on dispensing with the Court car.

VI. ANNOUNCEMENTS

Judge Johnson stated that this would be his last Banc Meeting because of his retirement on December 31, 2010. He thanked his fellow judges for their support and said he wanted them to know how much he cared about them as colleagues and how much he cared for the Court as an institution.

Chief Judge Miller also noted that the meeting would most likely be her last Banc Meeting as Chief Judge. She indicated she was proud of the accomplishments the Court had achieved during her term as Chief Judge despite the many challenges the Court has had to overcome.

VII. **ADJOURNMENT**

There being no further business, the Banc Meeting was adjourned.

Respectfully submitted,

Minutes approved by the Court
En Banc on the _____ day of
_____, 2010

HOLLY K.O. SPARROW
Clerk/Court Administrator
Court of Appeals of Georgia



Court of Appeals

Memorandum

To: All Judges

From: Holly K.O. Sparrow 

Subject: Banc Meeting Minutes for May 19, 2010 and June 9, 2010 and
Administrative Order for Rule 17 Addition

Date: September 13, 2010

Attached please find the Banc Meeting Minutes for May 19 and June 9, 2010. I have also enclosed the Administrative Order for the addition to Rule 17. These Minutes were not approved at the last Banc Meeting so they will be considered for approval on Wednesday, September 15, 2010.

Please also find a corrected Agenda for the September 15, 2010 Administrative Banc Meeting. There was an error found in the numbering.

Thank you.

/ld
Enclosures

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

Wednesday, September 15, 2010

10:30 A.M.

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

AGENDA

- | | | |
|-------|---|---|
| I. | Call Meeting to Order - Ascertainment of Quorum | Chief Judge Miller |
| II. | Approval of Banc Meeting Minutes of August 18, 2010 | Chief Judge Miller/
Judge Ellington |
| III. | Budgets - FY2010 - FY2011 | Chief Judge Miller/Jan Kelley |
| IV. | IT Report | Chief Judge Miller/
Judge Phipps, John Ruggeri |
| V. | Screening Applicants for Clerk/Court Administrator | Chief Judge Miller |
| VI. | Plan for Judicial Office Moves | Judge Ellington/Jan Kelley |
| VII. | Minor Amendment to Internal Operations Manual
- Recusal Policy | Judge Smith/Holly Sparrow |
| VIII. | Impact of Record Appendix on Court | Judge Ellington/Holly Sparrow |
| IX. | Old Business | Chief Judge Miller |
| X. | New Business | Chief Judge Miller |
| XI. | Announcements | Chief Judge Miller |
| XII. | Adjournment | Chief Judge Miller |

Court of Appeals of the State of Georgia

ATLANTA, JUNE 9, 2010

The Court of Appeals hereby passes the following order:

ADMINISTRATIVE ORDER

The following rule was adopted by the Court en Banc in a special called Banc Meeting on June 9, 2010. The addition to Rule 17 shall become effective immediately.

“Notwithstanding anything to the contrary in these rules, this Court will accept for consideration on the merits of any appeal any record or substitute therefor which the Supreme Court of Georgia accepts under its rules.”

Court of Appeals of the State of Georgia

Clerk's Office, Atlanta June 9, 2010

I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court
hereto affixed the day and year last above written.

Clerk.

Willi Z. Mart

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

**Wednesday, June 9, 2010 10:00 a.m.
Court of Appeals Banc Room
47 Trinity Avenue, S.W. • Suite 501
Atlanta, Georgia 30334**

The specially called Banc Meeting of the Court of Appeals of Georgia was held in the Court of Appeals Banc Room at 10:00 a.m. on Wednesday, June 9, 2010, to discuss the ramifications of House Bill 1055, particularly as it relates to the costs per page in record preparation for appeals to the Court of Appeals of Georgia and the Supreme Court of Georgia. Those present were:

Chief Judge M. Yvette Miller
Judge Edward H. Johnson
Judge G. Alan Blackburn
Presiding Judge J.D. Smith
Judge John J. Ellington
Presiding Judge Herbert E. Phipps
Judge Charles B. Mikell (part of meeting)
Judge Debra Bernes (by telephone conference)
Judge Sara L. Doyle
Mr. Michael Terry, President, Atlanta Bar Association
Mr. Brian Cavan, President, State Bar of Georgia
Mr. Wendell Willard, Chairman, House Judiciary Committee
Mr. Marion T. Pope, Former Judge, Court of Appeals of Georgia
Mr. William L. Martin, III, Clerk/Court Administrator

Those absent were:

Presiding Judge Gary B. Andrews
Presiding Judge Anne Elizabeth Barnes
Judge A. Harris Adams

Chief Judge Miller called the meeting to order at 10:00 a.m. She introduced the guests and stated the purpose of this meeting was to discuss House Bill 1055 and its ramifications of the cost of \$10.00 per page record preparation and any approach the Court may wish to take to alleviate the over burdensome cost of record preparation.

Chief Judge Miller called upon Bar President, Bryan Cavan for any remarks he would like to make. Mr. Cavan stated that the \$10.00 cost in House Bill 1055 was missed by all of the lobbyist who were tracking legislation and it was never intended that the cost be so high in record preparation that it would prohibit people from having access to the appellate courts. He stated he had spoken with Representative Ed Lindsey who could not be at the meeting but took responsibility for the act. Mr. Cavan stated he has had two appeals in the Court of Appeals of Georgia in the last year and a half and under the new law the record would cost \$35,000 in one appeal and \$30,000 in the other. He said he was asking the Court to change its rules to permit the attorneys to identify the record by filing a record appendix directly with the Court and bypassing the trial court clerk.

Chief Judge Miller called upon Michael Terry, President of the Atlanta Bar Association, for any remarks he might have. Mr. Terry said the Court had the power to change its rules and he was requesting a similar approach as was taken by the Eleventh Circuit where the attorneys identify the record. He admitted there would be some cases where lawyers would not be willing to cooperate on the record and some cases where lawyers would just get it wrong, but he felt overall this is the best approach.

Chairman Wendell Willard said he had conversations with the Governor, Lieutenant Governor and the Speaker and all of these parties were interested in the HB 1055, and everyone is in favor of this change. Presiding Judge Smith said it would be nice to have a letter or some statement from the leaders asking the appellate courts to change their rules to circumvent a statute. Mr. Willard said he would certainly request such letters.

Mr. Marion T. Pope, former judge on the Court of Appeals of Georgia, said he was there to speak on behalf of the Georgia Trial Lawyers Association. He said the Act as it now stands creates a terrible hardship on persons trying to appeal their cases. He asked the Court to make a rule

change similar to the Supreme Court rule change which would provide temporary relief. Judge Pope said he has spoken with House Speaker David Ralston and had his assurances the bill would be amended in the next legislative session. Mr. Williard also said he had assurances the bill would be amended.

Chief Judge Miller asked if any judge had questions to or comments for our guests. Judge Mikell stated he had concerns about, by rule, circumventing or repealing a statute which had been passed by the duly elected legislature and signed by the duly elected Governor. He said he found it difficult to ask other people to comply with the law when the Court could make exceptions for persons because some lobbyist did not do his job. Presiding Judge Smith stated Mr. Martin, the Court's Clerk/Court Administrator, had advised the judges on the Court of Appeals of Georgia of that pending legislation when the cost was fixed at \$8.00 per page. Chairman Willard reported somehow in the Senate it was amended to \$10.00 per page and he was not exactly sure how.

Judge Mikell said he would feel much more comfortable if there was some written communication from the Governor, the Lieutenant Governor and the Speaker that it was their wish the appellate courts would adopt a rule to avoid the situation caused by the legislation.

Judge Miller invited the guests to step outside while the Court discussed the matter.

Presiding Judge Smith said he would like to defer the matter until such time as the Court could get statements from the Governor and Lieutenant Governor and the Speaker. Judge Doyle said she had no objections to deferring action but she was generally in favor of an interim rule. The Court discussed a rule presented by Judge Johnson which all found to be acceptable. There was some discussion about putting a sunset in the rule, but after the discussion it was decided it would not be necessary since the Court had the power to change the rule at any time and the Minutes would reflect the Court intended this rule change only as a temporary solution until such time as the legislature could amend House Bill 1055. Judge Johnson said Presiding Justice Carley had told him the Supreme Court will change its rule to the former rule as soon as the legislation is passed to amend the \$10.00 per page requirement. Judge Johnson said through no fault of the Court, everyone is mad at the Courts because of this Act. He said this may or may not have an effect on

those judges running for elections, but he felt since the Supreme Court had already taken this action, it put the Court of Appeals in a bad light and pretty much forced the Court to adopt a similar rule.

Judge Johnson distributed to the judges of our Court, an amendment to Court of Appeals Rule 17 which stated, "Notwithstanding anything to the contrary in these rules, this Court will accept for consideration on the merits of any appeal any record or substitute therefor which the Supreme Court of Georgia accepts under its rules." Judge Johnson said Judge Adams, who could not be at the meeting today, asked Judge Johnson to state that, for whatever it is worth, he supports Judge Johnson's amendment as a temporary solution to this problem.

Judge Mikell left the meeting at 10:50 a.m. There was further discussion as to whether to adopt the rule or defer the action over the rule until statements were received from the Governor, Lieutenant Governor and Speaker of the House. After a brief discussion, Presiding Judge Smith said he believed waiting on statements from those individuals would not be productive since it could be two hours, two days or two weeks or never before they would be received. He said he withdrew his request that the Court defer action.

After a short discussion in which everyone agreed the Court felt a rule change was appropriate and the solution would only be a temporary solution until such time as the legislature could amend House Bill 1055. Judge Johnson made a motion to adopt his submission to amend Rule 17 in the Court of Appeals. The motion was seconded by Judge Doyle and passed unanimously.

Chief Judge Miller asked Mr. Martin to re-type the rule change to correct a small typographical error. She then invited the guests back into the room and announced the Court had adopted the same rule as the Supreme Court. Copies of the corrected rule were distributed to the guests and the judges present.

Mr. Cavan, Mr. Terry, Judge Pope and Chairman Willard all thanked the judges for their actions. There being no further business, Chief Judge Miller adjourned the specially called Banc Meeting at 11:20 a.m.

Respectfully submitted,

Special Minutes approved by the
Court En Banc on the ____ day of
_____, 2010

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

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

Wednesday, May 19, 2010 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 Wednesday, May 19, 2010. Those present were:

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

Not in attendance was:

Presiding Judge Gary B. Andrews

I. **CALL MEETING TO ORDER - ASCERTAINMENT OF QUORUM**

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

II. APPROVAL OF MARCH 17, 2010 BANC MEETING MINUTES

Chief Judge Miller asked if there were any changes or corrections to the March Banc Meeting Minutes. Hearing known, she entertained a motion to approve the Minutes made by Judge Ellington and seconded by Judge Doyle. The motion passed unanimously.

III. BUDGET COMMITTEE REPORT

Chief Judge Miller called upon Judge Doyle for a report of the Budget Committee. Chief Judge Miller stated she and the Budget Committee had met several times and worked very hard with Jan Kelley and Bill Martin in trying to come up with different options. Judge Doyle said the Budget Committee received approximately 16 different options from Jan Kelley and Bill Martin but the Budget Committee had tried to stay away from options that would reduce hours of lawyers or judges' staff. Judge Doyle presented to the Banc two proposals to deal with the budget shortfall. Each proposal would eliminate certain operating expenses including IT expenses, office expenses, non-judicial travel, outside employee training and unused parking spaces. She said the combination of these would reduce our shortfall for FY2011 by approximately \$112,000. After a brief discussion, Judge Doyle made a motion to accept these operational cuts; the motion was seconded by Judge Johnson, and the judges voted unanimously in favor of the motion.

Judge Doyle said that still left a shortfall of about \$447,000. She said the clerk had offered his retirement and coupled with the RIF of one floating administrative assistant, the hiring of two part-time persons to fill the intake clerk's position and possibly giving up space, the deficit could be reduced to six furlough days for the year.

After a general discussion, the Court reluctantly agreed to accept the retirement of Mr. Martin as a budget strategy. Judge Blackburn made a motion the clerk retire effective August 1, 2010 and Deputy Administrator, Holly Sparrow, serve as acting clerk until a successor could be

found. Presiding Judge Phipps seconded the motion and it passed unanimously. It was suggested that Judge Ellington, as Judge-in-Charge of the clerk's office, communicate with Holly Sparrow.

Judge Doyle then said the Committee had recommended the reduction force of one of the floating administrative assistants and the replacement of the retiring intake clerk, Juanita Daniell with two part-time employees. By hiring part-time employees, the Court would save the cost of their benefits. Presiding Judge Barnes asked if the other clerk's office employees could rotate on the front desk and leave that position open. Mr. Martin stated last month Ms. Daniell had been out of work for six days and the work backed up in the docketing clerk's office so that 60 appeals had backed up before they were docketed. However, Mr. Martin suggested since Juanita Daniell's position would not be filled until July 1 at the earliest, that the clerk's office operate with no intake clerk and the other clerk's office personnel sitting in on a rotating basis to see if it was feasible to do that on a long term basis.

Chief Judge Miller said Tracey Parker was doing a good job as serving as her second AA and Crystal Willis could fill in on the front desk when she was not otherwise assigned to a judge's office.

Judge Mikell made a motion not to RIF any AAs in today's meeting but to observe the situation and address it at a later Banc Meeting. Chief Judge Miller stated she did not want to have another Banc Meeting until September. Judge Mikell said it was fine to address the situation at that time. Judge Blackburn seconded the motion and it passed unanimously.

Judge Doyle said the Committee had looked at the idea of giving up space occupied by the Fiscal Office. She reported that may not be an option now because there was an April 1 deadline in which to cancel the contract. Also, the savings to be realized is not as much as originally anticipated and there could be problems with security if another agency occupied that space.

Chief Judge Miller stated some of this action could be deferred until a September Banc Meeting. She did say that through the conservation of all Court employees and the good work of the Fiscal Officer, the Court could forego its planned furlough day for June.

After a discussion of the budget in general, Judge Blackburn asked if the State revenue picture improved could money be recaptured in the supplemental budget process. Ms. Kelley said the Court could ask to restore funds in the supplemental budget process. In the meantime, it was decided for Ms. Kelley submit the Court's budget to the State showing the shortfall to be absorbed by furlough days.

It was understood that the actual number of furlough days will be less than what may appear on the budget. Judge Ellington stated the Budget Committee planned for probably one furlough day per quarter. Chief Judge Miller said in that regard she would like to ask the Court to approve the first quarter furlough day for Friday, September 3. Chief Judge Miller stated that would give a long weekend for the Labor Day weekend. Judge Ellington made a motion to approve September 3 as a Court furlough day which motion was seconded by Judge Doyle and passed unanimously.

IV. TECHNICAL SERVICES REPORT

Chief Judge Miller called upon Presiding Judge Phipps for a report on the IT Department. Presiding Judge Phipps called upon John Ruggeri who stated the e-filing effort was progressing nicely. He said the judges' Banc handout materials contained a list of the different types of actions which could be filed electronically. Mr. Ruggeri said presently Technical Services was working on refining the applications to the judges' offices adding drop downs and making the process more user friendly for the staff attorneys and the administrative assistants. He said in June Technical Services would be working on issuing orders electronically from Court initiated action, that is, actions that were not in response to motions, such as, orders to file and the like. Mr. Ruggeri said this is the first step in being able to send out opinions electronically.

Chief Judge Miller thanked Mr. Ruggeri and his staff for the excellent progress they were making toward e-filing. She also asked him to thank TriVir, the vendors who are helping in the project. At Chief Judge Miller's request, the judges gave a hearty round of applause in appreciation for Mr. Ruggeri and his staff's efforts.

V. LEGISLATION

Chief Judge Miller called upon Presiding Judge Barnes and Judge Ellington for a report on House Bill 1055. Judge Ellington reported the House Bill 1055 was an omnibus fee bill which among other things increased the fee for the trial court's preparation of the record on appeal from \$1.50 per page to \$10.00 per page. He said he was unsure how this came about but the fact of the matter is this increase in the per page cost for record preparation has lawyers, legislators, county commissioners and trial court clerks in a state of anxiety. Judge Ellington said he has attended several meetings on the matter and said he felt confident the issue would be resolved, however; he was not sure exactly when the resolution would come about and how it would come about.

VI. OLD BUSINESS

Chief Judge Miller stated she was meeting with Dennis Dunn of the Law Department to go over our lease; the failure of Steve Stancil, Head of Georgia Building Authority (GBA) to deliver on his promises to have potable water in the Judicial Building and to begin the repair on the facade on the front of the Judicial Building. Chief Judge Miller stated if Mr. Stancil will deliver on his promises she would release the rental funds which she had directed the fiscal officer to withhold.

Judge Ellington thanked the Budget Committee and the efforts of Chief Judge Miller, Presiding Judge Phipps, Judge Bernes and Judge Doyle. Judge Ellington said he particularly wanted to thank Judge Doyle for her hard work and leadership in the efforts of the Budget Committee.

VII. NEW BUSINESS:

Chief Judge Miller stated she had met with Nels Peterson, the Governor's Executive Counsel. Mr. Peterson said at this time it was the Governor's intention to appoint a successor to Judge Blackburn and the Governor hopes to have that appointment made by June 30 or July 15, at the latest.

VIII. PEOPLE SOFT:

Chief Judge Miller called upon Jan Kelley for a report on People Soft. Ms. Kelley stated the State Accounting Office is requiring all state agencies to go on People Soft. Ms. Kelley stated she had hoped not to have to go on People Soft this year since it will probably cost the Court between \$15,000 - \$20,000. Judge Phipps asked if this was an unfunded mandate to which Ms. Kelley responded affirmatively.

Chief Judge Miller thanked Ms. Kelley for her report and for her good work with the budget process.

IX. ADJOURNMENT

There being no further business, and upon hearing a motion to adjourn by Judge Blackburn which was seconded by Judge Ellington, Chief Judge Miller concluded the meeting at 11:35 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
_____, 2010

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

Wednesday, October 20, 2010, 10:30 a.m.

A 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, October 20, 2010. Those present were:

Chief Judge M. Yvette Miller
Presiding Judge Gary B. Andrews
Presiding Judge J. D. Smith
Presiding Judge Anne Elizabeth Barnes
Presiding Judge Herbert E. Phipps
Judge Edward H. Johnson
Judge John J. Ellington
Judge A. Harris Adams
Judge Sara L. Doyle

Not in attendance was: Judge Charles B. Mikell

Also attending was: Ms. Holly Sparrow, Clerk and Court Administrator

I. CALL MEETING TO ORDER - ASCERTAINMENT OF QUORUM

Chief Judge Miller called the meeting to order at 10:30 a.m. She announced that a quorum was present.

II. APPROVAL OF BANC MEETING MINUTES

Chief Judge Miller asked for a motion to approve the September 15, 2010 Banc Meeting Minutes. The motion was made by Judge Ellington and seconded by Presiding Judge Phipps. The Minutes were unanimously approved.

III. SELECTION OF NEW CLERK

Ms. Sparrow was asked to temporarily leave the meeting while this issue was discussed. The Committee to select a clerk gave a summary of the interviews of the candidates and recommended that the Court appoint Ms. Sparrow as the new Clerk/Court Administrator.

The salary of the new clerk was then discussed. Presiding Judge Andrews made a motion that the provision for the prior Clerk's pay to be 90% of a judge's salary be repealed. The motion was seconded by Judge Adams and approved by the judges.

Judge Ellington then made a motion to hire Holly Sparrow as the Clerk/Court Administrator with a \$5,000 increase in her current salary. Presiding Judge Phipps seconded the motion and it carried.

IV. OLD BUSINESS

Presiding Judge Smith reminded the judges that at the last meeting the judges had appointed him and Presiding Judge Phipps to communicate to the legislators and Bar leaders the Court's concern over the Record Appendix process set up under the Supreme Court rules. He said the Record Appendix process was created by the Supreme Court after the passage of HB1055 in the last General Assembly increasing the page rate for appellate record preparation. Presiding Judge Smith suggested that the Court consider sun-setting the Court's Rule 17 amendment which permitted Record Appendices. Presiding Judge Andrews proposed a motion to sunset the rule on March 1, 2011, Judge Ellington seconded the motion, and judges voted unanimously in favor of the motion.

V. NEW BUSINESS

Chief Judge Miller asked Ms. Sparrow to mention the case, S11O0182. Citizens for Ethics in Government, LLC et al v. the Court of Appeals of Georgia filed in the Supreme Court of Georgia. Ms. Sparrow stated that each judge had been distributed a copy of the petition, the response filed by the Attorney General's office (representing the Court of Appeals) and the opinion about which the appellant was complaining. She indicated that the appellant really was attempting to have the opinion overruled.

Judge Ellington then brought up the Court car under new business. He stated that when he becomes Chief Judge in January 2011, he will be asking the judges to vote on dispensing with the Court car.

VI. ANNOUNCEMENTS

Judge Johnson stated that this would be his last Banc Meeting because of his retirement on December 31, 2010. He thanked his fellow judges for their support and said he wanted them to know how much he cared about them as colleagues and how much he cared for the Court as an institution.

Chief Judge Miller also noted that the meeting would most likely be her last Banc Meeting as Chief Judge. She indicated she was proud of the accomplishments the Court had achieved during her term as Chief Judge despite the many challenges the Court has had to overcome.

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VII. ADJOURNMENT

There being no further business, the Banc Meeting was adjourned.

Respectfully submitted,

Minutes approved by the Court
En Banc on the _____ day of
_____, 2010


HOLLY K.O. SPARROW
Clerk/Court Administrator
Court of Appeals of Georgia

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

Wednesday, September 15, 2010

10:30 A.M.

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

AGENDA

- | | | |
|-------|---|---|
| I. | Call Meeting to Order - Ascertainment of Quorum | Chief Judge Miller |
| II. | Approval of Banc Meeting Minutes of August 18, 2010 | Chief Judge Miller/
Judge Ellington |
| III. | Budgets - FY2010 - FY2011 | Chief Judge Miller/Jan Kelley |
| IV. | IT Report | Chief Judge Miller/
Judge Phipps, John Ruggeri |
| V. | Screening Applicants for Clerk/Court Administrator | Chief Judge Miller |
| VI. | Plan for Judicial Office Moves | Judge Ellington/Jan Kelley |
| VII. | Minor Amendment to Internal Operations Manual
- Recusal Policy | Judge Smith/Holly Sparrow |
| VIII. | Impact of Record Appendix on Court | Judge Ellington/Holly Sparrow |
| IX. | Old Business | Chief Judge Miller |
| X. | New Business | Chief Judge Miller |
| XI. | Announcements | Chief Judge Miller |
| XII. | Adjournment | Chief Judge Miller |

Holly



Court of Appeals

Memorandum

To: Presiding Judge Smith
From: Chief Judge Miller *myjm*
Subject: Judicial Council Recusal Rules Committee
Date: July 26, 2010

Originally I appointed Judge Debra Bernes to chair the Judicial Council Recusal Rules Committee when I was asked by Chief Justice Hunstein to name a representative from this Court. In light of her passing, I am asking if you would please chair this Committee.

Please review the attached proposed amendments and submit any comments or concerns to Justice Harold D. Melton within 60 days from the date of this letter.

If you have any questions or concerns, please contact me.



SUPREME COURT OF GEORGIA

STATE JUDICIAL BUILDING
ATLANTA, GEORGIA 30334

FROM THE CHAMBERS OF
HAROLD D. MELTON
JUSTICE

(404) 656-3477
FAX NUMBER
(404) 657-4211

July 16, 2010

Hon. Yvette Miller
Chief Judge, Court of Appeals of Georgia
334 State Judicial Building
40 Capitol Square, S.W.
Atlanta, GA 30334

Dear Judge Miller:

In response to increasing concerns within the judiciary and the legislature about the efficacy of current recusal rules for judges, especially in relation to campaign contributions, Chief Justice Hunstein created the Judicial Council Recusal Rules Committee. The Committee included representatives from all classes of court, the Judicial Qualifications Commission, and Rep. Edward Lindsey (who sponsored legislation addressing this issue, but graciously encouraged the judiciary to develop its own standards). The Committee has completed its work and submitted rule changes to the Supreme Court for approval.

This Court has reviewed and generally approved those recommendations; however, the Court felt it prudent to avoid duplication by incorporating the changes into the Code of Judicial Conduct. Meanwhile, each class of court, has been asked to develop procedural rules for raising and addressing recusal issues in their respective courts.

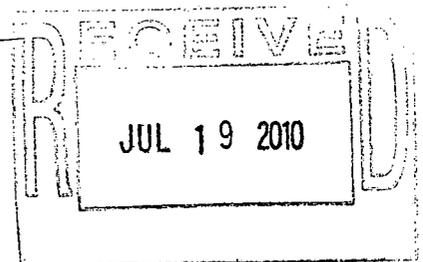
Prior to adopting these recommendations by Court order amending the Code of Judicial Conduct, this Court seeks the benefit of your comments, concerns and suggested changes. We would appreciate it if you would review the attached proposed amendments and submit any comments or concerns you might have to my attention within 60 days from the date of this letter.

We value your input in this matter and look forward to hearing from you shortly.

Very truly yours,

Harold D. Melton

Enclosure
HDM/ah



CC: Hon. Carol Hunstein
Chief Justice, Supreme Court of Georgia

Hon. Yvette Miller
Chief Judge, Court of Appeals of Georgia

Hon. Kathlene F. Gosselin
President, Council of Superior Court Judges

Ms. Sandy Lee
Executive Director, Council of Superior Court Judges

Hon. J. William Bass, Sr.
President, Council of State Court Judges

Mr. Bob Bray
Executive Director, Council of State Court Judges

Hon. F. Bryant Henry
President, Council of Juvenile Court Judges

Mr. Eric J. John
Executive Director, Council of Juvenile Court Judges

Hon. Lynwood Jordan Jr.
President, Council of Probate Court Judge

Hon. William A. Willis
President, Council of Magistrate Court Judges

Ms. Sharon Reiss
Executive Director, Council of Magistrate Court Judges

Hon. Nelly Withers
President, Council of Municipal Court Judges

Mr. Chris Patterson
Executive Director, Council of Municipal Court Judges

Ms. Cheryl Custer
Executive Director, Judicial Qualifications Commission

Mr. Ben Easterlin
Chairman, Judicial Qualifications Commission

Mr. Lester Tate
President, State Bar of Georgia

Mr. Richard J. Reaves
Executive Director, Institute of Continuing Judicial Education of Georgia

Hon. Edward Lindsey

Recusal Amendments to Code of Judicial Conduct — Final

Canon 3

E. Disqualification

(1) Judges shall disqualify themselves in any proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where:

Commentary: Under this rule, judges are subject to disqualification whenever their impartiality might reasonably be questioned, regardless of whether any of the specific rules in Section 3E(1) apply. For example, if a judge were in the process of negotiating for employment with a law firm, the judge would be disqualified from any matters in which that firm appeared, unless the disqualification was waived by the parties after disclosure by the judge. Judges should disclose on the record information that the court believes the parties or their lawyers might consider relevant to the question of disqualification, even if they believe there is no legal basis for disqualification. The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute, or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In the latter case, the judge must disclose on the record the basis for possible disqualification and use reasonable efforts to transfer the matter to another judge as soon as possible.

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of disputed evidentiary facts concerning the proceeding;

Commentary: A lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b); judges formerly employed by a governmental agency, however, should disqualify themselves in a proceeding if their impartiality might reasonably be questioned because of such association.

(b) the judge served as a lawyer in the matter of controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness or party

concerning it in the matter of controversy;

(c) the judge or the judge's spouse, or a person within the third degree of relationship* to either of them, or the spouse of such a person, or any other member of the judge's family residing in the judge's household*:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known* by the judge to have a more than de minimis* interest that could be substantially affected by the proceeding;

(iv) is to the judge's knowledge* likely to be a material witness in the proceeding.

Commentary: The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Section 3E(1), or that the relative is known by the judge to have an interest in the law firm that could be "substantially affected by the outcome of the proceeding" under Section 3E(1)(c)(iii) requires the judge's disqualification.

(d) the judge has received an aggregate amount of campaign contributions or support so as to create a reasonable question as to the judge's impartiality. When determining impartiality with respect to campaign contributions or support, the following may be considered:

(i) amount of the contribution or support;

(ii) timing of the contribution or support;

(iii) contributor's or supporter's relationship to the parties;

(iv) impact of contribution or support;

(v) nature of contributor's prior political activities or support and prior relationship with the judge;

(vi) nature of case pending and its importance to the parties or counsel;

(vii) contributions made independently in support of the judge over and above the

The "*" exists in the current Code of Judicial Conduct and is used to indicate a defined term.

maximum amount which may be contributed directly to the candidate; and (viii) any other factor relevant to the issue of campaign support that causes the judge's impartiality to be questioned.

(e) the judge has made pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office, or statements that commit or appear to commit the candidate with respect to issues likely to come before the court.

(2) Judges shall keep informed about their personal and fiduciary* economic interests*, and make a reasonable effort to keep informed about the personal financial interests of their spouses and minor children residing in their households.

F. Remittal of Disqualification.

Judges disqualified by the terms of Section 3E may disclose on the record the basis of their disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding.

Commentary: A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently to the court, judges must not solicit, seek or hear comment on possible remittal or waiver of the disqualification, unless the lawyers jointly propose remittal after consultation as provided in Section 3F. A party may act through counsel, if counsel represents on the record that the party has been consulted and consents. As a practical matter, judges may wish to have all parties and their lawyers sign a remittal agreement.

The “*” exists in the current Code of Judicial Conduct and is used to indicate a defined term.



Court of Appeals

Memorandum

To: Presiding Judge Herbert E. Phipps
From: Holly Sparrow
Subject: Issues Concerning Clerk's Office Operations
Date: January 18, 2011

This memorandum will address several issues we have been dealing with that I would like to bring to your attention.

- ✓ 1. In an effort to address the lag time in handling extensions to file briefs, should the Clerk of the Court be granted the authority to grant a first extension to file a brief to either party of twenty days or less when requested by one of the parties?
- ✓ 2. Should we continue to allow the Attorney General's office to make copies of briefs, opinions, orders, and records by taking them to their own office and copying them and should they be permitted to add the Clerk's certification?
- ✓ 3. Is there anything we should do to address the delay in the delivery of certified mail?
4. Should the Court adopt a policy to prohibit the public and parties from taking

photographs with their phones of records which they have been allowed to review in the Clerk's office, and should we prohibit the audience at oral argument from using lap computers and personal digital devices which have internet applications during oral argument in the courtroom.

✓
1. Extensions of Time to File Brief

As I mentioned in my earlier memorandum to the judges' chambers, we have noticed an increase in the number of motions for extension to file a brief that are not acted on before the brief is due. When we previously spoke, you asked whether the authority to grant a first extension to the party should be given to the Clerk of the Court. Of course, the Clerk would review the request to make sure that there is a reasonable basis for the party's request.

Following our conversation, I surveyed the members of the National Association of Appellate Court Clerks and found that out of the 43 appellate courts which responded, 34 permit the Clerk to grant an extension under a specific limited policy either written or unwritten. Nine courts responded that only a judge of the appellate court could grant an extension.

If the Clerk is permitted to grant an extension, the e-filing system will need to be altered since currently the Clerk does not have access to issue an order from that system that has not been

processed from a judge's chamber. In the alternative, the Clerk could let the judge's administrative assistant know to submit an order on the extension through the e-filing system.

An alternative method perhaps of improving the speed of processing extensions might be to assign a specific staff attorney in each chambers to be responsible for all first extensions on all appeals assigned to the judge's chambers.

2. Attorney General's Office - Copies and Certifications for Use in Habeas Corpus Cases

In the past, the Attorney General's office has been permitted to check out briefs, opinions, records, etc. from the Clerk's office and to make copies of these documents on their own copy machines or to check out our microfilm to copy. This practice was permitted to allow the Attorney General's office to obtain a quick turn around and avoid paying the photocopying charges. Such accommodation is not made for anyone else. I was aware of this practice when I became the Clerk of the Court.

Just recently, I was made aware that the Attorney General's office had been using a blank form with Mr. Martin's signature and the Court seal to create certified record forms to attach to the documents they copies from our files on their own machines. I do not think that the Clerk's office should permit anyone to use the Clerk's signature, and I believe the only

one who should be able to certify a record for the Clerk's office is one of the clerk's employees. For this reason, I have discontinued this practice.

The Attorney General's office has stated they do not need the certification, but ask that we continue to permit them to copy our files. Mary Beth Westmoreland, Assistant Attorney General from the division handling the habeas cases, states that continuing this practice permits the AG's office to provide the courts with the information needed to resolve habeas cases fully and expeditiously. She also explained that this practice is also beneficial to the petitioners as well as the state since it insures that all parties have access to the record needed for review. Please see the attached letter from Ms. Westmoreland.

Now that I understand that both parties in the habeas cases will benefit from continuing the current practice and that certification will not be required, I think the Court should continue to make the Court records available for check out and copying by the Attorney General's office for habeas cases. All law department divisions other than habeas cases will continue to pay copying fees.

3. Certified Mail

The Court's Rule 4 (c) provides that any document sent to the Clerk's office shall be

considered filed on the U.S. Postal Service postmark date on the container in which the document arrived. With certified mail, the filing date may be several days prior to the day the document was received since the delivery of certified mail is often much slower than regular first class mail. More recently, we have had even longer delays in delivery of mail and particularly certified mail. Documents which should only take a couple of days to reach our office via first class mail often take five days to reach our office via certified mail. I sent a letter to the post office to indicate our concern which was copied to your on November 3, 2010.

The delay caused by the delivery of the certified mail has been a source of several complaints to our office. Respondents in application cases complain that they do not have enough time to mail their response within the permitted time frame, particularly if a pro se litigant failed to service the respondent. It also reduces time for us to alert parties that there may have been an error such as failing to submit their filing fee or pauper's affidavit with their briefs.

There seems little we can do about this problem, since the delivery of the mail is not within our control, and I do not believe we can prohibit individuals from using certified mail. We may want to post an announcement though that would inform parties about the slow delivery of certified mail.

4. Modern Electronic Devices in the Clerk's Office and Courtroom

We recently had a pro se litigant take out her cell phone and begin to use the camera feature to take photos of each page of the trial court record that had been filed with the Court. Due to the diligence of our front desk clerk, I was made aware of this and I asked the pro se litigant to stop taking the pictures. If we permit the public to take photos, we are depriving this Court of the revenue it receives from photocopies and also perhaps the trial court clerk and court reporters. I believe that the Court should adopt a policy at the next banc meeting to prohibit the public from using cell phones to photograph documents which have been filed in the Clerk's office.

On another occasion I was called by an attorney's administrative assistant who stated the attorney planned to observe the oral arguments in our Courtroom. She wanted to know if the attorney could use his or her personal digital device, an I-phone or Blackberry, on mute to surf the internet, use applications, or type notes during the oral argument. I indicated that such use might be distracting and suggested that it was not acceptable. Again, I think the Court should set policy to prohibit the use of these devices in the courtroom. The lawyers' lounge is available should someone be more interested in his or her phone than the oral arguments.

SURVEY OF APPELLATE COURT CLERKS OCTOBER 2010

Court & State	Clerk Authority to Grant Extensions		Details
	No	Yes	
AK APPEALS		X	45 days NT; 30 days EE excet for adoptions, guardianships and TPR cases
AR SUPREME		X	7 days
CA SUPREME		X	Up to 60 days
CO APPEALS		X	
CO SUPREME		X	1st & 2nd; less than 30 days
DC APPEALS		X	1st & 2nd; uncontested request
FL SUPREME		X	Unopposed; up to 60 days
ID SUPREME		X	1st & 2nd
KS SUPREME		X	1st, 2nd & 3rd; if unopposed; up to 30 days
KY SUPREME		X	
LA 1st CIR APPEALS		X	1st; Up to 30 days
LA 2nd CIR APPEALS		X	As long as extension not retard progress of case
LA 3rd CIR APPEALS		X	Up to 10 days
MA APPEALS		X	1st Request
MA SUPREME		X	Up to 7 days
MD SUPREME		X	If unopposed and does not require rescheduling oral argument
MO SOUTHERN DISTR		X	1st up to 30 days except for TPR cases
MT SUPREME		X	1st unopposed
N. DAKOTA SUPREME		X	1st & 2nd Motions; Grant up to 30 days
NE SUPREME & APPEALS		X	1st; up to 30 days excet TPR cases
NH SUPREME		X	Also parties can consent to extension up to 15 days twice
NM SUPREME		X	
NY APPEALS		X	For good cause shown, reasonable extension
NY SUPREME		X	For good cause shown, reasonable extension
PA		X	1st; Unopposed; Up to 30 days
RI SUPREME		X	
SC SUPREME		X	1st & 2nd
TX 12th APPEALS		X	1st
TX SUPREME		X	Unopposed.
US ARMED FORCES APPEALS		X	Unopposed; up to 30 days; practice is no more than 15 days and require good cause
US VET APPEALS		X	1st; up to 45 days

Court & State	Clerk Authority to Grant Extensions		Details
WA APPEALS		X	
WA SUPREME		X	
WY SUPREME		X	Up to 14 days in emergency (when no justice available to sign and brief is due)
GA SUPREME	X		
IL	X		
LA 5th CIR APPEALS	X		
LA SUPREME	X		
MI APPEALS	X		
MN APPEALS	X		
MN SUPREME	X		
OK SUPREME	X		
VA SUPREME	X		Not w current c. justice; prior c. justice gave clk. author. if unopposed & not require reschedule oral argument.