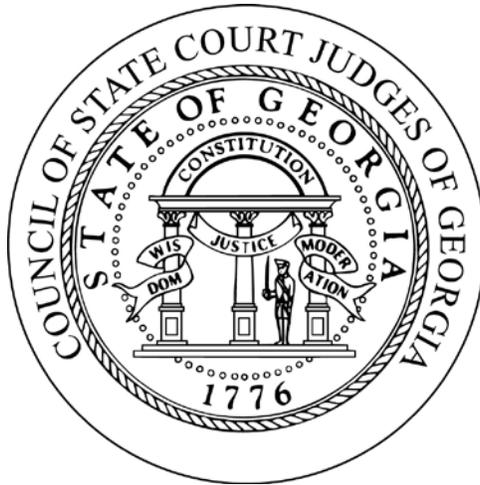


# **UNIFORM RULES**

## **STATE COURTS OF THE STATE OF GEORGIA**



**COUNCIL OF STATE COURT JUDGES**

**TABLE OF CONTENTS**

RULE 6. MOTIONS IN CIVIL ACTIONS..... 2  
    6.2 Reply..... 2  
RULE 8. CIVIL JURY TRIAL CALENDAR..... 2  
    8.3 Trial Calendar ..... 2  
RULE 15. DEFAULT JUDGMENTS ..... 2  
RULE 17. CONFLICTS-STATE AND FEDERAL COURTS ..... 3  
    17.2 Notice of Resolution ..... 3  
RULE 25. RECUSAL..... 3  
    25.4 Procedure Upon a Motion for Disqualification ..... 3  
RULE 26. PRE-INDICTMENT PROCEEDINGS ..... 4  
    26.1 Bonds and First Appearance ..... 4  
RULE 29. APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS ..... 4  
    29.2 Application and Appointment of Counsel ..... 4  
RULE 33. PLEADING BY DEFENDANT..... 4  
    33.1 Alternatives ..... 4  
    33.11 Record of Proceedings ..... 5  
RULE 36. FILING AND PROCESSING..... 5  
    36.1 Preparation of Documents..... 5  
    36.6 Minutes and Final Record..... 5  
    36.8 File Categories ..... 5  
    36.10 Filing Requirements–Civil..... 5  
    36.15 Assessment of Costs–Criminal ..... 6  
RULE 39. DOCKETING AND INDEXING..... 6  
    39.5 General Execution Docket ..... 6  
    39.7 Suggested Forms ..... 6  
    39.9 Court Information ..... 6  
RULE 43. CONTINUING JUDICIAL EDUCATION..... 7

**UNIFORM STATE COURT RULES**  
**Effective July 1, 1985**  
**Including Amendments Received Through**  
**July 7, 2011**

The Uniform Rules for the Superior Courts shall be applicable in State Courts except as follows:

- A. Wherever the words "superior court" or "superior courts" appear in the Uniform Superior Court Rules, the word "state" shall apply in lieu of the word "superior."
- B. Wherever the words "district attorney" appear in the Uniform Superior Court Rules, the words "prosecuting attorney" shall apply in lieu of "district attorney."
- C. Wherever the word "felony" appears, the words "or misdemeanor" shall be added.
- D. Wherever the words "indictment" or "grand jury indictment" appear, the word "accusation" shall apply in lieu thereof.
- E. The following Uniform State Court Rules shall read as follows:

**RULE 6. MOTIONS IN CIVIL ACTIONS**

**6.2 Reply**

Unless otherwise ordered by the judge, each party opposing a motion shall serve and file a response, reply memorandum, affidavits, or other responsive material not later than 30 days after service of the motion, or on the date of the hearing (if one is held) whichever occurs sooner.

**RULE 8. CIVIL JURY TRIAL CALENDAR**

**8.3 Trial Calendar**

The calendar clerk shall prepare a trial calendar from the actions appearing on the ready list, in the order appearing on such list. The calendar shall state the place of trial and the date and time during which the actions shall be tried. The trial calendar shall be delivered to the clerk of the court and distributed or published a sufficient period of time, but not less than 20 days, prior to the session of court at which the actions listed thereon are to be tried, except that the trial calendar for dispossessories, foreclosures, mechanics liens, garnishments and distress warrants shall be published at least twenty-four hours in advance of the hearing and shall be available at the clerk's office.

**RULE 15. DEFAULT JUDGMENTS**

The party seeking entry of a default judgment in any action shall certify to the court the date and type of service effected as shown by court records and that there has been no defensive pleading from the party against whom the judgment is sought. This certificate shall be in writing and must be attached to the proposed default judgment when presented to the judge for signature.

If a claim is for a liquidated amount, default judgment may be entered without a certificate when service has been perfected, the matter stands in default, and judgment is otherwise appropriate.

## **RULE 17. CONFLICTS-STATE AND FEDERAL COURTS**

### **17.2 Notice of Resolution**

The judges or clerks of the courts in which such conflicts exist shall give prompt written notice to all counsel of the manner in which the conflicts have been resolved; provided, however, that if the conflict is resolved by the court seven days or less in advance of the conflict, oral notice shall suffice.

## **RULE 25. RECUSAL**

### **25.4 Procedure Upon a Motion for Disqualification**

The motion shall be assigned for hearing to another judge, who shall be selected in the following manner:

(A) If within a single-judge county, the district chairperson serving on the Executive Committee of the Council of State Court Judges shall select the judge;

(B) If within a two-judge county, the other judge, unless disqualified, shall hear the motion;

(C) If within a county composed of three (3) or more judges, selection shall be made by use of the county's existing random, impartial case assignment method. If the county does not have random, impartial case assignment rules, then assignment shall be made as follows:

(1) The chief judge of the county shall select a judge within the county to hear the motion, unless the chief judge is the one against whom the motion is filed; or

(2) In the event the chief judge is the one against whom the motion is filed, the assignment shall be made by the judge of the county who is most senior in terms of service other than the chief judge and who is not also a judge against whom the motion is filed; or

(3) When the motion pertains to all active judges in the county, the district chairperson serving on the Executive Committee of the Council of State Court Judges shall select a judge other than an active judge of the referring court to hear the motion.

(D) If the district chairperson serving on the Executive Committee of the Council of State Court Judges is the one against whom the motion is filed, or if said judge sua sponte recuses from the case, the President of the Council of State Court Judges shall serve in this selection process instead of the district chairperson.

(E) If all judges within a county are disqualified, as well as the district chairperson serving on the Executive Committee of the Council of State Court Judges and the President of the Council of State Court Judges, the matter shall be referred by the disqualified district chairperson to the district chairperson serving on the Executive Committee of the Council of State Court Judges of

an adjacent district for the appointment of a judge other than an active judge of the referring court to hear the motion.

If the motion is sustained, the selection of another judge to hear the case shall follow the same procedure as outlined above.

## **RULE 26. PRE-INDICTMENT PROCEEDINGS**

### **26.1 Bonds and First Appearance**

(F) Inform the accused that he has the right to accusation in misdemeanor cases or to Uniform Traffic Citation in traffic cases, and the right to trial by jury;

## **RULE 29. APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS**

### **29.2 Application and Appointment of Counsel**

When an accused person, contending to be financially unable to employ an attorney to defend against pending criminal charges or to appeal a conviction, desires to have an attorney appointed, the accused shall make a request in writing to the court or its designee for an attorney to be appointed. The request shall be in the form of an application for appointment of counsel and certificate of financial resources, made under oath and signed by the accused which shall contain information as to the accused's assets, liabilities, employment, earnings, other income, number and ages of dependents, the charges against the accused and such other information as shall be required by the court. The purpose of the application and certificate is to provide the court or its designee with sufficient information from which to determine the financial ability of the accused to employ counsel. The court may appoint an attorney for an indigent defendant without a written request.

The determination of indigency or not shall be made by a judge or a state court or designee.

Upon a determination of indigency the court shall, in writing, authorize the appointment of counsel for the indigent accused. The original authorization of appointment shall be filed with the accusation or warrant in the case; a copy of the authorization shall be forwarded to the clerk, court administrator, public defender or such other person designated by the court to assign an attorney to an indigent defendant. Such person shall notify the accused, the appointed attorney, the sheriff and the prosecuting attorney of the appointment.

## **RULE 33. PLEADING BY DEFENDANT**

### **33.1 Alternatives**

(A) A defendant may plead guilty, not guilty, or in the discretion of the judge, nolo contendere. A plea of guilty or nolo contendere should be received only from the defendant personally in open court, except when the defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer. In misdemeanor cases, upon the request of a defendant who has made, in writing, a knowing, intelligent and voluntary waiver of his right to be present, the court may accept a plea of guilty in absentia.

(B) A defendant may plead nolo contendere only with the consent of the judge. Such a plea should be accepted by the judge only after due consideration of the views of the parties and the interest of the public in the effective administration of justice. Procedurally, a plea of nolo contendere should be handled under these rules in a manner similar to a plea of guilty.

### **33.11 Record of Proceedings**

A record of the proceeding at which a defendant enters a plea of guilty or nolo contendere shall be made and preserved. The record should include:

(A) the inquiry into the voluntariness of the plea (as required in section 33.7);

(B) the advice to the defendant (as required in section 33.8);

(C) the inquiry into the accuracy of the plea (as required in section 33.9), and, if applicable;

(D) the notice to the defendant that the trial court intends to reject the plea agreement and the defendant's right to withdraw the guilty plea before sentence is pronounced.

## **RULE 36. FILING AND PROCESSING**

### **36.1 Preparation of Documents**

To the extent practical, all materials presented for filing in any state court shall be typed, legibly written or printed on one side only in blue or black ink suitable for reproduction, on opaque white paper measuring 8 1/2" x 11", of good quality, grade and weight. Manuscript covers and backings shall be omitted wherever practical.

### **36.6 Minutes and Final Record**

There shall be one or more books or microfilm records (combined "Minutes Book", "Writ or Pleading Record" and "Final Record") called Minutes and Final Record in which each entire matter (except traffic and T.V.B. cases) shall be recorded after completion. After recording, the original may be destroyed according to the state retention schedule or stored off premises as provided by law.

### **36.8 File Categories**

The categories of files to be established by the clerk shall be civil and criminal, and such sub-categories as the clerk may establish.

### **36.10 Filing Requirements—Civil**

Complaints or petitions presented to the clerk for filing shall be filed only when accompanied by the proper filing fee, fee for sheriff service or a pauper's affidavit, and when applicable, any forms required by law or rule to be completed by the parties. The attorney or party filing the complaint shall furnish the necessary service copies, and shall fill out and attach the appropriate backing sheets.

### **36.15 Assessment of Costs–Criminal**

When costs are assessed the minimum amount assessed as court costs in the disposition of any criminal offense shall be \$50.00. Any surcharge provided for by law shall be in addition.

## **RULE 39. DOCKETING AND INDEXING**

### **39.5 General Execution Docket**

The General Execution Docket shall contain all Fi. Fas. All state court judgments shall be forwarded to the superior court to be recorded in the General Execution Docket, with costs of recording being added to advanced costs. The information to be entered shall be:

- (A) Names of the parties and attorneys of record;
- (B) Names of county and court in which judgment was issued;
- (C) The date of judgment;
- (D) The date of issuance of the Fi. Fa.;
- (E) The date of the recording of the Fi. Fa. on the General Execution Docket;
- (F) The number of the case on which the judgment was rendered; and
- (G) The amount of principal, costs, attorney fees, interest, penalties, and total amount of the Fi. Fa. on the case.

Nulla Bona's and satisfactions are to be noted on the original entry. Re-issued Fi. Fas. shall be recorded as a new Fi. Fa. in the General Execution Docket. A cross-reference to that new entry shall be made on the original entry of the Fi. Fa. or the last renewal of the Fi. Fa. which is less than seven years old.

### **39.7 Suggested Forms**

The forms below are suggested for use in all state courts in this state.

### **39.9 Court Information**

The chief judge of each State Court may require the clerk of that court to furnish to the chief judge within 10 days after the end of each month, a general civil and a criminal (including traffic violation bureau offenses, OCGA § 40-13-50 et seq.) caseload management report. The Chief Justice of the Supreme Court of Georgia may request copies of the information that is furnished to the Chief Judges of the State Courts pursuant to this rule.

The case types, events types and disposition methods used in these reports will conform to Judicial Council guidelines for reporting caseload. Each such report shall include the following:

- (A) the number of cases filed by case type in the prior month and year-to-date;

(B) the number of cases disposed by case type and disposition method in the prior month and year-to-date;

(C) the number and type of pending cases;

(D) a list of cases more than 120 days old (criminal) and 180 days old (civil) to include the following data:

(1) case number,

(2) style,

(3) case type,

(4) filing date,

(5) next event scheduled,

(6) date of that event; and

(E) any other information the chief judge requests that is contained within the court's standardized computer programs.

Rule 39.9 adopted October 9, 1997.

### **RULE 43. CONTINUING JUDICIAL EDUCATION**

**A.** Every state court judge (including senior judges who serve more than 30 days a year and any pro hac vice judge serving for more than 30 days a year, or any person serving as a state court judge for more than 30 days a year) shall attend approved MCJE courses and/or MCLE courses approved by ICJE for credit for judges, or other educational programs or activities approved by ICJE for credit for judges, totaling a minimum of 24 hours every two (2) years. At least two hours of the mandated 24 hours shall be approved ICJE "ethics studies."

**B.** It is recommended that judges acquire the judicial study at the rate of 12 hours per year, but sanctions do not apply if this annual recommendation is not met. It is further recommended that at least one of the two hours required in "ethics" be in the area of judicial ethics, but this is not mandated. For sitting judges, the two-year period shall begin January 1, 1988, and end December 31, 1989, and each two-year period thereafter. Any judge coming on the bench shall acquire pro rata educational credits as required. (For example, a judge coming on the bench in March, 1988, will be required to accumulate 21 credits before December 31, 1989). A judge coming on the bench within the last five months of the educational period shall not be required to acquire credits for the remainder of the period, except for the educational requirements of new judges.

**C.** Each new judge must attend the pertinent Institute of Continuing Judicial Education (ICJE) in-state program of instruction for new judges or its locally administered individual new judge orientation course. Either activity must be attended as soon as possible after the judge's election or appointment, but, in any event, within one year after assuming office. Each new judge is also

encouraged to attend a nationally-based basic course for general jurisdiction trial judges, as set forth in Paragraph D below.

ICJE's program of orientation for new judges is periodically available as a group-oriented, participative, instructional activity (usually in December of each election year), and is always available for self-study by use of audio or videotapes. Credit for new judges studies shall also apply to the requirement in Paragraph A above to the extent ICJE approves credits.

**D.** Additionally, every judge is encouraged to attend national or regional specialty, graduate or advanced programs of judicial and legal education and shall receive such credits as mandated by ICJE.

### **E. SANCTIONING PROCEDURES**

(1) Judges who fail to earn a minimum of 24 hours over a two-year period may receive a private administrative admonition issued from the Education Committee of the State Court Judges Council detailing the consequences of failure to fulfill the training requirements.

In December of each year, the Committee on Mandatory Continuing Judicial Education will receive a report from ICJE detailing the creditable participation of judges in MCJE activities for that year. At the same time, every state court judge will also receive from ICJE a report on his or her creditable activity.

Persons failing to attain the required 12 hours in any year will be notified by that committee chair that they have not met the MCJE participation requirement for that year, and a copy of this notice will be furnished to the pertinent chief judge of the judicial administrative district.

Persons failing to earn 24 credit hours over any period of two successive years or, regardless of total hours, failing to earn two (2) hours credit in judicial ethics over any period of two successive years, will be notified by the committee chair that they have not met MCJE participation requirements and may receive a private letter of admonition issued from the committee detailing any deficiencies and consequences. A copy of this notice or admonition will be furnished to the pertinent chief judge of the judicial administrative district, and the President of the State Court Judges Council.

(2) Upon a judge's failure to fulfill the training requirements at the end of three years, the President of the State Court Judges Council shall issue a public reprimand, *with a copy spread upon the minutes of each county in the circuit where the judge serves.*

One month prior to the issuance of a public reprimand, the committee shall issue to any applicable judge a request as to why a public reprimand should not be issued.

Adopted December 14, 1987.

**F.** The following Uniform Superior Court Rules shall not be applicable in state courts:

Rules 24.1 through 24.7-Domestic Relations.

Rules 34.1 through 34.5-Unified Appeal.

