

IN THE SUPERIOR COURTS FOR THE NORTHERN JUDICIAL CIRCUIT

STATE OF GEORGIA

AMENDED STANDING ORDER OF PROCEDURE FOR FELONY CRIMINAL CASES

In keeping with the needs of judicial efficacy and requirements of due process in criminal proceedings, the Superior Courts of the Northern Judicial Circuit hereby issue this Amended Standing Order, amending and supplanting the Standing Order entered by the Court on January 3, 2018, applicable to all felony criminal cases in the Northern Judicial Circuit:

-1-

The date of arraignment for a criminal defendant charged with a felony shall be the triggering date from which all following actions and times within this Standing Order are measured.

-2-

A criminal defendant charged with a felony shall file any motions within thirty (30) days from the date of arraignment, except as may be otherwise permitted by law. Good cause shall be required for the filing of any motion(s) outside thirty (30) days of arraignment.

-3-

The State shall provide all discovery required by law to counsel for the Defendant, or otherwise to a Defendant proceeding pro se, no later than forty-five (45) days following the date of the Defendant's arraignment, and shall file a certificate of service of such discovery with the Clerk of Court.

-1-

-4-

If the Defendant elects to participate in statutory reciprocal discovery, the Defendant shall provide all required discovery no later than thirty (30) days following receipt of discovery from the State, and shall file a certificate of service of such discovery with the Clerk of Court.

-5-

All discovery shall be amended or updated immediately upon a party receiving any new/additional discoverable information, with appropriate certificates of service being filed with the Clerk of Court evidencing such. The Court is cognizant of issues that exist as a result of case overload with the Georgia State Crime Lab, but cases listed on the Trial Calendar published by the Court will be expected to be ready for trial, crime lab results included.

-6-

The Defendant and the State shall particularize any motions previously filed in the action no later than ten (10) days prior to the date of the criminal motion day for the term of court in which the Defendant's case is to be called.

-7-

The party who files a motion(s) which requires a hearing by this Court shall place the motion(s) for hearing upon the criminal motion calendar by Rule Nisi no later than ten (10) days prior to the date of the criminal motion day, with a certificate of service being attached thereto evidencing service upon the opposing party. It should be noted that motions/notices filed pursuant to OCGA § 24-4-404 should be scheduled and heard by the Court at the criminal motion day, unless otherwise permitted by the Court for good cause.

-2-

The State shall provide its plea offer, if any, to the Defendant no later than twenty (20) days prior to the date of the calendar call for the term of Court in which the case is to be called for trial.

If the Defendant accepts any plea offer from the State, the Defendant shall have all required paperwork completed and prepared to present to this Court at the beginning of the Criminal Calendar Call, at which time negotiated pleas will be heard by this Court.

Upon an announcement of "Ready" by either the State or the Defendant, the party so announcing is representing to this Court that: **(1)** no discovery is outstanding and all discovery has been provided to the opposing party as required by law, except as otherwise noted herein in Paragraph 5; **(2)** all discovery has been received by a party as required by law, except as otherwise noted herein in Paragraph 5; **(3)** the parties have submitted and reviewed the witness lists of the other party; **(4)** all pending motions in the action have been heard by the Court; and **(5)** that the party is prepared to proceed immediately to trial upon the accusation or indictment that is the charging document of the action before this Court.

In regard to witnesses expected to be called at trial, witnesses for those cases on the published Trial Calendar are expected to be subpoenaed and available for trial, and a party proceeds without subpoena at its own risk. Should a party become aware of the unavailability of a witness for just cause, the Court and opposing counsel shall be notified of that circumstance, in writing, at least five (5) days prior to the trial week, absent emergency or providential cause in

which event notice shall be given as soon as practicable upon a party learning of the witness' unavailability.

-11-

An announcement of "Not Ready" or a request for a continuance of the action by a party shall be charged to that party, and the reason for the announcement or request shall be made in open court on the record.

-12-

A reindictment or reaccusation of an action shall remove a case from its place of priority on the Criminal Trial Calendar and shall cause the time requirements set forth in this Standing Order to start over. Any reindictment or reaccusation shall further cause the continuance of the case to be charged to the State for purposes of constitutional speedy trial claims.

-13-

In the event counsel of record files a Leave of Absence that involves a case in which the Defendant client is incarcerated such that the Defendant's case is entitled to a priority for trial, or in which a Demand for Speedy Trial is filed, the Leave of Absence shall be deemed automatically denied by this Court for any such case(s), unless the Court specifically enters an Order granting the Leave of Absence.

-14-

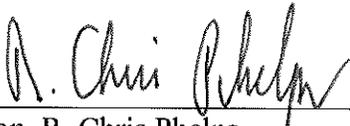
This Standing Order, as amended, shall be effective as of February 20, 2018. A copy of this Amended Standing Order is being provided to the District Attorney's Office and the Public Defender's Office. A copy of this Amended Standing Order shall be provided to the private defense bar at arraignment by the Court.

-4-

IT IS SO ORDERED AND ENTERED, this 5 day of January, 2021.



Hon. Jeffery S. Malcom
Chief Judge of Superior Courts
Northern Judicial Circuit



Hon. R. Chris Phelps
Judge of Superior Courts
Northern Judicial Circuit



Hon. Harvey S. Wasserman
Judge of Superior Courts
Northern Judicial Circuit

**IN THE SUPERIOR COURTS
OF THE NORTHERN JUDICIAL CIRCUIT
STATE OF GEORGIA
ELBERT, FRANKLIN, HART, MADISON AND OGLETHORPE COUNTIES**

STANDING ORDER IN DOMESTIC RELATIONS CASES

1. AFFECTED ACTIONS

Uniform Superior Court Rule 1.2, *as amended*, provides that courts may continue to maintain standing orders regarding certain “internal processes” and other specified matters. Pursuant to O.C.G.A. § 19-1-1(b) and O.C.G.A. § 9-11-65(e), the Court hereby orders that this order shall apply to all domestic relations actions, as defined in O.C.G.A. § 19-1-1(a), upon filing and shall, upon notice, bind the parties, their agents, servants, employees, and all other persons acting in concert with such parties. The aforesaid code section defines “domestic relations actions to include “...any action for divorce, alimony, equitable division of assets and liabilities, child custody, child support, legitimation, annulment, determination of paternity, termination of parental rights in connection with an adoption proceeding filed in a superior court, any contempt proceeding relating to enforcement of a decree or order, a petition in respect to modification of a decree or order, an action on a foreign judgment based on alimony or child support, and adoption.” This order shall apply to all such actions.

2. RESPONSIBILITY FOR SERVICE OF STANDING ORDER

When domestic relations actions are filed requiring service by the sheriff or by publication, the party filing the action (or their counsel) shall attach copies of the filed standing order to the original and service copies of the action. The Clerk of Superior Court shall provide litigants and their counsel with copies of the order for this purpose. The Entry of Service shall reflect that the order was served with the Complaint, Petition, or Motion.

When domestic relations actions are filed with an acknowledgment of service, the party filing the action (or their counsel) shall attach a copy of the filed standing order to the original complaint and give or

mail a copy of the filed standing order to the defendant and file a Certificate of Service stating the method of service. In the alternative, the acknowledgment of service may reflect receipt of this order.

This Standing Order binds the parties in the above-styled action, their agents, servants, employees and all other persons acting in concert with such parties. This Order shall apply to all actions filed on or after the 5 day of Jan., 2021. 

It is, therefore, **ORDERED**, as follows:

3. SPECIFIC PROVISIONS OF STANDING ORDER

1.

A. The custody and control of any minor child(ren) of the parties shall vest immediately in the parent having physical custody of said children on the seventh (7th) day prior to the filing of this action; subject, however to any specific order concerning the same that the Courts may issue. Absent the express written agreement of the parties to the contrary, each party is hereby enjoined and restrained from unilaterally causing or permitting the minor child(ren) of the parties to be removed from the jurisdiction of this Court (the State of Georgia) for a period of more than eight days without permission of the Court, except in an emergency affecting the health, safety, or welfare of the child(ren). At any time that the minor child (ren) are outside of the jurisdiction overnight, the other parent shall be entitled to notice of the location where the children will be during any such time. It being the purpose hereof to preserve the status quo pending a hearing, neither party shall, without the Court's permission, remove the minor child/ren from the school in which they were enrolled immediately prior to the filing of the action. The provisions of this paragraph shall not apply where an order providing for custody/visitation is in effect prior to the filing of the action subject to this order.

B. Each party is hereby enjoined and restrained from doing, or attempting to do, or threatening to do, any act which injures, maltreats, vilifies, molests, or harasses, or which may, upon judicial determination, constitute threats, harassment, or stalking the adverse party or the child(ren) of the parties.

C. When an action for divorce or separate maintenance is pending, neither party shall sell, mortgage, create a lien upon, increase the amount of debt secured by, encumber, trade, damage, destroy, contract to sell, or otherwise dispose of or remove from the jurisdiction of this court any property or pets in which either party has an interest, or make any substantial change in the assets of either party. The foregoing is not intended to prohibit transactions in the ordinary course of business affairs for fair value, for example, payment of routine household expenses, mortgage payments, payments for attorney's fees, etc. Neither party shall disconnect or have disconnected any utility providing service to the home of the other party. Neither party shall change, have changed, cancel or have canceled any motor vehicle, property, health, life or other insurance presently in effect which protects the parties or any of their children or property. Neither party shall interfere with the mail of the other party or any mail of any child of the other party.

2.

Mediation in Contested Cases

Mediation or participation in a Judicially Hosted Settlement Conference shall be required in all unresolved actions for divorce, separate maintenance, legitimation and modification of custody/visitation, child support (except Child Support Enforcement Actions and actions for contempt), and alimony filed within this circuit. No final contested hearing shall be scheduled until the parties have participated in a mediation or Judicially Hosted Settlement Conference unless the court specifically orders otherwise. The parties may select a mediator from those approved by the Tenth Judicial Administrative District Office of Dispute Resolution, they may use the services of a randomly assigned mediator by the Tenth Judicial District ADR Office, or they may, if they choose, use the services of any mediator registered by the Georgia Office of Dispute Resolution.

The Tenth Judicial Administrative District Office of Dispute Resolution may be contacted at:

325 E. Washington St., Room 210, Athens, Georgia 30601
(706) 613-3210 (phone)
(706) 613-3211 (facsimile)

Mediation is NOT required in cases in which domestic violence is alleged unless the case is specifically assigned by the court to a qualified domestic violence mediator.

3.

Financial Affidavit, Child Support Worksheets, Schedules and Addendum

In contested and uncontested cases with minor children which may involve payment of debts, child support issues and alimony, both parties shall timely file and serve upon the opposing party accurate Financial Affidavits with supporting documentation as per Uniform Superior Court Rule 24.2 *as amended* and Uniform Superior Court Rule 24.2A. No social security numbers or account numbers shall be included in any document filed with the Court. Each account shall be specified by financial institution and the last four digits of the account number. No party shall be required to include full account numbers.

Failure of any party to furnish the Financial Affidavit, in the discretion of the court, may subject the offending party to the penalties of contempt and result in continuance of the hearing until such time as the required affidavit is furnished. Notwithstanding the time limits contained in this rule, the Court may decide a matter without strict adherence to a time limitation, if the financial information was known or reasonably available to the other party, or if a continuance would result in a manifest injustice to a party.

Additionally, in contested and uncontested cases with minor children in which child support is an issue, the worksheet and schedules required by O.C.G.A. § 19-6-15 (effective January 1, 2007) and promulgated by the Georgia Child Support Commission shall be filed and served on the opposing party. These forms may be found at <http://www.georgiacourts.org/csc>. The parties shall submit the same at or before the times set forth in Rule 24.2.

At least fifteen (15) days before any temporary or final hearing in any action for temporary or permanent child support, alimony, equitable division of property, modification of child support or alimony or attorney's fees, the party requesting such hearing shall file with the Clerk of Court and serve upon the opposing party notice of the hearing and the Financial Affidavit. In cases involving child support, the worksheet and schedules required by OCGA § 19-6-15 and promulgated by the Georgia Child Support

Commission, shall be completed insofar as possible and filed with the Clerk of the Superior Court and shall be served upon the opposing party contemporaneously with the filing of the Financial Affidavit required above. At the time of any hearing each party shall provide documentation verifying the accuracy of the income and expenses of childcare, insurance, etc. allege on the child support worksheet.

The opposing party shall file with the clerk and serve upon the other party the Financial Affidavit and the worksheet and schedules within five (5) days of service of the Financial Affidavit, worksheet and schedules unless the Court shortens or enlarges the time.

In any case in which a party has previously filed and served the affidavit, worksheet and schedules and thereafter amends the affidavit or worksheet and schedules, any such amendments shall be served upon the opposing party at least ten (10) days prior to the final hearing or trial and shall be filed with the Clerk of Court at or before trial.

If neither party has moved for a temporary hearing, the Defendant shall serve the other party with the Financial Affidavit, worksheet and schedules with the Answer to the Complaint or thirty (30) days after service of the Complaint, whichever occurs first.

The parties shall file with the clerk and serve upon each other the affidavit and worksheet and schedules (where applicable) at least ten (10) days prior to any court-ordered mediation or other alternative dispute resolution proceeding. **[FAILURE TO COMPLY WILL SUBJECT THE HEARING TO CONTINUANCE AND EXTENDS TO PRO SE LITIGANTS AS WELL]**

4.

Parenting Plans

All parties filing actions involving permanent custody or custody modification (except when a parent seeks emergency relief for family violence) must comply with Uniform Superior Court Rule 24.10 and OCGA § 19-9-1.

The Judges in this circuit, in their discretion, do not require a Parenting Plan prior to the temporary hearing. If the parties are not contesting custody, a joint parenting plan shall be filed at the time of the final

hearing and presented to the Judge along with all other required documents, child support forms and orders prior to the granting of a divorce.

If the parties are contesting custody, proposed parenting plans shall be filed by each party and a copy provided to the other party seventy-two (72) hours prior to the final hearing. Each party shall present a copy of their proposed parenting plan to the presiding judge at the beginning of the final hearing.

The parenting plan must provide the required information as to the specific dates and times for weekend, summer, and holiday visitation, the location for exchange of the children, and the party designated as having final decision-making authority. In the event that the parties have agreed to a joint physical custody arrangement, a Detailed Plan of Living Arrangements for Joint Physical Custody shall be attached to the Parenting Plan as required by Uniform Superior Court Rule 24.10. The Plan of Living Arrangements must specify the manner in which the parties shall share joint physical custody (i.e. the schedule), including the specific dates and times that each party will have the child/ren in their custody during holiday and vacation periods. **[FAILURE TO COMPLY WILL SUBJECT THE HEARING TO CONTINUANCE AND EXTENDS TO PRO SE LITIGANTS AS WELL]**

5.

Seminar for Divorcing Parents

In all cases involving minor children (under the age of 18) in divorce, separate maintenance, paternity, change of custody, visitation, legitimation and other domestic relations actions as may be otherwise ordered by the Court, excluding domestic violence actions, U.R.E.S.A. cases, uncontested visitation modifications, child support modifications, and contempt cases, all parties shall successfully complete the program entitled "Seminar for Divorcing Parents" prior to the final hearing or within 90 days of service of the original complaint, whichever first occurs.

Failure to complete the seminar in a timely manner may subject the party to contempt or other sanctions, including the suspension of visitation. Such failure may also delay any temporary hearings or mediation sessions, and may delay the granting of a final decree of divorce.

This four-hour educational seminar focuses on the developmental needs of children, with emphasis on fostering the child's emotional health during periods of stress. The program is informative, supportive, and directs those individuals who seek additional information or help to appropriate resources.

A Final Decree of Divorce will not be granted unless both parties present proof of attendance. However, the Court's action on a petition will not be delayed by a non-moving or responding party's refusal or delay in completing the seminar. Upon any party's failure to successfully complete the seminar pursuant to this Order, the assigned Judge may take appropriate action, including but not limited to actions for contempt or suspension of visitation.

Participants shall pay the fee by money order, due at the beginning of each seminar, to cover the total cost of the seminar including the presenter's fee, handouts, applications, and program administration. The fee may be waived if a party presents a verified affidavit of poverty and it appears upon investigation that the party otherwise meets the Court's guidelines of indigence. The Tenth Judicial Administrative District Office of Dispute Resolution will administer the seminar using qualified counselors, educators, and trainers pursuant to a contract with the Tenth Judicial Administrative District Office of Dispute Resolution.

A party residing in a distant geographic locale such that attendance is impractical may substitute any seminar approved by the Tenth Judicial Administrative District Office of Dispute Resolution. Additionally, parties may attend any four-hour Superior Court approved parenting seminar in the State of Georgia and, upon proof of attendance, substitute attendance to this seminar. A certificate of attendance is valid for three years. Further, for good cause shown, the assigned Judge may waive the requirement of this program in individual cases. A schedule of seminar dates and the amount of fees may be obtained from the Clerk's Office or from the Tenth Judicial District ADR Office.

6.

Requirements for Orders and Decrees providing for Child Support

With regard to a Final Judgment and Decree of Divorce or any other temporary or final order providing for the payment of support, no particular form is mandated, provided that the requirements of

O.C.G.A. § 19-5-12, O.C.G.A. § 19-6-15, O.C.G.A. § 19-6-29, O.C.G.A. § 19-6-30 and the Uniform Superior Court Rules are met. Therefore, the parties may, but are not required to submit a Child Support Addendum as may be utilized in other circuits, so long as the decree or order includes all of the findings required by law. Specifically, the following must be included:

- A. In cases involving child support, the paragraph concerning continuing garnishment must be inserted in the final judgment and decree. *See* O.C.G.A. § 19-6-30. Also, language concerning whether or not an Income Deduction Order will be entered must be included. *See* O.C.G.A. § 19-6-32. If an Income Deduction Order is entered, the party preparing the decree shall be responsible for the submission to the Court, filing, and subsequent service of the required Notice to Employer and Statement of Obligors Rights
- B. The availability of accident and sickness insurance coverage to either party should be discussed and language included concerning how the medical needs of the children will be paid. *See* O.C.G.A. § 19-6-29. If an Income Deduction Order is used, please include all necessary language in the Child Support Addendum. If the action is contested, the Court shall complete the Child Support Order Addendum at the conclusion of the final hearing or direct the prevailing party to prepare said Addendum and attach it to the final order.
- C. Any order providing for the payment of support must, as required by O.C.G.A. § 19-6-15 include findings of:
 1. The gross income of each parent;
 2. The amount of parenting time for the non-custodial parent;
 3. The “presumptive” support due pursuant to the guidelines;
 4. Whether one or more deviations are applicable and, if so, the reason for the deviation and the reason that the presumptive amount of support would be unjust or inappropriate;
 5. Specify a sum certain and identify the party responsible for the payment of support;
 6. Specify the first date that support is due, the frequency of payments (i.e. weekly, monthly) and the duration of the support payments (i.e. until age 18);

7. The percentage of uninsured healthcare expenses incurred on behalf of the child/ren that each party shall pay.
- D. If a written agreement is entered into by the parties, it must be filed with the Court and incorporated by reference into an order or decree of the court.
- E. A final judgment of divorce shall be prepared so as to conform to the pleadings and the evidence and may restore a maiden or prior name, if requested. O.C.G.A. § 19-5-12. If a party wishes restoration of a maiden or prior name, an appropriate provision must be included in the final judgment and decree of divorce. O.C.G.A. § 19-5-16.

Any deviation from the presumptive amount of support must be reflected in the Child Support Worksheet and Schedules. The amount of support must be stated consistently in the Worksheet, Schedules, Decree, Agreement, and Support Addendum (if any).

In the event that a pro-se party is utilizing forms provided to them by a third-party, including attorneys or their staff, the source of the forms shall be disclosed, in writing, and made a part of the record.

Pro-Se litigants utilizing forms provided by other jurisdictions are cautioned that provisions in those forms must be conformed to the facts of their case, including the correct county and circuit.

- F. Orders of the court shall be reduced to writing by the prevailing party and presented for the judge's signature within ten days of the hearing unless such time is extended or shortened by the court. Failure to submit the order within ten (10) days may result in the case being scheduled by the court for the next civil nonjury date for a status hearing.
- G. At the time of filing, the Domestic Relations Case Filing Initiation Form must be completed and filed with the Clerk of the Superior Court. A Report Of Divorce, Annulment Or Dissolution Of Marriage And Child Support Enforcement State Case Registry (Vital Records Form 3907), in addition to the Domestic Relations Case Final Disposition Information Form, must be filed

with the Clerk of the Superior Court along with the final order of final judgment and decree of divorce. See O.C.G.A. § 31-10-22, § 9-11-133 and <http://www.gscca.org>.

7.

Scheduling Hearings

The Court has a civil motion day each month. Regular civil non-jury hearings, of one (1) hour or less, are scheduled through filing a rule nisi with the clerk's office. Attorneys and/or parties must prepare, and file a rule nisi, setting the case for a hearing before the assigned judge, with proper notice to the other party. All other hearings, and those outlined above that require more than one (1) hour, shall be scheduled through the presiding judge's office. A party who wishes to have a jury trial must stipulate the case, in writing, with the Clerk's office, at least eight (8) weeks prior to the trial week. Notice must be provided to the opposing party.

8.

Ex Parte Orders

Requests for ex parte relief (particularly relating to the issue of child custody) are discouraged, except with regard to petitions for relief under the Family Violence Act. In all actions the opposing party should be made aware of any information provided to the court in connection with an application for an ex parte relief. See Georgia Code of Judicial Conduct, Canon 3 (b) (7). Therefore, applications for ex parte relief shall be considered based solely upon a sworn petition or affidavit filed with the petition or complaint. A copy of such affidavit and any other material provided to the court shall be served upon the opposing party along with the ex parte order. In the event that a party (or attorney) requesting ex parte relief wishes to submit testimony in support of their application, they must provide for the recording of any such communication to the court by court reporter and, in such event, a copy of the transcript or other recording of the oral testimony or communications to the court shall be served upon the opposing party as soon as practicable.

Counsel are reminded of the provisions of section 3.3, subsection (d) of the Georgia Rules of Professional Conduct which provides: **“In an ex parte proceeding...a lawyer shall inform the tribunal of all material facts known to the lawyer that the lawyer reasonably believes are necessary to enable the tribunal to make an informed decision, whether or not the facts are adverse.”** [Emphasis added]. Counsel (and unrepresented parties) should, therefore, disclose to the court in connection with an application for ex parte relief, all information necessary to permit the court to make an informed decision. With regard to an application for an ex parte order regarding custody of minor children, for example, the court should, be made aware of the applicant’s prior history of domestic violence, mental illness, pending TPO’s/Protective Orders, or substance abuse, as well as any serious criminal record.

It is the responsibility of the parties to comply with all applicable state statutes, Uniform Superior Court Rules and Standing Orders of the Northern Judicial Circuit concerning the filing of Domestic Relations actions.

If a party has a legal question, the party should seek the advice of a lawyer, who will be familiar not only with domestic relations law, but will also be familiar with the requirements as specified in this Order, because the Judges are prohibited from giving advice or answering legal questions.

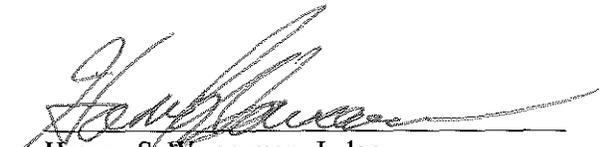
The Clerk of Court shall place a copy of this order upon the minutes.

[SIGNATURES ON FOLLOWING PAGE]

IT IS SO ORDERED, this 5 day of Jan. 2021.


Jeffery S. Malcom, Chief Judge
Superior Courts
Northern Judicial Circuit


R. Chris Phelps, Judge
Superior Courts
Northern Judicial Circuit


Harvey S. Wasserman, Judge
Superior Courts
Northern Judicial Circuit

IN THE SUPERIOR COURTS OF THE NORTHERN JUDICIAL CIRCUIT

STATE OF GEORGIA

STANDING ORDER REGARDING WAIVER OF ARRAIGNMENT

Effective upon the date of this Order, if Counsel for a Defendant presents a Waiver of Arraignment and Plea of Not Guilty prior to a scheduled arraignment, the Court directs that the Clerk of Court shall provide to Counsel for the Defendant the Notice form prepared by the Judge's office, to be signed by Counsel and the Defendant, to be returned to the Clerk of Court for filing. If Counsel for Defendant provides this form to the Clerk prior to arraignment, then no further action is required. The Clerk of Court may also comply with this directive by e-mailing the form to Counsel for the Defendant. The Court is taking this action so that there is a clear and consistent policy in each county as to the expectations of the Court where a waiver of arraignment is filed.

SO ORDERED, this 5 day of Jan, 2021.



JEFFERY S. MALCOM
CHIEF JUDGE, SUPERIOR COURTS
NORTHERN JUDICIAL CIRCUIT



R. CHRIS PHELPS
JUDGE, SUPERIOR COURTS
NORTHERN JUDICIAL CIRCUIT



HARVEY S. WASSERMAN
JUDGE, SUPERIOR COURTS
NORTHERN JUDICIAL CIRCUIT