

# MEMORANDUM

JUDGE NEAL W. DICKERT

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TO: AUGUSTA BAR ASSOCIATION

DATE: MARCH 29, 2007

IN RE: RULES FOR ASSIGNMENT OF CASES AND ACTIONS AND INTERNAL OPERATING PROCEDURES FOR THE SUPERIOR COURT OF THE AUGUSTA JUDICIAL CIRCUIT (ATTACHED)

Attached are the latest revisions to the rules for the Augusta Circuit. These procedures have been approved by the judges and will be effective as of April 1, 2007. There are very few substantive changes from procedures previously enacted in May, 2005. Nevertheless, there are a couple of changes that need to be mentioned, several of which include placing into the rules certain procedures currently in practice in the Circuit. These include the following:

1. Paragraph Two (2). It has been specifically spelled out that revocations will go back to the sentencing judge and re-indictments will go to the judge to whom the original indictment had been assigned. In addition, the practice of combining revocation hearings and sentencings on new charges have been set forth with a provision allowing either the assigned judge of the new case or the judge before whom the revocation is set to be authorized to handle both cases.
2. Paragraph Two (2). There is a change with regard to domestic relations procedures. While we still maintain the domestic relations division, we have decided that any contempt or any other proceeding to enforce an order shall go back to the judge signing that order, even if that judge is not presently operating in the domestic relations division, i.e., Judges Overstreet, Brown, Dickert, Wheale and Blanchard. Modifications, however, will be placed in the regular rotation and will be assigned to judges presently in the domestic relations division.
3. Paragraph Five (5). This paragraph spells out a policy to insure that, in the absence of an emergency, orders should not be signed until a case is actually filed with the Clerk. Emergency situations do arise where this may not be possible. Once a case is filed and assigned to a judge, that judge should be the one to enter all the orders in the case. If the assigned judge is unavailable, the duty judge would still be available to handle matters. We think the preferable approach is to have a case filed, assigned to a judge, and have counsel seek out that judge after filing for the entry of any order.
4. Paragraph Seven (7). We also added a provision giving the assigned judge the opportunity to waive hearings on motions if such hearing would be unnecessary. We are not deviating from the practice of continuing to have hearings on motions. We are concerned, however, that our present rule might give a prisoner in a *pro se* case the right to demand a hearing in a frivolous matter.
5. Paragraph Thirteen (13). We have confirmed the practice utilized in Columbia County Misdemeanors. The duty judge will handle misdemeanor arraignments on a monthly basis. If a defendant wants to have his or her case sentenced at that time, the duty judge is free to handle those matters. Thereafter, the case will go to the judge to whom the case is assigned.

If there are questions, we will be happy to address them as they arise. I did think, however, that this brief memorandum of explanation might assist in pointing out some of the changes.

STATE OF GEORGIA        )

RICHMOND COUNTY        )

**RULES FOR ASSIGNMENT OF CASES AND ACTIONS  
AND INTERNAL OPERATING PROCEDURES FOR THE  
SUPERIOR COURT OF THE AUGUSTA JUDICIAL CIRCUIT**

Under the authority granted in Uniform Superior Court Rules (U.S.C.R.) for the “assignment of cases and actions” and U.S.C.R. 1.2(C) for “internal operating procedures”, the following Rules are hereby promulgated by a majority of the Judges of the Circuit, effective immediately, for the Superior Courts of the Augusta Judicial Circuit. The Rules are specifically inclusive of and subject to the Uniform Superior Court Rules now in effect.

1. For identification purposes the judges of the Circuit are designated:
  - a. Chief Judge and First Division – Judge J. Carlisle Overstreet
  - b. Second Division – Judge Carl C. Brown, Jr.
  - c. Third Division – Judge Neal W. Dickert
  - d. Fourth Division – Judge Duncan D. Wheale
  - e. Fifth Division – Judge James G. Blanchard, Jr.
  - f. Sixth Division – Judge Michael N. Annis
  - g. Seventh Division – Judge Sheryl B. Jolly
  - h. Eighth Division – Judge J. David Roper

Should any of these judges resign, retire, or otherwise leave office, the judge immediately below that judge in the seniority roster shall move to the numerical position of the retiring judge and each judge junior in seniority shall move to the next lowest number with the retiring judge’s replacement being designated to the Eighth Division.

For operational purposes there are designated:

- a. Civil Proceedings
  - b. Criminal Proceedings
  - c. Domestic Proceedings
4. The Chief Judge (First Division) and Judges of the Second, Third, Fourth and Fifth Divisions shall preside primarily over Civil and Criminal proceedings in Burke, Columbia and Richmond Counties. All civil and criminal cases filed shall be assigned by the respective Superior Court Clerks for the counties of Richmond, Columbia and Burke on a substantially equal and rotating basis among the judges of the First, Second, Third, Fourth and Fifth divisions in numerical sequence, beginning with the First Division, followed by Second Division, Third Division, etc. The clerk shall stamp the name of the assigned judge on the face of the complaint, the indictment, or other initial pleading, when filed. In the event a criminal case is re-indicted, that case shall be assigned to the judge to whom the original case had been assigned. In the event a particular judge is disqualified from presiding in any case, the clerk shall assign the case to the next judge in numerical sequence. All revocations shall be assigned to the original sentencing judge. The judges shall develop and implement, as may be necessary from time to time, allocation of revocations and new trial motions of retiring or retired judges in such a fashion to provide, so far as possible, with a substantially equivalent caseload. Revocations, which involve new felony or misdemeanor charges, may be handled and disposed of either by the judge assigned to hear the newly filed case, or the judge to whom the revocation is assigned. All Domestic Relations actions (with the exception of child support recovery actions) shall be assigned by the Clerk of Superior Court for the respective counties on a substantially equal and rotating basis among the judges of the Sixth, Seventh and Eighth Divisions in numerical sequence. Any action to enforce or modify an order entered by one of these judges shall be reassigned to the judge signing the order sought to be modified or enforced. Actions to enforce orders signed by one of the judges in the First through Fifth Divisions shall be

assigned to that judge for disposition. Actions to modify previous orders entered by one of the judges in the First through Fifth Divisions or orders entered by retiring or retired judges shall be assigned to one of the judges in the Sixth, Seventh, or Eighth Divisions on a substantially equal and rotating basis. In the event a particular judge is disqualified from presiding in any domestic relations case, the clerk shall assign the case to the next available judge in numerical sequence.

3. To insure fairness and equality of caseload, the Clerks of the respective counties, together with the District Court Administrator, shall be authorized to develop and submit to the judges for approval, categories of felonies, for assignment purposes, recognizing that more severe and complicated felonies may require substantially more time than other types of cases.

4. In cases in which the State is seeking the death penalty, presiding Judges shall be assigned on an exclusively rotating and Circuit-wide basis among the Judges of all Divisions on an equal basis. The use of a circuit wide system is adopted to avoid the possible result of one judge being appointed to multiple capital cases at the same time by the separate counties within the circuit. The assignment sequence shall start with the First Division and continue in numerical sequence. For purposes of implementation of these rules, those pending death penalty cases previously assigned will continue to be handled by those assigned judges. Any new death penalty cases shall be assigned in numerical sequence to those judges not presently having an assigned death penalty case or those judges who have not previously been assigned a death penalty case. The Chief Judge, or his designee, shall administer this assignment system.

5. In all cases in which a rule, citation, or hearing is sought, counsel for movant shall obtain a hearing date from the office of the assigned judge and present such rule or citation to that judge. In absence of an emergency, each action must be filed and presented to the assigned judge before any order is signed by any judge. At arraignment, the assigned Judge in criminal matters may set a date pursuant to Rule 7.3, U.R.S.C., for the conclusion of all matters set out in the Rule not

previously decided.<sup>1</sup> All parties shall present at this time to the court the status of all plea negotiations and offers to conclude the case without jury trial. All post-trial motions shall be presented to the Judge who tried or presided over the trial of the case.

6. All rules and citations in Richmond County Superior Court shall be made returnable to the assigned Judge presiding over the proceedings at, Superior Courts, Augusta Judicial Circuit, Third Floor, City-County Building, 530 Greene Street, Augusta, Georgia 30911. All rules and citations in Burke and Columbia County Superior Courts, shall be made returnable to the assigned Judge presiding over the proceedings of the respective County at the County Courthouse in Burke or the Courthouse or Justice Center in Columbia County, respectively, unless ordered otherwise.

7. Under the authority granted in U.S.C.R. 1.2(C) and 6.3, all motions in civil actions shall be heard in oral hearings, unless the assigned judge deems such hearing unnecessary. Oral testimony will not be heard in any motions hearing, except for hearings which by their nature are evidentiary, such as Domestic Relations, Habeas Corpus actions, suppression motions, and *Jackson vs. Denno* hearings, unless by consent of the Judge assigned to such case.

8. The names of the Judges presiding in Civil, Criminal, and Domestic proceedings, respectively, shall be posted on the bulletin boards on the ground and third floors of the City-County Building in Augusta, Richmond County, and on the ground floor of the Burke County Courthouse in Waynesboro, Columbia County Courthouse in Appling and the Columbia County Justice Center

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<sup>1</sup> 7.3. **Criminal matters.**

At or after the arraignment, pre-trial conferences may be scheduled as [sic] the judge as he deems appropriate. Such pre-trial conferences shall be attended by the attorneys who will actually try the case. At the pre-trial conference:

All motions, special pleas and demurrers not previously determined shall be presented to and heard by the judge. Any and all pending motions not called to the judge's attention at the pre-trial conference shall be deemed to have been abandoned and waived; however, at the judge's discretion and for good cause, such matters may subsequently be heard. At the discretion of the judge, the disposition of any matter brought before the court may be postponed.

(A) To the extent possible without revealing confidential trial strategies, the attorneys shall inform the judge of probable evidentiary problems known to them or any other matter which might delay the trial so the judge may take any necessary action before the trial to avoid a delay.

(B) If possible, the judge shall set a firm trial date.

Counsel are encouraged to enter into reasonable stipulations.

in Evans, in conspicuous view for interested persons.

9. Civil, Criminal and Domestic Jury trial calendars shall be prepared by the calendar clerks of the respective judges under the direction of the assigned judge. Because of the limited courtroom space, particularly in Richmond County, each judge shall have available to him or her and shall be assigned either Courtroom I or Courtroom II at the City-County Municipal Building in Richmond County, either courtroom II or IV in the Columbia County Courthouse Annex in Columbia County and the courtroom in the Burke County Courthouse in Burke County for designated times during the year. Each judge shall have access to an equal amount of courtroom time for his or her use. With the assistance of the District Court Administrator, a schedule of courtroom use shall be prepared on an annual basis. Nothing in this rule is intended to preclude any judge from moving or swapping his or her week with another. The primary purpose of this paragraph is to insure equal amount of courtroom time to all judges. In the event assistance is needed by a judge during jury trial weeks in civil, criminal and domestic cases, assigned judges may request the assistance of other judges to preside over jury trials and may, with the consent of such judge, transfer an assigned action to that judge as provided for in U.S.C.R. 3.3.

10. Each assigned Judge shall have the responsibility for scheduling all trials and for the publication of all necessary calendars in advance of trial dates.

11. To assist the assigned Judge in placing civil and domestic actions on the ready list in accordance with U.S.C.R. 1.2(C) and 8.2, counsel may request that an action be placed on the ready list by the Court, upon notice to all other parties, who shall have ten (10) days thereafter to present any written objections to the Court's placing the action on the ready list. The assigned Judge shall hear and determine the merits of any objections, and the action will be placed on the ready list, or not, in the discretion of this Judge. By requesting a case be placed on the ready list, counsel is affirmatively representing to the Court that the case is ready for trial and all discovery is complete. Opposing counsel likewise acquiesces in that representation, agreeing that the case is ready for trial

and that all discovery is complete by not objecting to the placing of the case on the ready list within the 10 day period. Thereafter there shall be no further discovery permitted except for good cause shown.

12. Pursuant to U.S.C.R. 1.2(C) and 8.4, each judge, or his or her designee, shall have the authority to schedule a calendar call preceding each week of civil, criminal, and domestic trials for the purpose of setting a specific date and time within the next trial week for the trial of as many actions from the ready list as in his or her judgment and discretion can be reached and disposed of within the week, and this list will be designated as the trial calendar. The attached standing pre-trial order (Exhibit "A") shall be entered in every civil and domestic case scheduled for jury trial in each county in the circuit.

13. The Judges shall publish, on an annual basis, a list of two judges to take responsibility for emergency matters for each month of the year. Those judges shall be designated the duty judge with one judge appointed for civil and criminal matters and another judge appointed for domestic matters. These judges shall have responsibility to handle emergency matters, matters involving cases assigned to judges who may be unavailable, and any other matter not provided for by these rules and procedures. Misdemeanor arraignments in Columbia County shall be handled during each month by either or both of the designated duty judges as they may agree between themselves. In the event a misdemeanor case can be concluded at arraignment by a plea and sentencing, the duty judge shall be authorized to accept any plea and pronounce any sentence at the time of arraignment. In the event the case cannot be concluded at arraignment, the case shall be the responsibility of the judge assigned the case. Child support recovery actions shall be scheduled by the Child Support Recovery Office, and the judges in the Domestic Relations Division (Sixth, Seventh and Eighth Divisions) shall schedule in advance the particular judges designated to hear all cases set for such date.

14. These Rules amend and supersede any and all previous such Rules for the Augusta Judicial Circuit and shall be reviewed periodically by the Judges of this Circuit. An assessment and

evaluation of the effectiveness of these rules will be made on or before December 31, 2007. Unless renewed on or before December 31, 2007 by a majority of the judges then in office, these rules and procedures shall expire on January 1, 2008.

These procedures having been adopted by the undersigned Judges, this \_\_\_\_  
\_\_\_\_ day of \_\_\_\_\_, 2007, shall be effective as of April 1, 2007.

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J. CARLISLE OVERSTREET  
J. S. C. A. J. C.

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CARL C. BROWN, JR.  
J. S. C. A. J. C.

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NEAL W. DICKERT  
J. S. C. A. J. C.

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DUNCAN D. WHEALE  
J. S. C. A. J. C.

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JAMES G. BLANCHARD, JR.  
J. S. C. A. J. C.

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MICHAEL N. ANNIS  
J. S. C. A. J. C.

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SHERYL B. JOLLY  
J. S. C. A. J. C.

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J. DAVID ROPER  
J. S. C. A. J. C.

**IN THE SUPERIOR COURT FOR THE COUNTY OF**  
**\_\_\_\_\_ , STATE OF GEORGIA**

	)	
Plaintiff	)	CIVIL ACTION FILE
	)	
_____	)	NO. _____
vs.	)	
	)	
	)	
Defendant.	)	<b><u>PRE-TRIAL ORDER</u></b>
_____	)	

The above-captioned case is now assigned to the active jury trial calendar. All parties are required to mark for identification all documentary and physical evidence to be tendered at trial and to provide to opposing counsel, or opposing party, copies of such documentary or physical evidence no later than 5:00 p.m. on Friday before the beginning of the trial week. Documentary evidence offered solely for the purpose of impeachment is not included in this requirement [*Howard v. Myers*, 275 Ga. 817 (2002)]. Absent good cause shown, the failure to provide to opposing counsel, or opposing party, copies of such evidence sought to be introduced shall bar its admission.

IT IS SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Judge of Superior Court  
Augusta Judicial Circuit

**Exhibit "A"**