RULES OF THE GEORGIA

STATE-WIDE BUSINESS COURT

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RULES OF THE GEORGIA STATE-WIDE BUSINESS COURT

ARTICLE 1. SCOPE OF RULES

Rule 1-1. Scope of Rules and Construction

These rules shall govern all actions in the Georgia State-wide Business Court. They shall be construed and administered to secure the just, efficient, and economical resolution of all matters. It is not the intention, nor shall it be the effect, of these rules to conflict with the Constitution of the State of Georgia or substantive State law. These rules shall prevail over a Standing Order of the Business Court.

Rule 1-2. Title and Citation

These rules shall be known and may be cited as the Business Court Rules. Citations to these rules should follow the citation format BCR [article number-rule number] (e.g., BCR 1-2). The parts of each BCR shall be labeled and may be cited as follows:

"(a) Section.

(1) Subsection.

(A) Paragraph.

(i) Subparagraph."

Rule 1-3. Amendments

The Business Court may recommend to the Supreme Court changes and additions to these rules if such changes are necessary or desirable.

Rule 1-4. General Definitions

As used in these rules:

(1) The term "attorney" means any person admitted to practice in the Business Court or any person who is permitted, in accordance with law, to represent a party in an action pending in the Business Court. The term "counsel" has the same meaning as "attorney" in these rules.

(2) The terms "Business Court" or "Court" mean the Georgia State-wide Business Court and not a particular Judge of the Business Court.

(3) The term "Civil Practice Act" means the Georgia Civil Practice Act, OCGA § 9-11-1 et seq.

(4) The term "Clerk" means the Clerk of Court for the Business Court.

(5) The term "e-file" means the act of filing via the Business Court's electronic filing system.

(6) The term "filing" means a submission to the Clerk, either in paper or electronic form.

(7) The terms "Judge" or "Chief Judge" mean a Judge of the Georgia State-wide Business Court exercising jurisdiction with respect to a particular matter, action, or proceeding in the Business Court.

ARTICLE 2. COMMENCEMENT OF ACTION

Rule 2-1. Fees, Expenses, and Exceptions

(a) **Filing Fee**. Except as provided in section (c) of this rule or BCR 2-4 (h), payment of a filing fee in the amount of $3,000 shall be made contemporaneously with the filing of any action.

(b) **Other Fees**. Except as provided in section (c) of this rule or BCR 2-4 (h), each party or person serving as an attorney for a party in a Court proceeding shall pay any fee required by the Court. A fee schedule shall be posted on the Court's website.

(c) **Indigence Exception**. A person who is unable to pay a fee in section (a) or (b) of this rule because of indigence may obtain the necessary information on the Court's website or at the Clerk's office to apply to proceed in forma pauperis.

Rule 2-2. Certificate of Interested Persons and Corporate Disclosure Statement

(a) **Purpose and Scope**. To enable a Judge of the Court to evaluate possible disqualification or recusal, counsel for all parties shall, at the time of first appearance, file with the Clerk a "Certificate of Interested Persons and Corporate Disclosure Statement" (the "Certificate") in the form described in section (c) of this rule. Counsel may petition the Court for permission to file the Certificate in camera or under seal. It shall be in the Court's discretion as to whether to grant or deny such petition.

(b) **Duties of Counsel**. Each attorney shall have a continuing duty to notify the Court of any additions to or deletions from the Certificate.

(c) **Form of Certificate**. The Certificate shall be signed and dated, and shall specifically contain a full and complete list of:

(1) each party to the action, including a parent corporation or publicly held corporation that owns ten percent or more of the stock of a party;

(2) all other persons, associations, firms, partnerships, or corporations having either a financial interest in, or other interest that could be substantially affected by, the outcome of the particular case; and

(3) each person serving as an attorney for the parties in the proceeding.

Rule 2-3. Venue

(a) **Direct Filing**. For a case directly filed with the Business Court, venue shall be as provided in OCGA § 15-5A-2 (e) (1).

(b) **Removed or Transferred Action**. For a case removed or transferred from a superior or state court, venue shall be as provided in OCGA § 15-5A-2 (e) (2).

(c) **By Agreement**. If all parties agree on the proper venue, venue shall be as provided in OCGA § 15-5A-2 (e) (3).

(d) **Trial**. Absent agreement of the parties, a trial of a case before the Court shall take place in the county where venue is proper pursuant to OCGA § 15-5A-2 (e).

Rule 2-4. Direct Filing, Removal, Transfer, Objection to Jurisdiction, Return of Filing Fee, and Related Orders

(a) **Direct Filing, Removal, and Transfer**. An action may be brought to the Business Court by one of three methods: (1) the direct filing of a pleading with the Business Court; (2) the filing of a Petition for Removal of an existing action from a superior or state court by agreement of all parties; or (3) the filing of a Petition to Transfer an existing action from a superior or state court by one or more parties, but not all parties. Methods (1), (2), and (3) in this section shall be governed by the procedures in sections (c)-(j) of this rule.

(b) **Objection to Jurisdiction**. A party who objects to having an action proceed in the Business Court may file an Objection to Jurisdiction, together with a proposed order, seeking the transfer of the case to a superior or state court in which venue is otherwise proper.

(c) **Direct Filing – Generally**. Actions directly filed with the Business Court, and objections to the same, shall be governed by OCGA § 15-5A-4 (a) (1). A defendant who objects to having an action proceed in the Business Court shall file an Objection to Jurisdiction, together with a proposed order, seeking the transfer of the case to a superior or state court in which venue is otherwise proper.

(d) **Direct Filing – Forum Selection Clause**. A forum selection clause specifically identifying the Business Court shall be enforced to the extent it is consistent with the requirements of OCGA § 15-5A-4 (a) (1) and not otherwise invalid under State law.

(e) **Removal of Existing Actions by Agreement**. The removal of an existing action pending in superior or state court by agreement of the parties shall be governed by OCGA § 15-5A-4 (a) (2). A party seeking the removal of an action from superior or state court to the Business Court shall file a Petition for Removal containing a short and plain statement of the grounds for removal and all parties' agreement to remove the action, together with a copy of all process, pleadings, and orders served upon each party in such action. The Business Court shall determine whether to grant or deny the petition after such documents are received.

(f) **Transfer of Existing Actions**. Existing actions transferred to the Business Court from a superior or state court, and objections to such transfer, shall be governed by OCGA § 15-5A-4 (a) (3). A party seeking to transfer an existing action from a superior or state court shall file with the Business Court a Petition to Transfer containing a short and plain statement of the grounds for transfer, together with a copy of all process, pleadings, and orders served upon each party in such action. A party objecting to a Petition to Transfer shall file an Objection to Jurisdiction within 30 days of the filing of the Petition to Transfer.

(g) **Further Pleading and Answer**. If the Court grants a party's Petition for Removal (see OCGA § 15-5A-4 (a) (2)) or Petition to Transfer (see OCGA § 15-5A-4 (a) (3)), repleading shall not be required unless the Court orders otherwise. A party who did not file a responsive pleading prior to the filing of a Petition for Removal or Petition to Transfer shall file such pleading within 30 days of the date of the Court's order granting such petition.

(h) **Filing Fee Returned**. If the Court declines to exercise jurisdiction over an action, the Court shall direct the Clerk to reimburse the filing party or parties the full amount of the filing fee, less applicable administrative fees and expenses, if any. See sections (a) and (b) of BCR 2-1.

(i) **Additional Orders and Superior or State Court Records**. In a case removed or transferred from a superior or state court, the Court may issue all necessary orders and process to bring before it all proper parties and court records. Unless otherwise

ordered by the Court, the parties may stipulate to the particular records and proceedings from the superior or state court that will be filed with the Clerk or, alternatively, may procure and file a certified copy of all such records and proceedings with the Clerk. If a party is entitled to copies of the records and proceedings in an action in superior or state court and the clerk of such court does not timely deliver certified copies thereof after receiving a timely request and payment of fees for the same, the Court may direct such records and proceedings be supplied by a party by affidavit or otherwise. Thereupon such proceedings, trial and judgment may be had and all process awarded as if certified copies had been filed in the Court in the first instance.

(j) **Notice to Superior or State Courts**. Promptly after the filing of a Petition for Removal or Petition to Transfer under this article, the party seeking removal or transfer shall file a Notice of Removal or Notice of Transfer, as applicable, with the clerk of the superior or state court where the action was then pending. No further action shall proceed unless and until the Court declines to exercise jurisdiction over such action and, if applicable, transfers the action back to the superior or state court from where it was removed or transferred.

ARTICLE 3. FILING, PROCESSING, AND SERVICE

Rule 3-1. Mandatory Electronic Filing

Except as otherwise specified in these rules, all filings in the Court shall be made electronically through the Court's e-filing system, and such filings shall comply with statewide minimum standards and rules for electronic filing adopted by the Judicial Council of Georgia. Any request to be excused from the requirements of this rule must be timely presented to the Court and demonstrate good cause therefor. Instructions for filing documents through the Court's e-filing system shall be made available on the Court's website.

Rule 3-2. Self-Represented Litigants

To protect and promote access to the Court, this Court shall reasonably accommodate self-represented parties by accepting and then converting and maintaining in electronic form paper pleadings or other documents received from self-represented filers.

Rule 3-3. User Account and E-mail Address

Upon first appearing in a case in this Court and unless excused from using the e-filing system, all parties or their counsel shall promptly register for a user account on the Court's e-filing system using a valid e-mail address and shall be responsible for maintaining a functioning e-filing user account and e-mail address. Except as

otherwise specified in these rules, correspondence from the Court and electronic service shall be sent to the e-mail address associated with the party's user account.

Rule 3-4. Documents that May be Filed Electronically

Any document may be electronically filed in lieu of paper by the Court, the Clerk, and any registered filer unless electronic filing is expressly prohibited by law, these rules, or Court order. Electronic filing is expressly prohibited for documents that, according to law, must be filed under seal or presented to the Court in camera, or for documents to which access is otherwise restricted by law, these rules, or Court order. Original depositions are not "sealed documents" within the meaning of this rule and may be filed electronically.

Rule 3-5. Force and Effect

Electronically filed court records have the same force and effect and are subject to the same right of public access as are documents filed by traditional means.

Rule 3-6. Electronic Signatures

(a) **Form**. All filings shall be signed using an electronic signature (unless the filing party has been excused from using the e-filing system). For purposes of this rule, an electronic signature means a person's typed name preceded by the symbol "/s/" or a scanned and legible ink signature. An electronically filed document is deemed signed by the registered filer submitting the document as well as by any other person who has authorized signature by the filer. By electronically filing the document, the filer verifies that the signatures are authentic. An electronic signature shall serve as a signature for purposes of the Civil Practice Act.

(b) **Multiple Signatures**. A filing submitted by multiple parties shall bear the electronic signature of at least one attorney for each party that submits the filing. By filing a document with multiple electronic signatures, the attorney whose user account is used to file the document shall certify that each signatory has authorized the use of his or her signature.

(c) **Form of Signature Block**. Every signature block shall contain the signatory's name, State Bar number (if applicable), physical address, phone number, and e-mail address.

Rule 3-7. Time of Filing and Service

(a) **Time Zone**. A party shall file all motions, briefs, or other documents required to be filed before midnight Eastern Time to be considered timely filed on that day, unless

otherwise agreed to by the parties or ordered by the Court. The foregoing shall also apply to service of all other documents required to be exchanged, but not filed, during litigation (e.g., discovery responses), unless otherwise agreed to by the parties or ordered by the Court.

(b) **Time of Filing**. An electronic document is presumed filed upon its receipt by the Court's electronic filing system, which shall automatically confirm the fact, date, and time of receipt to the filer. Absent evidence of such confirmation, there is no presumption of filing.

Rule 3-8. Notice of Filing

When a document is filed and accepted by the Clerk, the Court's e-filing system shall send an e-mail notifying the filing party that the filing has been accepted and docketed. A filing shall not be complete until it is accepted and stamped by the Clerk. A document filed electronically shall be deemed filed on the date and at the time that it is submitted to the Court in the e-filing system unless the filing is rejected. If for any reason the e-filing system fails, the filing party shall follow the procedures in BCR 3-17.

Rule 3-9. Notice and Entry of Orders, Judgments, and Other Matters

Except as otherwise specified in these rules, the Court shall transmit all Court-issued documents through the e-filing system or case management system or both, which, in turn, shall send a notice to all parties at the e-mail address associated with the party's e-filing user account. Such notice shall constitute entry and service of the same for purposes of the Civil Practice Act. If a self-represented litigant is permitted to forgo use of the e-filing system under these rules, the Court shall deliver a paper copy of all Court correspondence and filings to that self-represented litigant by alternative means.

Rule 3-10. Service

(a) **Electronic Service**. E-filed documents may be electronically served through the Court's e-filing system. After a filing has been accepted by the Clerk, a notice of statutory electronic service will be generated by the e-filing system and sent to the individuals registered with the e-filing system to receive electronic service and the individuals selected by the filer to receive electronic service. Such notice shall constitute adequate service under the Civil Practice Act with respect to the filed document. Although permitted, service by other means authorized under the Civil Practice Act shall not be required unless the party served is a self-represented litigant who has not yet established a user account or who has been excused from using the e-filing system.

(b) **Service of Non-Filed Documents**. When a document must be served but not filed, the document shall be served by e-mail unless: (1) the parties have agreed to a different method of service; or (2) another manner of service is required under these rules or by Court order. Service by e-mail under this rule constitutes adequate service under the Civil Practice Act.

(c) **Service on a Self-Represented Litigant**. All documents filed with the Court shall be served upon a self-represented litigant by any method allowed by the Civil Practice Act unless the Court or these rules direct otherwise.

Rule 3-11. Formats, Margins, Case Captions, and Numbering

(a) **Format – Generally**. Pleadings, motions, and other documents presented to the Court for filing shall be computer processed, typed, or hand-printed on one side of the page only; double-spaced between lines; and free of erasures and interlineations.

(b) **Format – Fonts and Footnotes**. Computer-processed documents shall be prepared in one of the following fonts: Times New Roman (at least 14 point), Courier New (at least 12 point), or Book Antiqua (at least 13 point). Footnotes, headings, and indented quotations may be single-spaced.

(c) **Margins**. All pleadings, motions, and other documents shall be prepared with a margin of at least one inch at the right, left, top, and bottom of each page.

(d) **Paper Filings**. All paper documents filed with the Court shall be presented for filing on white opaque paper of good quality, eight and one-half inches by 11 inches in size, with writing appearing only on one side of the page. Paper filings shall not be accepted absent a prior order of the Court.

(e) **Case Captions and Case Numbers**. All documents presented for filing shall bear a caption that sets out the exact nature of the document filed. Generalized captions, such as "Responsive Pleadings," shall not be accepted for filing. Upon filing, all actions filed in the Court shall be assigned a case number designating the last two digits of the year, the Court's initials (i.e., "GSBC"), and the numerical sequence in which the case was filed (e.g., 21-GSBC-0000). After a case number is assigned, all documents presented to the Clerk for filing and all case-related correspondence shall include the assigned case number. Any document presented for filing that does not reflect the complete case number described in this rule shall not be accepted for filing.

(f) **Numbering**. All pages shall be numbered consecutively at the bottom center of the page. Attachments to pleadings shall be numbered consecutively within the attachment.

Rule 3-12. Filing of Transcripts

Transcripts in all matters shall be filed as provided by law. The Clerk shall not be required to record or preserve transcripts in a bound book or on microfilm.

Rule 3-13. Filing Requirements

Complaints or other initial pleadings presented to the Clerk for filing shall be filed only if accompanied by the proper filing fee, administrative fee, or affidavit of indigence; and, if applicable, any other form required by law or rule to be completed by the parties. Judgments, settlements, dismissals, and other dispositions presented to the Clerk for filing shall be filed only if accompanied by a case disposition form (see BCR 19-4).

Rule 3-14. Case Initiation Questionnaire

When filing a pleading to initiate a proceeding in the Court, the filing party shall complete a Case Initiation Questionnaire in the e-filing system. By submitting case information through the e-filing system, the filing party affirms that the information is complete and accurate to the best of the filer's knowledge.

Rule 3-15. Return of Service

Entry of return of service shall be filed with the Clerk.

Rule 3-16. Procedures for Handling Misfiled, Deficient, or Defective E-Filings

Upon physical acceptance and review of an e-filing, and discovery that it was misfiled or is otherwise deficient or defective, the Clerk shall as soon as practicable provide the e-filer notice of the deficiency or defect and an opportunity to cure or, if appropriate, reject the filing altogether. In any case, the Clerk shall retain a record of the action taken by the Court in response, including the date, time, and reason. Such records shall be maintained until a case is finally concluded, including the exhaustion of all appeals. Absent a Court order to the contrary, such records shall be accessible to the parties and the public upon request without the necessity for a subpoena.

Rule 3-17. Procedures if E-Filing System Appears to Fail and Anticipated Difficulties

(a) If electronic filing or service is prevented or delayed because of a failure of the e-filing system, the Court will enter appropriate relief, such as the allowance of filings nunc pro tunc (i.e., having retroactive effect) or the provision of extensions to respond.

(b) If a person attempts to e-file a document, but (1) the person is unable for technical reasons to transmit the filing to the Court; (2) the document appears to have been transmitted to the Court, but the person who filed the document does not receive an e-mail confirming the filing has been accepted; or (3) some other technical reason prevents the person from filing the document, then the person attempting to file the document shall e-mail the document for which filing attempts were made to the Clerk at filinghelp@gsbc.us, copying all parties of record and including a brief explanation of the relevant technical failure and the date and time of such failure. If timely delivered in accordance with BCR 3-7 (as evidenced by the time and date stamp on the e-mail), the e-mail to filinghelp@gsbc.us shall satisfy all applicable requirements of this article.

(c) If a party anticipates difficulties or actually experiences difficulties with filing voluminous materials (e.g., exhibits to motions or transcripts) using the Court's e-filing system, then counsel should proactively contact the Court for assistance.

Rule 3-18. Sensitive Information

(a) In accord with OCGA § 9-11-7.1 and to promote public electronic access to court records while also protecting sensitive information, unless otherwise ordered by the Court, all documents filed in the Court shall include only the following when listing certain sensitive information:

(1) The last four digits of a social security number.

(2) The last four digits of a taxpayer identification number.

(3) The last four digits of a financial account number.

(4) The year of an individual's birth.

(b) Counsel and the parties shall also limit, if possible, public disclosure of non-public residential addresses, phone numbers, and e-mail addresses belonging to another party, a witness, or a potential witness.

(c) The responsibility for omitting or redacting personal identifiers rests solely with counsel and the parties. The Clerk will not review filings for compliance with this rule.

(d) A party having a legitimate need for sensitive information may obtain it through the ordinary course of discovery, in accordance with Article 5 of the Civil Practice Act, without further order of the Court.

(e) This rule shall not create a private right of action against the Business Court, the Clerk, counsel for any party, or any other individual or entity that may have

erroneously included sensitive identifying information in a filed document that is made available electronically or otherwise.

(f) This rule shall not amend or modify any requirements in Article 15 (Access to Court Records) of these rules.

ARTICLE 4. ATTORNEY APPEARANCE, WITHDRAWAL, AND DUTIES

Rule 4-1. Prohibition on Ex Parte Communications

Judges shall not initiate, permit, or consider ex parte communications, or consider other communications made to them outside the presence of the parties or their lawyers, concerning a pending proceeding or impending matter, except as permitted under the Georgia Code of Judicial Conduct and as otherwise authorized by law or by rule.

Rule 4-2. Entry of Appearance and Pleadings

(a) An attorney shall not appear before the Court until such attorney has entered an appearance by filing a signed entry of appearance form or by filing a signed pleading in a pending action. The entry of appearance form or pleading shall state —

(1) the style and number of the case;

(2) the identity of the party for whom the appearance is made; and

(3) the name, assigned State Bar number, current office address, telephone number, and e-mail address of the attorney (the attorney's e-mail address shall be the same e-mail address registered with the State Bar of Georgia).

(b) The filing of a pleading shall contain the information required in section (a) of this rule and shall constitute an appearance by each person signing the pleading, unless otherwise specified by the Court. The filing of a signed entry of appearance form alone shall not be a substitute for the filing of an answer or any other required pleading.

(c) Any attorney who has been admitted to practice in this State but fails to maintain active membership in good standing with the State Bar of Georgia and makes or files any appearance or pleading in the Court while not in good standing shall be subject to the contempt powers of the Court.

Rule 4-3. Attorney Withdrawal

(a) An attorney who wishes to withdraw as counsel for any party after appearing of record in any matter pending before the Court shall submit a written request to the Court with a proposed order permitting such withdrawal. The request shall state that the attorney has given written notice to the affected client setting forth the attorney's intent to withdraw, that ten days have expired since the notice, and that there has been no objection to withdrawal or the withdrawal is with the client's consent. The request to withdraw shall be granted unless, in the Judge's discretion, doing so would delay the trial or otherwise interrupt the orderly operation of the Court or be manifestly unfair to the client.

(b) The attorney requesting an order permitting withdrawal shall give notice to opposing counsel. A notice of withdrawal shall be filed with the Clerk and served upon the withdrawing attorney's client personally or at that client's last known physical mailing and e-mail addresses. The notice of withdrawal shall also contain at a minimum all the following information:

(1) The attorney wishes to withdraw.

(2) The Business Court retains jurisdiction over the action.

(3) The client has the burden of keeping the Court informed of the address where notices, pleadings, or other documents may be served.

(4) The client has the obligation to prepare for trial or hire new counsel to prepare for trial when the trial date has been scheduled.

(5) The client has the obligation to actively participate in the discovery process (e.g., responding to discovery requests) and to respond to all motions filed in the case.

(6) If the client fails or refuses to meet the burdens described in this rule, the client may suffer adverse consequences.

(7) Dates of any scheduled proceedings (including trial) and that the holding of scheduled proceedings will not be affected by the withdrawal of counsel.

(8) Service of notices may be made upon the client at the client's last known mailing address.

(9) If the client is a corporation, that a corporation may only be represented in the Court by an attorney, that an attorney must sign all pleadings submitted to the Court, and that a corporate officer may not represent the corporation in the Court

unless that officer is also an attorney licensed to practice law in the State of Georgia or is otherwise permitted by law.

(10) Unless the withdrawal is with the client's consent, that the client has a right to object within ten days of the date of the notice. The withdrawing attorney must also state with specificity when the tenth day will occur.

(c) An attorney requesting to withdraw shall prepare a written notification certificate stating that the notification requirements have been met, the manner by which notification was given to the client, and the client's last known mailing and e-mail addresses and telephone number. The notification certificate shall be e-filed in accordance with the requirements of BCR 3-1. The attorney seeking withdrawal shall also provide a copy to the client by the most expedient means available due to the strict ten-day time restraint (e.g., e-mail, hand delivery, or overnight mail). After the entry of an order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal. After the effective date of the withdrawal, all notices or other documents shall be served on the party directly until new counsel enters an appearance.

(d) If an attorney has already filed an entry of appearance and the client wishes to substitute counsel, it shall not be necessary for the former attorney to comply with the requirements in sections (a), (b), and (c) of this rule. Instead, the new attorney shall file with the Clerk a notice of substitution of counsel signed by the new attorney. The notice of substitution of counsel shall contain the style of the case and the name, mailing address, e-mail address, telephone number, and State Bar number of the substitute attorney. The new attorney shall e-file a copy of the notice with the Court (as required by BCR 3-1) and serve a copy of such notice on the former attorney and all other parties or their counsel. No further action shall be required by the former attorney to withdraw from representing the party. The substitution shall not delay any proceeding or hearing in the case.

Rule 4-4. Admission Pro Hac Vice

(a) **Definitions**. As used in this rule:

(1) The term "client" means a person or entity for whom the Domestic Lawyer or Foreign Lawyer has rendered services or by whom the lawyer has been retained prior to the lawyer's performance of services in this State.

(2) The term "Domestic Lawyer" means a person not admitted to practice law in this State but who is admitted in another state or territory of the United States or the District of Columbia and not disbarred or suspended from practice in any jurisdiction.

(3) The term "Foreign Lawyer" means a person authorized to practice law by the duly constituted and authorized governmental body of any foreign nation but not authorized by the Supreme Court of Georgia or its rules to practice law in this State and not suspended from practice in any domestic or foreign jurisdiction.

(4) The term "Georgia Counsel" refers to an active member in good standing of the State Bar of Georgia who sponsors an applicant's pro hac vice request.

(5) The term "Office of General Counsel" means the Office of General Counsel of the State Bar of Georgia.

(6) The term "this State" refers to the State of Georgia.

(b) **Eligibility**. A Domestic Lawyer or Foreign Lawyer shall be "eligible" for admission pro hac vice if that lawyer —

(1) lawfully practices solely on behalf of the lawyer's employer and its commonly owned organizational affiliates, regardless of where such lawyer may reside or work;

(2) neither resides nor is regularly employed at an office in this State; or

(3) resides in this State but (A) lawfully practices from offices in one or more other states and (B) practices no more than temporarily in this State, whether pursuant to admission pro hac vice or in other lawful ways and, in the case of a Foreign Lawyer, is and remains in the United States in lawful immigration status.

(c) **Admission of Domestic Lawyer or Foreign Lawyer**. The Court may, in its discretion, admit an eligible Domestic Lawyer or Foreign Lawyer retained to appear in a particular proceeding pending before the Court to appear pro hac vice as counsel in that proceeding.

(d) **Role of Georgia Counsel**. When a Domestic Lawyer or Foreign Lawyer appears for a client in a proceeding before this Court, either in the role of co-counsel of record with Georgia Counsel, or in an advisory or consultative role, the Georgia Counsel who is co-counsel or counsel of record for the client in the proceeding remains responsible to the client and responsible for the conduct of the proceeding before this Court. It is the duty of the Georgia Counsel to advise the client of the Georgia Counsel's independent judgment on contemplated actions in the proceeding if that judgment differs from that of the Domestic Lawyer or Foreign Lawyer. Georgia Counsel shall receive service of all filings in the action. Georgia Counsel shall also attend in person all proceedings before the Court, unless the Court waives this requirement in advance of such proceedings. Attendance of Georgia Counsel at depositions shall not be required unless otherwise ordered by the Court.

(e) **Application Procedures**. The application procedures to appear pro hac vice before the Court shall be as follows:

(1) **Verified Application**. An eligible Domestic Lawyer or Foreign Lawyer seeking to appear in a proceeding pending in the Court as counsel pro hac vice shall file a verified application with the Court. The application shall be served on all parties who have appeared in the case and the Office of General Counsel. The Court has the discretion to grant or deny the application summarily if there is no opposition.

(2) **Objection to Application**. The Office of General Counsel or a party to the proceeding may file an objection to the application or seek the Court's imposition of conditions to the application being granted. The Office of General Counsel or an objecting party shall file with its objection information establishing a factual basis for the objection. The Office of General Counsel or objecting party may seek denial or modification of the application. If the application has already been granted, the Office of General Counsel or objecting party may move that the pro hac vice admission be withdrawn.

(3) **Standard for Admission and Revocation of Admission**. The Court shall have discretion as to whether to grant an application for admission pro hac vice and to set the terms and conditions of such admission. An application ordinarily should be granted unless the Court or Office of General Counsel finds reason to believe that —

(A) such admission may be detrimental to the prompt, fair, and efficient administration of justice;

(B) such admission may be detrimental to a legitimate interest of a party to the proceedings other than a client the applicant proposes to represent;

(C) such admission may place a client the applicant proposes to represent at risk of receiving inadequate representation and such client cannot adequately appreciate that risk;

(D) the applicant has engaged in such frequent appearances as to constitute the regular practice of law in this State; or

(E) the applicant has previously filed or appeared in an action in a court of this State without securing prior approval pursuant to the applicable court rules.

(4) **Revocation of Admission**. Admission to appear as counsel pro hac vice in a proceeding may be revoked for any reason for revocation of admission listed in subsection (3) of section (e) of this rule.

(5) **Required Information, Fees, and Exemption**. The required information, application fee, annual fee, and exemption for admission pro hac vice to the Court shall be as follows:

(A) **Required Information**. An application shall state the information listed in the pro hac vice materials available on the Court's website. The applicant may also include any other matters supporting admission pro hac vice.

(B) **Application Fee**. An applicant for permission to appear as counsel pro hac vice under this rule shall pay a one-time, non-refundable fee of $75 for each application for pro hac vice admission to this Court payable to the State Bar of Georgia at the time of filing the application.

(C) **Annual Fee**. Any Domestic Lawyer or Foreign Lawyer who has been granted admission pro hac vice before any court of this State shall pay an annual fee of $200, regardless of the number of pro hac vice admissions, upon the first such admission, and on or before January 15 of each calendar year thereafter for so long as the Domestic Lawyer or Foreign Lawyer is admitted pro hac vice before any court of this State. The annual fee shall be payable to the State Bar of Georgia.

(D) **Exemption for Pro Bono Representation**. An applicant shall not be required to pay the fees established in paragraphs (B) and (C) of this subsection if: the applicant (i) will not charge an attorney fee to his or her client; and (ii) is employed or associated with a pro bono project or nonprofit legal services organization in a civil case involving a client of such programs.

(f) **Authority of the Office of General Counsel and Business Court over an Applicant, Domestic Lawyer, or Foreign Lawyer**. The authority of the Office of General Counsel and Business Court regarding the application of ethical rules, discipline, contempt, and sanctions to an applicant, Domestic Lawyer, or Foreign Lawyer shall be as follows:

(1) While an application for admission pro hac vice is pending, and upon the grant of such application, a Domestic Lawyer or Foreign Lawyer shall submit to the authority of the Business Court and the Office of General Counsel for all conduct relating in any way to the proceeding in which the Domestic Lawyer or Foreign Lawyer seeks to appear. The applicant or a Domestic Lawyer or Foreign Lawyer who has obtained pro hac vice admission in a proceeding shall submit to this authority for all of his or her conduct —

(A) within this State while the proceeding is pending; and

(B) arising out of or relating to the application or the proceeding.

(2) An applicant, Domestic Lawyer, or Foreign Lawyer who has pro hac vice authority for a proceeding may be disciplined in the same manner as an in-State lawyer.

(3) The authority of the Business Court and Office of General Counsel includes, without limitation, the authority to —

(A) enforce these rules and the State Bar of Georgia's Rules of Professional Conduct;

(B) issue contempt and sanctions orders;

(C) enforce the rules of other courts; and

(D) mandate compliance with other court policies and procedures.

(g) **Familiarity with Rules**. An applicant for admission pro hac vice in matters before the Business Court shall become familiar with the State Bar of Georgia's Rules of Professional Conduct, these rules, and any standing order of the Court.

(h) **Temporary Practice**. An out-of-state lawyer will be eligible for admission pro hac vice, or to practice in another lawful way, only on a temporary basis.

(i) **Conflicts**. The conflicts of the Domestic Lawyer or Foreign Lawyer shall not delay any deadline, deposition, mediation, hearing, or trial in connection with the case for which admission has been granted by the Court.

(j) **Federal Proceedings**. This rule shall not govern proceedings before any federal court or federal agency located in this State, unless that body adopts or incorporates this rule.

Rule 4-5. Entry of Appearance and Withdrawal by Member or Employee of Law Firm or Professional Corporation

The entry of an appearance or request for withdrawal by an attorney who is a member or an employee of a law firm or professional corporation shall relieve the other members or employees of the same law firm or professional corporation from the necessity of filing additional entries of appearance or requests for withdrawal in the same action.

Rule 4-6. Duty to Notify of Representation and Related Changes

(a) **Notice of Representation**. In any matter pending in the Court, promptly upon agreeing to represent a client, an attorney shall provide written notice to the Clerk and opposing counsel of record of —

(1) the fact of such representation;

(2) the name of his or her client;

(3) the applicable case caption and civil action number; and

(4) the attorney's firm name, mailing address, e-mail address, and telephone number.

(b) **Notice of Changes**. An attorney shall provide written notice to the Clerk and each opposing attorney promptly upon any change of representation, name, office address, e-mail address, or telephone number.

Rule 4-7. Duty to Notify of Related Cases

An attorney shall promptly advise the Court any time he or she is counsel in an action that —

(1) the attorney knows is or may be related to another action, either previously or presently pending before the Business Court or any other court; and

(2) involves some or all of the same subject matter, or some or all of the same factual issues.

Rule 4-8. Duty to Notify of Previous Presentation to Another Judge

An attorney shall not present to the Business Court any matter previously presented to another court of this State without first advising the Business Court of this fact and the result of such previous presentation.

Rule 4-9. Binding Authority of Oral Agreements

Attorneys of record shall have apparent authority to enter into agreements on behalf of their clients in actions pending in the Court. The Court shall enforce oral agreements entered into by counsel if such oral agreements are sufficiently established.

ARTICLE 5. CASE MANAGEMENT

Rule 5-1. Case Management Meeting

(a) **General Principles**. The case management process described in this rule should be applied in a flexible and case-specific manner. This article is designed to encourage parties to identify and to implement the case management techniques — including novel and creative ideas — that are most likely to support the efficient resolution of the case.

(b) **Timing**. Except as provided in section (c) of this rule or otherwise ordered by the Court, counsel shall hold a Case Management Meeting within 30 days of all named defendants answering, or in the case of a petition to transfer or remove, within 30 days of the order granting the petition.

(c) **Objection to Jurisdiction Exception**. If a party files an Objection to Jurisdiction in accordance with BCR 2-4 (b), the parties shall not be required to hold a Case Management Meeting until the Court issues an order on such objection, at which time the parties will receive further direction from the Court.

(d) **Procedures**. The Case Management Meeting may be held by telephone, video conference, in person, or some combination thereof. Counsel for the first named plaintiff is responsible for contacting all other counsel of record and scheduling the Case Management Meeting. A party may, by motion, request that the Court alter the process or schedule for the Case Management Meeting, Case Management Report, or both. Any motion for relief under this article shall be made in accordance with the requirements of Article 7 of these rules. The Court may schedule a status conference in advance of the Case Management Meeting if requested by a party or if circumstances otherwise warrant a status conference.

(e) **Topics**. Unless the Court orders otherwise, the Case Management Meeting shall, at minimum, cover the following topics:

(1) The nature and basis of each party's claims and defenses and the possibilities of settling the case, including by early mediation (see subsection (9) of this section).

(2) Any initial motions that a party might file and whether certain issues may be presented to the Court for early resolution.

(3) The discovery topics, issues, and requirements described in Article 6 of these rules.

(4) A proposed deadline for amending pleadings, adding parties, or both.

(5) A proposed deadline for filing dispositive motions.

(6) A proposed trial date.

(7) Whether a protective order is needed.

(8) Whether any law other than Georgia law might govern any aspect of the case and, if so, what law and what aspect of the case.

(9) Each party's view on the timing of mediation, including any plans for early mediation, a mediation deadline, and each agreed-upon mediator.

(10) Whether periodic Case Management Conferences with the Court (see BCR 5-3) would be beneficial and, if so, the proposed frequency of such conferences.

(11) Whether a Case Management Conference should be transcribed.

(12) Whether a matter might be appropriate for a special master.

(13) Whether client attendance at the Case Management Conference would be beneficial or detrimental.

(14) Whether areas of disagreement exist among the parties that need to be resolved at the Case Management Conference.

(f) **Discovery Management**. These rules envision a full discussion at the Case Management Meeting of the discovery topics, issues, and requirements described in Article 6 of these rules. If, because of the circumstances of the case, the parties need additional time after the Case Management Meeting to complete their discussion of discovery, then the parties should arrange to have additional meetings, as needed, on any discovery issues that remain to be discussed.

(g) **Relief from Requirements**. Parties may seek relief from, or modifications of, the requirements of this rule, including BCR 5-1 (d), by petitioning the Court in the manner outlined in BCR 7-3 (a) (3). Such petition must be filed at least seven days prior to the deadline for holding the Case Management Meeting.

Rule 5-2. Case Management Report

(a) The parties shall jointly file a Case Management Report no later than ten days after the date of the first Case Management Meeting.

(b) Counsel for the first named plaintiff shall circulate the initial draft of the Case Management Report incorporating the views of all other counsel to prepare for the finalizing and filing of the report. The Case Management Report shall state whether the parties have completed their discussion of the discovery topics, issues, and requirements described in Article 6 of these rules and, if they have not, counsel shall identify the issues that remain to be discussed and the likely date a second discovery meeting will occur. If the parties participate in additional discovery meetings that materially impact case management at any time during the case, then the parties shall promptly file a joint supplement to the Case Management Report.

(c) Unless otherwise ordered by the Court, a party that is not served with process until after the Case Management Meeting may file a proposed supplement to the Case Management Report within ten days after the party files a responsive pleading.

Rule 5-3. Case Management Conference

The Court shall have discretion regarding when and whether to convene a Case Management Conference and whether more than one such conference is needed. The Court may require representatives of each party, in addition to counsel, to attend any Case Management Conference. The Court may conduct the conference in person or by technological means accessible to all parties. Unless it orders otherwise, the Court will not hear substantive motions at a Case Management Conference. The conference shall not be transcribed unless a party arranges for a court reporter to transcribe the proceedings or the Court orders otherwise.

Rule 5-4. Case Management Order

Following submission of the Case Management Report and, if applicable, the Case Management Conference, the Court shall issue a Case Management Order. The Case Management Order shall address the issues developed in the Case Management Report, Case Management Conference, or both, as well as any other issues that the Court deems appropriate. Any party may move to modify the terms of the Case Management Order on a showing of good cause after consultation with all other parties.

ARTICLE 6. DISCOVERY

Rule 6-1. Discovery Management

(a) The parties should be prepared to discuss discovery management at the Case Management Meeting to the fullest extent possible. As stated in BCR 5-1 (f), the parties may conduct additional meetings after the initial Case Management Meeting to complete their discussion of discovery management.

(b) This article is intended to facilitate a process the parties can use to set expectations, with reasonable specificity, concerning the information each party seeks to discover and how that information will be identified, preserved, retrieved, and produced, absent a good faith objection. The parties should at least discuss all the following discovery topics:

(1) **Necessary Scope of Discovery**. Counsel should discuss the scope of discovery (taking into account the needs of the case), the amount in controversy, limitations on the resources of each party, the burden and expense of the expected discovery compared with its likely benefit, the importance of the issues at stake in the litigation, and the importance of the discovery for the adjudication of the merits of the case.

(2) **Organization of Discovery**. The parties should discuss how discovery will be organized, including the numbering system (e.g., Bates numbering) that will be used to identify any materials produced during discovery and the format for producing the same.

(3) **Phased Discovery**. Counsel should consider whether phased discovery is appropriate and, if so, counsel should discuss proposals for specific phases.

(4) **Electronically Stored Information ("ESI")**. Parties should consider preparing an ESI agreement for the identification, preservation, collection, and production of ESI. The Court recognizes that ESI agreements will not be necessary in all cases. Where applicable, the ESI agreement shall be determined on a case-by-case basis and shall include, at minimum, the following topics:

(A) The specific sources, location, and estimated volume of ESI.

(B) Whether ESI should be searched on a custodian-by-custodian basis and, if so: (i) the identity and number of the custodians whose ESI will be searched; and (ii) the search parameters.

(C) A method for designating documents as confidential.

(D) Plans and schedules for any rolling production.

(E) De-duplication of data.

(F) Whether a device needs to be forensically examined and, if so, a process for the examination.

(G) The production format of documents.

(H) The fields of metadata to be produced.

(I) How data produced will be transmitted to other parties (e.g., in read-only media, segregated by source, encrypted, or password protected).

(c) **Treatment of Privileged or Protected Information**. The treatment of privileged or protected information shall be governed by BCR 6-3.

Rule 6-2. Prompt Completion and Presumptive Limits

(a) **Discovery Period and Presumptive Limits**. The discovery period and presumptive limits on discovery shall be governed by the following:

(1) A party may begin discovery before the entry of the Case Management Order, but the presumptive discovery period shall be set in the Case Management Order. The Court shall presume that an eight-month discovery period should be sufficient to complete all fact discovery. This period may be lengthened or shortened in consideration of the claims and defenses of a particular case, but a significantly longer discovery period shall require a showing of good cause (e.g., the parties demonstrate a need for expert discovery).

(2) Each party shall ensure that discovery is completed within the time specified in the Case Management Order. A party should serve interrogatories, requests for production, and requests for admission early enough that answers and responses can be completed before the end of the discovery period.

(3) Any motion that seeks to extend the discovery period or take discovery beyond the limits in the Case Management Order shall be made before the current deadline for discovery. The motion to extend the discovery period shall explain the good cause that justifies the relief sought and demonstrate that the parties have diligently pursued discovery to date.

(b) **Written Discovery**. Unless otherwise permitted by the Court, a party may serve no more than 50 interrogatories on each party. Each subpart of an interrogatory counts as a separate interrogatory for purposes of this limit. The same limit shall apply to requests for admission.

(c) **Depositions Upon Oral Examination – Duration and Number**. Unless otherwise permitted by the Court or stipulated by the parties, a deposition shall be limited to one day of seven hours. A party may take no more than 15 fact depositions in the absence of an order by the Court. For purposes of counting depositions taken by any party, for depositions conducted pursuant to OCGA § 9-11-30 (b) (6), each period of seven hours of testimony shall count as a single deposition, regardless of the number of designees presented during that seven-hour period.

(d) **Agreement, Reduction, and Modification of Limits**. The parties should attempt to agree, where appropriate, on reductions to the presumptive limits in this rule. Absent agreement of the parties, the presumptive limits may be increased only upon a showing of good cause.

Rule 6-3. Privilege or Protected Information

(a) **Meet and Confer**. As part of the Case Management Meeting, the parties shall confer regarding: the scope of any privilege review, the amount of information to be set out in a privilege log, the use of categories to reduce document-by-document logging, whether any categories of information may be excluded from the logging requirement, a deadline for exchanging privilege logs, and any other issues pertinent to privilege review.

(b) **Information Withheld**. If a party withholds information otherwise discoverable by claiming the information is privileged or subject to protection as attorney work-product, the party shall: (1) expressly make the claim; and (2) prepare a privilege log that describes the nature of the documents, communications, or tangible things not produced or disclosed and do so in a manner that will enable other parties to assess such claim without revealing information that is itself privileged or protected.

(c) **Privilege Log – Form**.

(1) The parties should use categorical designations, if appropriate, to reduce the time and costs associated with preparing privilege logs and to utilize any reasoned method of organizing the documents that will facilitate an orderly assessment as to the appropriateness of withholding documents in the specified category. For each category of documents that is established, the producing party shall provide a certification setting forth with specificity those facts supporting the privileged or protected status of the information included within the category. The certification shall also describe the steps taken to identify the documents so categorized, including, but not limited to, whether each document was reviewed or some form of sampling was employed, and if sampling was employed, how the sampling was conducted. As a default matter, document-by-document privilege reviews shall be preferred. Any potential need for sampling, and the potential method for sampling,

shall be discussed by the parties before any such sampling is undertaken so that the requesting party has the opportunity to object to the sampling proposal before the review is underway. The certification shall be signed by the Responsible Attorney, as defined in section (f) of this rule, or by the party, through an authorized and knowledgeable representative.

(2) If the requesting party objects to a categorical approach and insists on a document-by-document listing on the privilege log, absent an order of the Court to the contrary, the producing party shall proceed with preparing a document-by-document privilege log. After a showing of good cause, the producing party may apply to the Court for an allocation of costs (including attorney's fees) incurred in the preparation of the document-by-document log.

(3) To the extent that a party insists upon a document-by-document log, and absent an order to the contrary, each uninterrupted e-mail chain shall constitute a single entry, and the description accompanying the entry shall include all of the following:

(A) An indication that the e-mails represent an uninterrupted dialogue.

(B) The beginning and ending dates and times (as noted on the e-mails) of the dialogue.

(C) The number of e-mails within the dialogue.

(D) The names of all authors and recipients, together with sufficient identifying information about each person (e.g., name of employer, job title, and role in the case) to allow for a considered assessment of privilege issues.

(d) **Information Produced**. If information produced in discovery is subject to a claim of privilege or otherwise protected from disclosure, the party making the claim may notify any party that received the information of the claim and the basis for it. The producing party shall preserve the information until the claim is resolved. After being notified, a party —

(1) shall promptly return or destroy the specified information and any copies thereof;

(2) shall take reasonable steps to retrieve the information if the party disclosed it before being notified; and

(3) may promptly present the dispute to the Court for determination of the claim.

(e) **Agreements to Prevent Privilege and Work-Product Waiver**. Parties should agree to an order that provides for the non-waiver of the attorney-client privilege or

work-product protection if privileged or work-product material is inadvertently produced.

(f) **Responsible Attorney**. As used in this rule, the term "Responsible Attorney" means an attorney having supervisory responsibility over the privilege review. A Responsible Attorney shall be actively involved in establishing and monitoring the procedures used to collect and review documents to determine that a reasonable and good faith effort is made to ensure that responsive, non-privileged documents are timely produced.

Rule 6-4. Depositions

(a) **Time Limits**. The Court may extend any seven-hour deposition period for good cause. See BCR 6-2 (c).

(b) **Conduct**. Counsel shall conduct depositions as follows:

(1) The parties should cooperate to schedule depositions.

(2) Counsel shall not direct a witness to refrain from answering a question unless —

(A) counsel objects to the question on the ground that the answer is protected by a privilege or another discovery immunity;

(B) counsel proceeds immediately to seek relief under the Civil Practice Act; or

(C) counsel objects to a question that seeks information in contravention of a Court-ordered limitation on discovery.

(3) Objections should be succinct and state only the basis for the objection. Counsel shall not make speaking objections (i.e., argumentative or suggestive in manner).

(4) If counsel defending a deposition believes a question calls for privileged or otherwise protected information, counsel should make a contemporaneous objection without first conferencing "off-the-record" with the witness.

(c) **Sanctions**. The Court may impose an appropriate sanction for conduct that impedes, delays, or frustrates the fair examination of a deponent. An appropriate sanction for a violation of this rule may include reasonable attorney's fees incurred by any party.

(d) **Depositions of Organizations**. Depositions of organizations shall proceed as follows:

(1) After a party serves a deposition notice under OCGA § 9-11-30 (b) (6), the named organization to which the notice is issued should present any objections to the noticing party within a reasonable time of service and sufficiently in advance of the deposition.

(2) Counsel for the noticing party and for the named organization to which the notice was issued shall then meet and confer in good faith to resolve any disputes over the topics for the deposition.

(3) The parties shall also discuss and attempt to agree on whether a deponent under OCGA § 9-11-30 (b) (6) may be asked questions about the deponent's personal knowledge. If the parties cannot agree on the appropriate scope of inquiry, the parties shall seek relief from the Court to resolve the dispute prior to the deposition, absent good cause.

Rule 6-5. Expert Witnesses

(a) **Timely Designation of Expert Witness**. A party who desires to use the testimony of an expert witness shall designate the expert sufficiently early in the discovery period to permit the opposing party the opportunity to depose the expert and, if desired, to name his or her own expert witness sufficiently in advance of the close of discovery so that a similar discovery deposition of the second expert may also be conducted prior to the close of discovery. A party who does not comply with this section shall not be permitted to offer the testimony of his or her expert, unless otherwise ordered by the Court.

(b) **Procedures**. Each party shall attempt to agree on procedures that will govern expert discovery, including limits on the number of experts, the number of expert depositions, or both. In the absence of agreement, the Case Management Report should list each party's respective position on expert discovery. The parties may elect to exchange disclosures only, or they may elect to exchange reports in addition to or instead of disclosures. The procedures for expert witnesses may include the following:

(1) **Expert Reports**. If the parties agree to exchange expert reports, then the parties should further agree that the name of each expert, the subject matter the expert is expected to testify about, and the expert's qualifications be exchanged 30 days prior to the date of service of the expert report.

(2) **Timing and Manner of Disclosure**. If the parties agree not to exchange expert reports, then they shall agree on a schedule for the exchange of expert information in the form of interrogatory responses. In the absence of such an agreement, the Court shall establish a sequence for the exchange of expert information in the Case Management Order.

(3) **Facts and Data Considered by the Expert Witness**. The parties shall attempt to agree on when they will provide a copy of previously unproduced material that an expert witness considers in forming his or her opinion.

(c) **Expert Depositions**. Unless the parties agree otherwise, each expert witness may be deposed by a party adverse to the party designating the expert. The expert witness shall only be subject to a single deposition at which all adverse parties may appear.

Rule 6-6. Filing Requirements

(a) Depositions and other original discovery materials shall not be filed with the Court unless or until required pursuant to OCGA § 9-11-29.1 (a).

(b) A party serving interrogatories, requests for production of documents, requests for admission and answers, or responses thereto upon counsel, a party, or a non-party shall file with the Court a certificate indicating the discovery or response that was served, the date of service (or that the same has been delivered for service with the summons), and the persons served.

ARTICLE 7. MOTIONS

Rule 7-1. Form of Motion

(a) Unless made during a hearing or trial, an application to the Court for an order shall be made in writing by motion. Each written motion shall state with particularity the grounds for the motion and set forth clearly the relief sought.

(b) All briefs filed in support of motions shall include or be accompanied by citations of supporting authorities and, where allegations of unstipulated facts are relied upon, supporting affidavits or citations to evidentiary materials of record.

Rule 7-2. Briefing Schedule

(a) With respect to all written motions, these rules do not specify a rigid time period for the briefing of motions, response briefs, or reply briefs. Rather, the parties may enter into a stipulated briefing schedule that reflects the particular demands of the case. If the parties are unable to agree to such a schedule, the following default briefing schedule shall govern:

(1) **Opening Briefs**. Unless otherwise ordered by the Court, a party shall file an opening brief at the same time the corresponding motion is filed.

(2) **Response Briefs**. Unless otherwise ordered by the Court, a party opposing an opening brief shall file a response brief within 14 days of service of the motion. This period shall be extended to 21 days after service for responses to motions for summary judgment. If a party fails to file a response within the time required by this rule, the motion will be considered and decided as an uncontested motion, absent good cause.

(3) **Reply Briefs**. Unless otherwise ordered by the Court, parties are permitted, but not required, to file reply briefs. If a party deems it necessary to file a reply brief, the reply shall be served within ten days of service of a responsive brief. This period shall be extended to 14 days after service for responses to motions for summary judgment. A reply brief shall be limited to discussion of matters newly raised in the responsive brief. The Court retains discretion to strike any reply brief that violates this rule.

(b) If the parties are unable to agree upon a briefing schedule, and special considerations warrant modification of the default schedule in section (a) of this rule, any party may petition the Court for modification of such schedule by letter as provided in BCR 7-3 (a) (3).

Rule 7-3. Briefs

(a) **Form of Briefs**. The form of briefs shall be as follows:

(1) **Briefs on Merit-Related Motions**. Merit-related motions include motions filed pursuant to OCGA §§ 9-11-12; 9-11-23; 9-11-56; 9-11-65. Unless the Court orders otherwise, briefs on merit-related motions shall comply with the following requirements:

(A) Opening briefs shall not exceed 14,000 words.

(B) Response briefs shall not exceed 14,000 words.

(C) Reply briefs, if any, shall not exceed 7,500 words.

(D) The front cover, table of contents, page numbers, and signature block shall not count toward the word limitations in this subsection. All other text (e.g., footnotes, headings, subheadings, etc.) shall count toward the limitations.

(2) **Briefs on Other Motions and Petitions**. Except as otherwise provided in this rule, all other applications shall be made by motion without a supporting brief but may include a concise and incorporated memorandum of law, if appropriate based on the issue(s) presented. Unless the Court orders otherwise, briefing shall proceed in accordance with the following requirements:

(A) The motion or petition seeking relief shall not exceed 4,000 words.

(B) Response briefs, if any, to the motion or petition shall not exceed 4,000 words.

(C) Reply briefs, if any, shall not exceed 2,000 words.

(D) The caption, title, page numbers, and signature block shall not count toward the word limitations in this subsection. All other text (e.g., footnotes, headings, subheadings, etc.) shall count toward the limitations.

(E) The Court recognizes that motions that technically fall under this subsection may require more extensive briefing, and as such, the Court will consider requests to enlarge the limits set forth in this subsection on a case-by-case basis.

(3) **Letter Briefs**. Parties may use letters to provide updates to the Court or to address logistical, scheduling, or discreet legal issues, as directed by the Court. All such letters shall be e-filed via the Court's e-filing system. Counsel is, however, encouraged to contact the Court contemporaneous with the filing of such letters if the parties require the Court's immediate attention. Unless the Court orders otherwise, letters shall comply with the following requirements:

(A) A letter to the Court shall not exceed 1,000 words.

(B) The letterhead, header, address and delivery information, caption, salutation, complimentary close, signature, statement of enclosures, copy recipients, and page numbers shall not count toward the word limitation in this subsection. All other text shall count toward the limitation.

(C) The Court shall provide additional instructions if additional correspondence or briefing is requested or otherwise warranted.

(b) **Certificate of Compliance**. Any document type listed in section (a) of this rule shall include in the signature block the term "Words:" followed by the number of words in the document. Use of the term "Words:" constitutes a certification by the signatory of the document, whether counsel or self-represented litigant, that the document complies with the typeface and word limitation requirements of this rule. In so certifying, the signatory may rely on the word count of the word processing system used to prepare the document.

Rule 7-4. Emergency Motions and Motions for Expedited Proceeding

(a) **Notice to the Court**. If a party files or intends to file a motion for emergency relief or expedited proceedings in the Court, such party should contact chambers as soon as practicable, but in all instances, contact shall be made within 24 hours after filing such a motion. If circumstances permit, the moving party shall give notice to all other interested parties before or contemporaneously with the filing of the motion. The moving party or any interested party may request a scheduling conference to address the motion. The moving party shall promptly advise all other interested parties of all conference dates and times obtained. The party filing a petition for emergency relief or expedited proceedings shall certify in writing that the party is seeking that relief in good faith and for good cause.

(b) **Briefing Schedule**. As with other briefs filed pursuant to this article, the parties are expected to agree on a mutually acceptable briefing schedule, where possible, for all motions filed under this rule. Absent such an agreement, the Court may, in its discretion, establish a briefing schedule on a case-by-case basis.

(c) **Briefing Limitations**. Unless the Court orders otherwise, the briefing limitations and other requirements of BCR 7-3 (including word count limitations) shall apply to all briefs filed under this rule.

Rule 7-5. Discovery Motions

(a) **Application**. This rule shall apply to motions under Article 5 of the Civil Practice Act and OCGA § 9-11-45. References to "party" in this rule shall include non-parties subject to subpoena under OCGA § 9-11-45.

(b) **Pre-Filing Requirements**. The pre-filing requirements for discovery motions shall be as follows:

(1) **Summary of Dispute**. Before filing a motion related to discovery, including the failure of a party to make discovery, a party shall engage in a good faith attempt to resolve or narrow the dispute. If the dispute remains unresolved, then the party seeking relief shall notify the Court as to the existence of the dispute and, unless

the Court orders otherwise, the parties shall be directed to submit simultaneous summaries of the dispute via letter in accordance with BCR 7-3 (a) (3). If the parties cannot agree on a deadline for the filing of the summaries, the deadline for filing such summaries shall be within three days after the Court is notified of the dispute and no replies shall be filed unless the Court directs otherwise.

(2) **Certification of Good Faith Effort to Resolve the Dispute**. A dispute summary under subsection (1) of this section shall be accompanied by a separate certification that, after consultation and diligent attempts to resolve differences, the parties could not resolve the dispute. The certificate shall state the date of each conference, the name of each attorney who participated, and the specific results achieved. The certificate shall state, if applicable, whether the parties discussed cost-shifting or alternative discovery methods that might resolve the dispute. The certificate shall not exceed 300 words and shall be submitted with the dispute summary.

(3) **Discovery Conference**. After the summaries and certificates are submitted, the Court may schedule a telephone conference with counsel to discuss the dispute, order the parties to file a motion and brief regarding the dispute or provide additional materials, or issue an order deciding the issue raised or providing the parties with further instructions. If the Court elects to conduct a telephone conference, the Court may make a decision regarding the dispute during the conference.

(c) **Briefs on Discovery Motions**. No discovery motion shall be filed unless the pre-filing requirements described in section (b) of this rule have been followed and the Court has permitted or instructed briefing on the dispute.

(d) **Cost-Shifting Requests**. If a party contends that cost-shifting is warranted as to any discovery sought, then the party's letter or brief should address estimated costs of responding to the requests in relation to the breadth, complexity, or other considerations bearing upon the specific discovery at issue. Counsel's estimate must have a reasoned factual basis, and the Court may require that any such basis be demonstrated by affidavit. Cost-shifting should not be a common practice in the Court, and parties should continue to assume that a responding party ordinarily bears the cost of responding to discovery.

(e) **Depositions**. This rule shall not preclude a party from seeking an immediate ruling by telephone from the Court on any dispute that arises during a deposition that justifies such a conference with the Court.

Rule 7-6. Motion for Summary Judgment

(a) **Statement of Recovery Theory and Material Facts**. Upon a motion for summary judgment pursuant to the Civil Practice Act, there shall be annexed to the motion a separate, short, and concise statement of each theory of recovery and of each of the material facts as to which the moving party contends there is no genuine issue to be tried. Each material fact shall be numbered separately and supported by a citation to evidence in the record, including a page number, paragraph number, or both, as applicable, establishing such fact.

(b) **Documents with Response Brief**. A party responding to a summary judgment motion shall include a separate statement with individually numbered, concise, and non-argumentative responses corresponding to each of the moving party's numbered undisputed material facts, setting forth the material facts that the non-moving party contends present a genuine issue to be tried. The non-moving party may also include a statement of additional facts that the non-moving party contends are material and present a genuine issue for trial. Each material fact shall be numbered separately and supported by a citation to evidence in the record, including a page number, paragraph number, or both, as applicable, establishing such fact.

(c) **Filed Sufficiently Early**. Motions for summary judgment shall be filed sufficiently early so as not to delay the trial. No trial shall be continued because of the delayed filing of a motion for summary judgment.

ARTICLE 8. PRESENTATION TECHNOLOGY

Rule 8-1. Electronic Presentation Favored

(a) A presentation in the Court —

(1) shall not be permitted unless it meaningfully contributes to the Court's understanding of key issues; and

(2) should, if possible, be presented by electronic means.

(b) Counsel should limit the use of paper handouts at Court proceedings. Any paper handout that a party provides to the Court shall also be provided to all parties, the court reporter, and the Court's staff attorney.

Rule 8-2. Courtroom Technology

Parties may bring and use their own electronic technology and hardware to present to the Court. Each party shall consult in advance with courthouse personnel regarding

security, power, and other logistics associated with the use of any external technology or hardware. If counsel plans to use the available courtroom technology, he or she shall be familiar with such technology and follow any rules established by the Court for the use of such technology.

ARTICLE 9. PRE-TRIAL CONFERENCES

Rule 9-1. Pre-Trial Conferences Generally

The Court may set pre-trial conferences on its own motion or upon a motion by a party. In scheduling actions for pre-trial conferences, the Court shall consider the nature of the action, its complexity, and the time required to address pre-trial issues. If a pre-trial conference is ordered, the following shall apply:

(1) A written order shall be issued specifying the time and place for the pre-trial conference.

(2) The Court shall consider the issues stated in OCGA § 9-11-16, among other issues.

(3) Unless excused by the Court, the attorneys who will actually try the action shall attend the pre-trial conference. Additional attorneys of record in the action who are authorized to define the issues and enter into stipulations may also attend the pre-trial conference.

(4) Failure to appear at the pre-trial conference without legal excuse or failure to present a proposed pre-trial order shall authorize the Court to remove the action from the Court's calendar, enter such pre-trial order as the Court deems appropriate, or impose any other appropriate sanction except dismissal of the action with prejudice.

Rule 9-2. Pre-Trial Order

Unless otherwise ordered by the Court, at least five business days prior to the date of the pre-trial conference, the parties shall submit a written, proposed pre-trial order in substantially the form set forth in the form pre-trial order available on the Court's website.

Rule 9-3. Interpreters

(a) In all actions before the Court, either the party or the party's attorney shall provide the Court reasonable notice of the need for a qualified interpreter, if known, before any hearing, trial, or other court proceeding. For purposes of this rule, "reasonable notice"

means at least five days before the date the interpreter is needed. Such notice shall be filed and shall comply with any other service requirements established by the Court. The notice of the need for a qualified interpreter shall —

(1) designate the participants in the proceeding who will need the services of an interpreter;

(2) estimate the length of the proceeding requiring the interpreter;

(3) state whether the interpreter will be needed for all proceedings in the case; and

(4) indicate each language, including sign language for the Deaf or Hard of Hearing, for which the interpreter is required.

(b) Upon receipt of notice of the need for a qualified interpreter, the Court shall make a diligent effort to locate and appoint a licensed interpreter at the Court's expense and in accordance with the Supreme Court of Georgia's Rules on the Use of Interpreters for Non-English Speaking and Hearing Impaired Persons. If the Court determines that the nature of the case (e.g., an emergency) warrants the use of a non-licensed interpreter, then the Court shall follow the procedures outlined in the Supreme Court of Georgia's Commission on Interpreters' ("COI") Instructions for Use of a Non-Licensed Interpreter. If a non-licensed interpreter is used initially, the Court shall make a diligent effort to ensure that a licensed interpreter is appointed for all subsequently scheduled proceedings, if one is available.

(c) If a party or party's attorney fails to timely notify the Court of a need for an interpreter, the Court may assess costs against that party for any delay caused by the need to obtain an interpreter unless that party establishes good cause for the delay. If timely notice is not provided or on other occasions when it may be necessary to utilize an interpreter not licensed by the COI, the Registry of Interpreters of the Deaf ("RID"), or another industry-recognized credentialing entity (such as a telephonic language service or a less qualified interpreter), the Court will weigh the need for immediacy in conducting a hearing against the potential compromise of due process, or the potential of substantive injustice, if interpreting is inadequate. Unless immediacy is a primary concern, some delay may be more appropriate than the use of an interpreter not licensed by the COI, RID, or another industry-recognized credentialing entity.

(d) Regardless of whether a party or party's attorney notifies the Court of the need for an interpreter, the Court shall appoint an interpreter if it becomes apparent from the Court's own observations or from disclosures by any other person that a participant in a proceeding is unable to hear, speak, or otherwise communicate in the English language to the extent reasonably necessary to meaningfully participate in the proceeding.

(e) If the time or date of a proceeding is changed or canceled by the parties, and interpreter services have been arranged by the Court, the party that requested the interpreter shall notify the Court at least 24 hours in advance of the change or cancellation. If a party fails to timely notify the Court of a change or cancellation of interpretation services, the Court may assess any reasonable interpreter expenses it may have incurred on such party, unless the party can show good cause for the failure to provide timely notice.

ARTICLE 10. SCHEDULING

Rule 10-1. Special Settings

(a) Unless otherwise ordered by the Court, all proceedings shall be specially set. Notice of any special setting, including the date, time, and location of the proceeding, shall be e-mailed to each party or filed on the docket. Notice of any specially set trial shall be filed at least 20 days prior to the commencement of the trial.

(b) In scheduling actions, the Judge shall consider the age and nature of the action, its complexity, and reasonable time requirements for the proceeding.

(c) The Court shall ensure the orderly movement and disposition of all assigned matters and not permit any matter pending before it to languish.

Rule 10-2. Ready List

(a) All actions ready for trial in accordance with OCGA § 9-11-40 shall be placed upon a list of actions ready for trial to be maintained as a "ready list" by the Clerk. A case shall be presumed ready for trial after the filing of the pre-trial order.

(b) The Judge shall place actions ready for trial on the ready list and shall notify parties of the same. Except for cause and as provided in section (c) of this rule, the Judge shall place actions on the ready list by order of the age of the action.

(c) If an action is already on the ready list, it shall retain its superior position over new actions unless a new action is entitled by statute to a superior position.

Rule 10-3. Trial Date

The parties and their counsel shall appear ready for trial on the date specified by the Court unless otherwise directed by the Court.

Rule 10-4. Continuance After Trial Scheduled

Continuances shall not be granted solely by agreement of the parties. Actions shall not be removed from the Court's calendar except by direction of the Court and upon such terms as reasonably may be imposed by the Court. Such terms may include the imposition of a penalty of up to $50 upon the moving party if a motion for continuance of an action is first made within five days before a scheduled trial, absent statutory grounds or good cause for such motion.

ARTICLE 11. REMOTE PROCEEDINGS

Rule 11-1. Telephone and Video Conferencing

(a) **Use of Remote Conferencing Generally**. The Court may, in its sole discretion and on its own motion or upon the request of any party, conduct pre-trial or post-trial proceedings by telephone or video conference. The Judge may specify any of the following regarding a pre-trial or post-trial telephone or video conference:

(1) The time and the person who will initiate the conference.

(2) The party who is to incur the initial expense of the conference, if any, or the apportionment of such costs among the parties, if any. The Court may adjust the apportionment of such costs upon final resolution of the case.

(3) Any other matter or requirement necessary to accomplish or facilitate the telephone or video conference.

(b) **Personal Appearance.** Nothing in this rule shall preclude the Judge from ordering a party, witness, or other individual to personally appear in the Court for any hearing or proceeding.

(c) **Confidential Attorney-Client Communication**. If telephone or video conferencing is used, the Court shall preserve the confidentiality of attorney-client communications and privilege in accordance with Georgia law.

(d) **Witnesses**. In any pending matter, a witness may testify via video conference. Any party desiring to call a witness by video conference shall promptly file a notice of intent to present testimony by video conference at least 14 days before the date such testimony is scheduled. Any other party may file an objection to the testimony of a witness by video conference within ten days after the date the notice of intent is filed. The discretion to allow testimony via video conference shall rest with the Judge.

(e) **Recording of Hearings**. A record of any proceeding conducted by telephone or video conference shall be made in the same manner as a similar proceeding not conducted by telephone or video conference (e.g., by court reporter). The proceedings conducted by telephone or video conference may be recorded by the Court or Court-authorized personnel using an audio-visual recording system, and such recording shall become part of the record of the case. Such recording shall be transmitted to the applicable appellate court if the case is appealed.

(f) **Technical Standards**. Any video-conferencing system utilized under this rule shall conform to all the following minimum requirements:

(1) All participants must be able to see, hear, and communicate with each other simultaneously.

(2) All participants must be able to see, hear, and otherwise observe any physical evidence or exhibits presented during the proceeding, either by video, facsimile, or other method.

(3) Video quality must be adequate to allow participants to observe each other's demeanor and nonverbal communications.

(g) **Public Access**. The location from where the Judge is presiding shall be accessible to the public to the same extent as such proceeding would be if not conducted by telephone or video conference. The Court shall accommodate any reasonable request by an interested party to observe the proceeding.

ARTICLE 12. TRIALS

Rule 12-1. Voir Dire

(a) The Court may propound, or cause to be propounded by the parties, such questions of the jurors as provided in OCGA § 15-12-133. The form, time required, and number of such questions is within the sole discretion of the Court.

(b) The Court may require that questions be asked once only to the full array of the jurors rather than to every juror (i.e., one at a time), provided that the question be framed and the response given in a manner that provides the propounder with an individual response prior to the interposition of challenge.

(c) The parties shall not ask hypothetical questions, but such questions may be allowed in the discretion of the Court. The parties shall not ask how a juror would act in certain contingencies or on a certain hypothetical state of facts.

(d) Parties shall not frame questions to elicit a response from a juror that might amount to a prejudgment of the action.

(e) Parties shall not ask questions calling for an opinion by a juror on matters of law.

(f) The Court shall exclude questions that have been answered in substance previously by the same juror.

(g) The Court may, in its sole discretion, permit examination of each juror without the presence of the remainder of the panel.

(h) Objections to the mode and conduct of voir dire shall be raised promptly or such objections will be deemed waived.

Rule 12-2. Jury Selection

(a) A party may, in the Court's sole discretion, have additional time to prepare for jury selection after completion of the examination of jurors upon their voir dire.

(b) During the selection of jurors, the Court may, in its sole discretion, restrict to not less than one minute the time within which each party may exercise a peremptory challenge.

(c) A party will forfeit a challenge by failing to exercise it within the time allowed.

Rule 12-3. Jury Charge Requests and Exceptions

(a) Except as provided in section (b) of this rule, all requests to charge the jury shall be numbered consecutively on separate sheets of paper and include the legal authority supporting the requested charge. Unless otherwise ordered by the Court, all requested charges shall be submitted to the Court in duplicate at the commencement of trial.

(b) Additional requests to charge the jury may be submitted after the commencement of trial to cover unanticipated points that arise during trial.

Rule 12-4. Authority to Excuse from Courtroom

During the course of a proceeding, only the Judge may excuse a party, a witness (including one who has testified or will testify), or counsel from the courtroom.

ARTICLE 13. DISMISSAL, DEFAULT JUDGMENT, AND WITHDRAWAL OF FUNDS

Rule 13-1. Voluntary Dismissal of Actions

Except in actions that are the result of a final settlement agreement, the terms of which are dictated in court or in chambers into the record, if an action in the Court is voluntarily dismissed (after the trial jury has been empaneled), all court costs, including juror fees incurred for all panels from which the trial jury was selected, will be taxed against the dismissing party.

Rule 13-2. Dismissal Generally

On its own motion or upon request of a party, the Court may dismiss without prejudice any action, or if appropriate, any pleading filed on behalf of any party upon the failure to properly respond to the call of the action for trial or other proceeding. The Court may adjudge any attorney in contempt for failure to appear without good cause upon the call of any proceeding.

Rule 13-3. Default Judgment

(a) The party seeking entry of a default judgment in any action shall certify to the Court all of the following:

(1) The date and type of service effected.

(2) That proof of service was filed with the Court within five business days of the date of service, or, if not filed within five business days of the service date, the date that proof of service was filed.

(3) That no defensive pleading has been filed by the defendant as shown by Court records.

(4) The defendant's military status, if applicable.

(b) The certification required by this rule shall be in writing and attached to the proposed default judgment when presented to the Judge for his or her signature.

Rule 13-4. Procedure for Withdrawal of Funds

When counsel for a party presents to the Judge a proposed order requesting that the Clerk be directed to pay funds from the registry of the Court, counsel for the party presenting such order shall at the same time submit to the Court a certificate in the form provided on the Court's website.

ARTICLE 14. LEAVE OF ABSENCE

Rule 14-1. Leave for 30 Calendar Days or Less

(a) Absent good cause, an attorney of record shall be entitled to a leave of absence for 30 calendar days or less from court appearance in a pending matter that has not been specially set nor has been noticed for a hearing during the requested time. An attorney requesting such leave shall file a written notice thereof at least 30 calendar days prior to the effective date of the proposed leave that contains all the following:

(1) A list of the actions to be protected that includes the action numbers.

(2) The reasons for the leave of absence.

(3) The duration of the requested leave of absence.

(b) Unless opposing counsel files a written objection to a request for a leave of absence within five days or if the Court responds denying the leave of absence, such leave shall stand granted without entry of an order.

(c) All requests for or notices of a leave of absence shall be filed on the record.

Rule 14-2. Other Leave Requests

(a) This rule shall apply to the following leave requests, which shall be filed with the Court: (1) an application for a leave of absence of more than 30 calendar days, (2) an application for a leave of absence in a matter that has been specially set or noticed for a hearing during the requested leave, or (3) an application for a leave of absence not submitted within the time limits contained in BCR 14-1. Unless opposing counsel consents in writing to the leave request, any such application shall be served upon opposing counsel at least ten days prior to filing it with the Court.

(b) The procedure required in section (a) of this rule shall permit opposing counsel to object or consent to the grant of the application for leave. However, approval of an application for leave under this rule shall be at the sole discretion of the Court.

(c) An application for a leave of absence under this rule shall contain all of the following:

(1) A list of the actions to be protected that includes the action numbers.

(2) The reasons for the leave of absence.

(3) The duration of the requested leave of absence.

Rule 14-3. Relief if Leave Granted

Absent a prior order of the Court, leave granted under this article shall relieve any attorney from all trials, hearings, depositions, and other legal proceedings in that matter.

Rule 14-4. Leave Application Denied

Any application for leave not filed in conformance with this article shall be denied.

ARTICLE 15. ACCESS TO COURT RECORDS

Rule 15-1. Access to Court Filings Generally

There is a presumption that court proceedings must be open to the public. All Court filings are public and shall be made available for public inspection unless public access is limited by law or by the procedures set forth in this article. The Court shall not allow the filing of documents under seal without a Court order, even if all parties consent to the filing under seal.

Rule 15-2. Orders to File Under Seal

Upon a motion by a party to a civil action or upon the Court's own motion, and after a hearing on such motion, the Court may limit access to court filings respecting such action and order that such filings be filed under seal. An order to file under seal shall specify the part of the file to which access is limited, the nature and duration of the limitation, and the reason for the limitation.

Rule 15-3. Finding of Harm

An order limiting access shall not be granted by the Court except upon a finding that the harm otherwise resulting to the privacy of a person in interest clearly outweighs the public interest.

Rule 15-4. Ex Parte Orders

Under compelling circumstances, a motion for temporary limitation of access to a Court record for up to 30 days may be granted ex parte when accompanied by supporting affidavit.

Rule 15-5. Review of Request to Seal

An order to file under seal may be reviewed by interlocutory application to the appellate court that has jurisdiction to hear such appeal.

Rule 15-6. Amendment to Order

Upon notice to all parties of record and after a hearing, an order to file under seal may be reviewed and amended by the Court or by the appropriate appellate court at any time on its own motion or upon the motion of any person for good cause.

Rule 15-7. Motion to File Under Seal

(a) Any party that seeks to file a Court filing or any part thereof under seal shall provisionally submit the filing under seal, together with a motion to file under seal. A motion to file under seal shall be submitted in accordance with the instructions provided on the Court's website.

(b) If a motion to file under seal is denied, the provisionally submitted filing shall be deemed withdrawn and shall not be considered by the Court unless timely resubmitted as a public filing in accordance with the instructions provided on the Court's website.

ARTICLE 16. USE OF ELECTRONIC DEVICES IN COURTROOMS AND RECORDING OF JUDICIAL PROCEEDINGS

Rule 16-1. Open Courtrooms

(a) Open courtrooms are an indispensable element of an effective and respected judicial system. It is the policy of Georgia's courts to promote access to and understanding of court proceedings not only by the participants in them but also by the general public and by news media who will report on the proceedings to the public. This must be done, however, while protecting the legal rights of the participants in the proceedings and ensuring appropriate security and decorum.

(b) Except as otherwise required by law, this article shall govern the use of devices to record sounds or images in a courtroom consistent with the standards provided in OCGA § 15-1-10.1 regarding the use of devices to record a judicial proceeding.

(c) This article shall similarly govern the use of electronic devices, including mobile phones and computers, in a courtroom of the Business Court for purposes other than recording sounds and images. Such use shall be generally allowed by lawyers, employees of lawyers, parties, and spectators, including representatives of the news media, but to ensure decorum and avoid distraction, such use shall be generally prohibited by jurors and witnesses. Such persons may, however, use a device outside the courtroom.

(d) The Court shall use reasonable means to advise courtroom visitors of the provisions of this article. The Court shall make the form to request to record Court proceedings, as set forth in BCR 16-5, available in the Clerk's office and on the Court's website.

Rule 16-2. Definitions

As used in this article:

(1) The term "courtroom" means the room where a Judge will conduct a Court proceeding and the areas immediately outside the courtroom entrances or any areas providing visibility into the courtroom.

(2) The term "record" means to electronically or mechanically store, access, or transmit sounds or images, including by photographing, making an audio or video recording, or broadcasting.

(3) The term "recording" means electronically or mechanically storing, accessing, or transmitting sounds or images.

(4) The term "recording device" means a device capable of electronically or mechanically storing, accessing, or transmitting sounds or images. The term encompasses, among other things, a computer of any size, including a tablet, a notebook, and a laptop; a smart phone, a cell phone or other wireless phone; a camera; a personal digital assistant; other audio or video recording devices, and any similar device.

Rule 16-3. Use of Recording Devices in the Courtroom

(a) The following restrictions shall apply to the use of any recording device in the courtroom:

(1) **Jurors**. A juror or prospective juror shall turn the power off to any recording device while present in a courtroom or while present in a jury room during the jury's deliberations and discussions concerning a case. A juror or prospective juror may use his or her recording device during breaks, as authorized by the Judge. A juror or prospective juror shall not record proceedings.

(2) **Witnesses**. A witness shall turn the power off to any recording device while present in a courtroom and may use a recording device while testifying only with permission from the Judge. A witness shall not record proceedings.

(3) **Parties and Spectators**. Parties and spectators, including representatives of the media, may use a recording device to record proceedings only as specifically authorized by the Court pursuant to this article. Such individuals may use a recording device for purposes other than recording sounds and images in a courtroom if such use would not be disruptive or distracting and is not otherwise contrary to the administration of justice. However, recording devices used in such a manner shall be silenced and may not be used to make or receive telephone calls or for other audible functions without express permission from the Judge.

(4) **Attorneys, Employees of Attorneys, Such as Paralegals, and Self-Represented Litigants**.

(A) **Use of Recording Devices to Record**. Unless otherwise ordered by the Court, an attorney representing a party in a proceeding or a self-represented litigant may make audio recordings of the proceeding in a non-disruptive manner after announcing to the Court and all parties that he or she is doing so. A recording made pursuant to this paragraph may be used only: in litigating the case, as otherwise allowed by the Court, or as otherwise provided by law. An attorney or self-represented litigant may also seek authorization to record proceedings pursuant to section (c) of this rule.

(B) **Use of Recording Devices for Non-Recording Purposes**. An attorney, an attorney's employee (e.g., a paralegal), and a self-represented litigant may use recording devices in a courtroom for purposes other than recording sounds and images if such use would not be disruptive or distracting and is not otherwise contrary to the administration of justice. However, recording devices used in such a manner shall be silenced and may not be used to make or receive telephone calls or for other audible functions without express permission from the Judge.

(b) **Limitation**. The Judge may further restrict the use of recording devices in the courtroom by the public or in connection with a particular proceeding by jurors, attorneys, witnesses, or others as appropriate to protect the integrity of the proceedings

and maintain safety, decorum, and order. Any allowed use of a recording device under this rule is subject to the authority of the Judge to terminate activity that is disruptive, distracting, or otherwise contrary to the administration of justice.

(c) **Celebratory or Ceremonial Proceedings, and When the Court is Not in Session**. Notwithstanding other provisions of this rule, a person may request orally or in writing the use of a recording device in a courtroom to record a celebratory or ceremonial proceeding or the use of a recording device in a courtroom when the Court is not in session. Such requests may be approved orally or in writing by a Judge or a Judge's designee.

Rule 16-4. Use of Recording Devices in Business Court Chambers

A person may not use a recording device in chambers without prior approval from the Judge.

Rule 16-5. Other Persons or Organizations Desiring to Record

(a) **Form of a Request**. Any other person or organization, including a representative of the news media, desiring to record a Court proceeding shall make application to the Judge on a form available in the Clerk's office and on the Court's website.

(b) **Submission of a Request**. The person or organization shall submit the request to the Judge or to an officer of the Court designated to receive such requests under this rule. The request should address any logistical issues that are expected to arise.

(c) **Time Limit for Submitting a Request**. The person or organization shall submit the request as soon as practicable, but no later than 24 hours before the date of the proceeding, unless excused by the Judge.

(d) **Notice and Hearing**. The Court will notify the parties of its receipt of a request to record. Parties shall then notify their witnesses of such request. The Judge shall promptly hold a hearing if the Judge intends to deny the request or any portion of the request, or if a party or witness objects to the request. The hearing regarding a request to record shall be part of the official record of the proceeding.

(e) **Time for a Party or Witness to Object to a Request to Record**. A properly notified party or witness waives an objection to a request to record a proceeding if such party or witness does not object to the request in writing or on the record before or at the start of the proceeding.

(f) **Denial or Limitation of Recording**. A properly submitted request to record should generally be approved, but a Judge may deny or limit such request as provided

in this section. A Judge's decision on a request to record, or on an objection to such request, is reviewable as provided by law.

(1) **Denial of Recording**. A Judge may deny a request to record only after making specific findings on the record that there is a substantial likelihood of harm arising from one or more of the following factors, that such harm outweighs the benefit of recording to the public, and that the Judge has considered more narrow restrictions on recording than a complete denial of the request:

(A) The nature of the particular proceeding at issue.

(B) The consent or objection of the parties or witnesses whose testimony will be presented in the proceedings.

(C) Whether the proposed recording will promote increased public access to the courts and openness of judicial proceedings.

(D) The impact upon the integrity and dignity of the Court.

(E) The impact upon the administration of the Court.

(F) The impact upon due process and the truth-finding function of the judicial proceeding.

(G) Whether the proposed recording would contribute to the enhancement of or detract from the ends of justice.

(H) Any special circumstances of the parties, witnesses, or other participants, such as factors involving the safety of participants in the judicial proceeding.

(I) Any other factors affecting the administration of justice or which the Court may determine to be important under the circumstances of the case.

(2) **Limitation of Recording**. Upon his or her own motion or upon the request of a party or witness, a Judge may allow recording as requested or may, only after making specific findings on the record based on the factors in subsection (f) (1) of this rule, impose the least restrictive possible limitations, such as an order: that no recording may be made of a particular party, witness, or other person; that such person's identity must be effectively obscured in any image or video recording; or that only an audio recording may be made of such person.

(g) **Manner of Recording**.

(1) The Judge should preserve the dignity of the proceeding by designating the placement of equipment and personnel for recording the proceeding. Unless excused by the Judge, cameras and other electronic devices used to record a judicial proceeding shall be assigned to a specific portion of the public area of the courtroom or specially designed access areas, and such equipment shall not be permitted to be removed or relocated during Court proceedings.

(2) All persons and affiliated individuals engaged in recording shall avoid conduct or appearance that may disrupt or detract from the dignity of the proceeding. All devices used to record a judicial proceeding shall be quiet running, and no person shall use any recording device in a manner that disrupts a proceeding.

(3) Overhead lights in the courtroom shall be switched on and off only by Court personnel. No other lights, flashbulbs, flashes, or sudden light changes may be used unless approved beforehand by the Judge.

(4) No adjustment of the Court's central audio system shall be made except by persons authorized by the Judge. Audio recordings of Court proceedings shall be from one source, normally by connection to the Court's central audio system. Upon prior approval of the Court, microphones may be added in an unobtrusive manner.

(h) **Pooling of Recording Devices**. The Judge may require pooling of recording devices if appropriate. The persons or organizations authorized to record have the responsibility to implement proper pooling procedures that meet the approval of the Judge.

(i) **Prohibitions**. The following uses of recording devices are prohibited:

(1) **No Use of Recording Devices While the Judge is Outside the Courtroom**. Except as provided in BCR 16-3 (c), a person may use a recording device in a courtroom only if the Judge is in the courtroom and use of a recording device shall terminate when the Judge leaves the courtroom.

(2) **Recording of Jurors**. Recording devices shall be placed to avoid recording images of jurors or prospective jurors in any manner. Audio recording of a juror's or prospective juror's statements or conversations is also prohibited, except that the jury foreperson's announcement of the verdict or questions to the Judge may be audio recorded.

(3) **No Recording of Privileged or Confidential Communications**. To preserve the attorney-client privilege and client confidentiality, as set forth in the

Georgia Rules of Professional Conduct and statutory or decisional law, no person shall make a recording of any communication subject to the attorney-client privilege or client confidentiality.

(4) **Interviews**. No interview pertaining to a particular Court proceeding may be electronically recorded in the courtroom or vestibule except with the permission of the Judge.

(5) **No Recording of Bench Conferences**. No person other than the court reporter may record a bench conference unless prior express permission is granted by the Judge.

(j) **Recording Not Official Court Record**. No recording of a judicial proceeding made pursuant to this article may be used to modify or supplement the official Court record of that proceeding without express permission of the Judge pursuant to OCGA § 5-6-41 (f).

(k) **Notes and Sketches**. Nothing in this article prohibits making written notes and sketches pertaining to any judicial proceeding.

(l) **Disciplinary Authorities**. This article shall not apply to any disciplinary authority acting in the course of his or her official duties.

(m) **Enforcement**. A person who violates this article may be removed or excluded from the courtroom. A willful violation of this rule may be punishable as contempt of Court.

Rule 16-6. Judicial Sessions Outside the Nathan Deal Judicial Center

If the Court holds a judicial session at a place other than in the Nathan Deal Judicial Center in Atlanta, this article shall be followed to the fullest extent practicable.

ARTICLE 17. RECUSAL AND DISQUALIFICATION

Rule 17-1. Motion for Recusal and Affidavits in Support

(a) A motion to recuse or disqualify a Judge presiding in a particular case or proceeding shall be timely filed in writing. A motion to recuse or disqualify shall be filed with an affidavit that —

(1) presents all evidence supporting the motion; and

(2) fully asserts the facts upon which the motion is founded.

(b) The motion to recuse or disqualify shall be filed not later than five days after the date the filing party first learned of the alleged grounds for recusal or disqualification. Such filing shall also not be later than ten days prior to the date of the hearing or trial that is the subject of recusal or disqualification. The time requirements in this section shall be enforced unless good cause is shown for failure to meet such requirements. The motion to recuse or disqualify shall not delay the trial or proceeding.

Rule 17-2. Affidavit in Support of Recusal or Disqualification

(a) The affidavit in support of the motion to recuse or disqualify shall clearly state (1) the specific provision of the Georgia Code of Judicial Conduct or OCGA § 15-1-8 the affiant believes warrants disqualification of the Judge from presiding over the case or proceeding; and (2) the specific facts and reasons for the belief that bias or prejudice exists.

(b) The facts and reasons stated in the affidavit in support of recusal or disqualification shall be definite and specific as to time, place, persons, and circumstances of extra-judicial conduct or statements that demonstrate any of the following that would influence the Judge and impede or prevent impartiality:

(1) Bias in favor of any adverse party.

(2) Prejudice toward the moving party in particular.

(3) A systematic pattern of prejudicial conduct toward persons similarly situated to the moving party.

(c) Allegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion to recuse or disqualify or warrant further proceedings.\

Rule 17-3. Duty of Judge

(a) When a Judge is presented with a motion to recuse or disqualify accompanied by a supporting affidavit, the Judge shall: (1) temporarily cease to act upon the merits of the matter; (2) immediately determine the timeliness of the motion and the legal sufficiency of the affidavit; and (3) make a determination, assuming any of the facts alleged in the affidavit to be true, whether recusal would be warranted.

(b) If it is found that: (1) the motion to recuse or disqualify is timely; (2) the affidavit is sufficient; and (3) recusal would be authorized if some or all of the facts set forth in the affidavit are true, then the motion shall be handled in the manner prescribed in this rule and BCR 17-4.

(c) The allegations of the motion to recuse or disqualify shall stand denied automatically. The Judge shall not otherwise oppose the motion. In reviewing a motion to recuse, the Judge or justice (as provided in BCR 17-4) shall be guided by the Georgia Code of Judicial Conduct.

Rule 17-4. Procedure Upon Motion for Disqualification

The motion to recuse or disqualify shall be assigned for hearing to another Business Court Judge, if any, or a justice of the Supreme Court of Georgia, who shall be selected in the following manner:

(1) If the Business Court consists of only one Judge, then the motion shall be referred to the chief justice of the Supreme Court of Georgia, who in his or her discretion, shall either hear the motion or shall otherwise select another justice of the Supreme Court to hear the motion. If the motion is sustained, the chief justice shall order a sitting judge of the Court of Appeals of Georgia, a superior court, or a state court to sit by designation as a temporary judge of the Georgia State-wide Business Court, pursuant to OCGA § 15-5A-2 (f).

(2) If the Business Court consists of two Judges, the other Business Court Judge shall hear the motion unless he or she is also disqualified. If he or she is disqualified, then the assignment of the motion shall follow the procedures set forth in subsection (1) of this rule.

(3) If the Business Court consists of three or more Judges, selection shall be made by use of the Court's existing random, impartial case assignment method. If the Court does not have random, impartial case assignment rules, then assignment shall be determined by one of the following methods:

(A) The Chief Judge of the Business Court, if any, shall select a Business Court Judge to hear the motion, unless the Chief Judge is the one against whom the motion is filed.

(B) If the Court has no designated Chief Judge or the Chief Judge is the one against whom the motion is filed, the assignment shall be made by the Judge of the Business Court who is the next most senior by time of service, unless the Judge with the next most seniority is also a Judge against whom the motion is filed. The process contemplated in this paragraph shall continue until either the case is assigned to a Business Court Judge who is not disqualified or all Business Court Judges are disqualified from hearing the motion.

(C) If all Judges of the Business Court are disqualified from hearing the motion, the assignment of the motion shall follow the procedures set forth in subsection (1) of this rule.

Rule 17-5. Findings and Ruling

The Judge or Supreme Court justice assigned to hear the motion to recuse or disqualify may consider the motion solely based upon the affidavit in support or may convene a hearing to consider additional evidence. After consideration of the evidence, the Judge or Supreme Court justice assigned shall rule on the merits of the motion and shall make written findings and conclusions. If the motion is sustained, the selection of another Judge to hear the case shall follow the same procedure as established in BCR 17-4. Any determination of disqualification shall not be competent evidence in any other case or proceedings.

Rule 17-6. Voluntary Recusal

If a Business Court Judge, either on the motion of one of the parties or the Judge's own motion, voluntarily disqualifies himself or herself from hearing a particular case, another Judge selected by the procedure set forth in BCR 17-4 shall be assigned to hear the matter involved. A voluntary recusal shall not be construed as either an admission or denial of any allegations set out in the motion to recuse or disqualify.

ARTICLE 18. REMITTITUR AND JUDGMENT

Rule 18-1. Filing of Remittitur and Judgment

After receiving the remittitur and judgment of an appellate court, a copy of the notice of appeal, the remittitur, and the index of each appeal shall be filed with the original action and the balance of the copy of the record shall be destroyed. The original record shall be retained. If two or more cases are involved in one appeal, the material referenced in this rule shall be placed in one of the case files and a cross-reference to that file shall be noted in each remaining file.

ARTICLE 19. DOCKET, FORMS, AND CASELOAD REPORTING

Rule 19-1. Docket Maintenance

The Clerk shall maintain the docket, which shall include the information required under these rules. The docket shall bear the name of the matter docketed and a unique consecutive number. No other dockets shall be kept.

Rule 19-2. Docket Indexing

The docket shall contain separate civil action number entries for each filed action. Each action in the docket shall be indexed by the name of all parties to the action. This docket shall contain entries of all the following information:

(1) Action number (i.e., a unique civil action number shall be assigned to each action).

(2) Cause of action (i.e., an entry of the specific type of action filed).

(3) Names of all counsel of record.

(4) Names of all parties.

(5) Date of filing.

(6) Costs paid.

(7) Date and type of service.

(8) The date and type of specific disposition of the action, including clear entries for each of the following:

(A) Dismissals (noting whether with or without prejudice).

(B) Settlements.

(C) Judgments and the type of each judgment (e.g., summary, default, on the pleadings, consent, on the verdict, notwithstanding the verdict, or directed verdict).

(D) Five-year or other administrative termination.

(E) Transfer to court with proper jurisdiction and venue.

(F) Whether the verdict or judgment is for the plaintiff or the defendant.

(G) Whether there was a mistrial.

(H) The date of the trial, if any.

(I) Whether the case was tried (noting whether with or without jury).

(J) The name of the Judge making the final disposition of the case.

Rule 19-3. Case Initiation Questionnaire Processing

In accordance with BCR 3-14, the Clerk shall require an attorney filing an action in the Court to complete a case initiation questionnaire on the e-filing system. The Clerk shall enter the civil action number for the case on the case initiation questionnaire and the form shall become part of the file for the case. The Clerk shall use each cause of action indicated by the attorney completing the questionnaire to enter the cause of action upon the docket of the Court, unless it appears to the satisfaction of the Clerk by an inspection of the pleadings that a cause of action has been recorded in error by the attorney. If an erroneous cause of action has been recorded, the Clerk shall correct the case initiation questionnaire and enter each correct cause of action upon the docket of the Court.

Rule 19-4. Case Disposition Form

An order disposing of an action presented for consideration to the Court by any attorney or party shall be accompanied by a completed case disposition form. If the order is prepared or reframed by the Court, the Court shall cause the case disposition form to be completed or corrected, if necessary. The case disposition form shall be sent to the Clerk along with the relevant order to become part of the file for the case. The Clerk shall require any attorney or party filing a voluntary dismissal or settlement of an action to complete a case disposition form. The form shall become part of the file for the case. The Clerk shall use the specific type of disposition found on the completed case disposition form to enter the specific type of disposition upon the docket of the Court, unless it appears to the satisfaction of the Clerk by an inspection of the order that the type of disposition has been recorded in error. If the wrong type of disposition has been recorded, the Clerk shall correct the case disposition form and enter the correct type of disposition upon the docket of the Court. If additional information is deemed necessary by the Court at disposition, the case disposition form may be modified to include new items by using the blank space available at the bottom of the form.

Rule 19-5. Caseload Reporting

The Court shall prepare a caseload management report within ten days after the last calendar day of each month. The chief justice of the Supreme Court of Georgia may request copies of the information that is prepared by the Business Court pursuant to this rule. The case types, events types, and disposition methods used in the caseload management reports shall conform to Judicial Council of Georgia guidelines for reporting caseload. Each such report shall include all the following:

(1) The number of cases filed by case type in the prior month and year-to-date.

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

(3) The number and type of pending cases.

(4) A list of cases more than 180 days old, to include —

(A) case number;

(B) style;

(C) case type;

(D) filing date;

(E) next event scheduled;

(F) date of that event; and

(G) any other information available to the Business Court within its standardized computer programs.

ARTICLE 20. MOTIONS FOR NEW TRIAL

Rule 20-1. Time for Hearing on Motion

(a) Counsel shall make a reasonable effort to expedite litigation consistent with the interests of his or her client. The Court shall hear a motion for new trial as promptly as possible. A ruling on such motion shall be rendered within the time period required by law and on the record, provided that the motion is complete and the transcript and post-hearing motions or other matters are submitted.

(b) The Court shall monitor the progress of each case. Priority should ordinarily be given to cases pending the longest.

Rule 20-2. Transcript Cost

Except where leave to proceed in forma pauperis (i.e., as an indigent party) has been granted by the Court, an attorney who files a motion for a new trial or a notice of appeal specifying that the transcript of evidence or hearing shall be included in the record shall be personally responsible for compensating the court reporter for the cost of transcription. The filing of such motion or notice of appeal shall constitute a certification by the attorney that the transcript has been ordered from the court reporter. The filing of such motion or notice of appeal prior to ordering the transcript from the reporter may subject the attorney to disciplinary action by the Court.

Rule 20-3. Transmission of Record

Upon filing a notice of appeal, the Clerk shall compile and transmit the record in accordance with the requirement of the appropriate appellate court as required by OCGA § 5-6-43.

ARTICLE 21. COURT SECURITY

Rule 21-1. Security and Emergencies Generally

In consultation with the Supreme Court of Georgia, the Business Court shall prepare for emergencies by developing: (1) a court security plan to address the safety of the public and Court employees; and (2) a judicial emergency operations plan to provide for an immediate response to any type of emergency and provide for continuity of operations during such emergency.

ARTICLE 22. SPECIAL MASTER

Rule 22-1. Appointment, Removal, and Substitution

(a) Unless a statute provides otherwise, upon the motion of a party or upon the Court's own motion, the Court may appoint a special master to conduct any of the following:

(1) To perform duties consented to by the parties.

(2) To address pre-trial and post-trial matters that the Court cannot efficiently, effectively, or promptly address.

(3) To provide guidance, advice, and information to the Court on complex or specialized subjects, including technology issues related to the discovery process.

(4) To monitor implementation of and compliance with orders of the Court or, in appropriate cases, to monitor implementation of settlement agreements.

(5) To investigate and report to the Court on matters identified by the Court.

(6) To conduct an accounting as instructed by the Court and report upon the results of the same.

(7) Upon a showing of good cause, to attend and supervise depositions conducted outside of the Court's jurisdiction.

(8) To hold trial proceedings and make or recommend findings of fact on issues to be decided by the Court without a jury if appointment is warranted by —

(A) some exceptional condition; or

(B) the need to perform an accounting, to resolve a difficult computation of damages, or if the matter involves issues that would benefit from a special substantive competence.

(b) A special master shall not have a relationship to the parties, counsel, action, or Judge that would require disqualification of a Judge under applicable standards, unless the parties consent to the appointment of a particular person after disclosure of all potential grounds for disqualification and the Court thereafter approves such appointment.

(c) In appointing a special master, the Court shall, if possible, consider the fairness of imposing the likely expenses on the parties and should protect against unreasonable expense and delay, taking into account the burdens and the benefits such an appointment would produce. The appointment of a special master shall not deprive any party of access to the courts or the civil justice system.

(d) A special master may be removed or substituted by order of the Court upon the motion of a party or on the Court's own motion.

Rule 22-2. Order Appointing Special Master

(a) **Notice**. The Court shall give the parties notice and an opportunity to be heard before appointing a special master.

(b) **Contents**. The order appointing a special master shall direct such master to proceed with all reasonable diligence and shall state all the following:

(1) The special master's duties, including any investigative or enforcement duties, and any specific limits on the master's authority.

(2) The circumstances, if any, in which the special master may communicate ex parte with the Court or a party.

(3) The nature of the materials to be preserved and filed as the record of the special master's activities.

(4) The time limits, method of filing the record, other procedures, and standards for reviewing the special master's orders, findings, and recommendations.

(5) The basis, terms, and procedure for fixing the special master's compensation pursuant to BCR 22-8.

(c) **Entry of Order of Appointment**. The Court may enter an order appointing a special master only after the prospective special master has filed an affidavit: (1) disclosing whether there is any ground for his or her disqualification and, if a ground for disqualification is disclosed, after the parties have consented with the Court's approval to waive the disqualification; and (2) certifying that the special master shall discharge his or her duties required by law and pursuant to the Court's instructions without favor to, or prejudice against, any party.

(d) **Amendment**. The order appointing a special master may be amended at any time by the Court after notice to the parties and an opportunity to be heard.

Rule 22-3. Authority of Special Master

Unless the order of appointment expressly directs otherwise, a special master shall have authority to regulate all proceedings and take all appropriate measures to perform fairly and efficiently all assigned duties. Unless otherwise indicated in the Court's order of appointment, the special master shall have the power to take evidence, hear motions, and pass on questions of law and fact within the scope of the referral order. The special master may by order impose upon a party any non-contempt sanction provided by OCGA §§ 9-11-37 and 9-11-45, and may recommend to the Court a contempt sanction against a party and any sanction against a non-party.

Rule 22-4. Evidentiary Hearing by Special Master

Unless the order of appointment expressly directs otherwise, a special master conducting an evidentiary hearing may exercise the power of the Court to compel, take, or record evidence.

Rule 22-5. Service of Order by Special Master

A special master who makes an order shall promptly serve a copy of such order on each party.

Rule 22-6. Special Master's Report

(a) Unless otherwise indicated in the order of appointment, a special master shall report all of the following to the Court:

(1) All motions submitted by the parties.

(2) All rulings made on all issues presented and all conclusions of law and findings of fact.

(3) All evidence offered by the parties and all rulings as to the admissibility of such evidence.

(4) Such other matters as the special master may deem appropriate.

(b) The special master shall file his or her report and promptly serve a copy of the report on each party, unless the Court directs otherwise.

Rule 22-7. Action on Special Master's Order, Report, or Recommendation

(a) **Action**. In acting on a special master's order, report, or recommendation, the Court shall afford the parties an opportunity to be heard and to object to any portion of such order, report, or recommendation. The Court may receive evidence, and may adopt or affirm, modify, reject, or reverse in whole or in part, or resubmit all or some issues to the special master with instructions.

(b) **Time to Object or Move**. A party may file a motion to reject or to modify the special master's order, report, or recommendation within 20 days from the date the master's order, report, or recommendation is served, unless the Court sets a different time. The special master's order, report, or recommendation shall be deemed received three days after the date it is mailed by United States mail or on the same day if transmitted electronically or by hand-delivery. In the absence of a motion to reject or

modify an order, report, or recommendation within the time provided, the order, report, or recommendation shall have the force and effect of an order of the Court.

(c) **Fact Findings**. The Court shall decide de novo all objections to findings of fact made or recommended by a special master, unless the parties stipulate with the Court's consent that —

(1) the special master's findings will be reviewed for clear error; or

(2) the findings of a special master appointed under this article will be final.

(d) **Legal Conclusions**. The Court shall decide de novo all objections to conclusions of law made or recommended by a special master.

(e) **Procedural Matters**. Unless the order of appointment establishes a different standard of review, the Court may set aside a special master's ruling on a procedural matter only for an abuse of discretion.

Rule 22-8. Compensation of Special Master

(a) **Fixing Compensation**. The Court shall fix the special master's compensation on the basis and terms stated in the order of appointment, but the Court may set a new basis and terms following notice and an opportunity to be heard.

(b) **Payment**. The compensation fixed shall be paid either —

(1) by a party or parties; or

(2) from a fund or subject matter of the action within the Court's control.

(c) **Allocation**. The Court shall allocate payment of the special master's compensation among the parties after considering the nature of the dispute and amount in controversy, the means of the parties, and the extent any party is more responsible than other parties for the reference to a special master. An interim allocation may be amended to reflect a decision on the merits.

ARTICLE 23. MANDATORY CONTINUING JUDICIAL EDUCATION

Rule 23-1. Judicial Education Program Requirements

(a) Every Judge, including senior Judges, shall attend approved creditable judicial education programs or activities totaling a minimum of 12 hours every calendar year. At least one hour of the mandated 12 hours per calendar year shall be devoted to the

topic of legal or judicial ethics or legal or judicial professionalism. If a Judge completes more than 12 hours of credit in any calendar year, the excess credit shall be carried over and credited to the education requirements for the next succeeding year only.

(b) Every Judge is encouraged to attend national or regional specialty, graduate, or advanced programs of judicial and legal education, including a nationally-based basic course for business court judges.

(c) Qualifying creditable judicial education programs and activities shall include the following:

(1) Programs sponsored by the Institute of Continuing Judicial Education of Georgia.

(2) Programs of continuing legal education accredited by the State Bar of Georgia's Commission on Continuing Lawyer Competency, such as all Institute of Continuing Legal Education programs.

(3) Programs sponsored by any law school accredited by the American Bar Association.

(4) Such other programs of continuing judicial or legal education as may be approved by the Court.

(5) Teaching any of the programs listed in subsections (1) through (4) of this section.

(6) Service on the Georgia Judicial Qualifications Commission or the State Bar of Georgia Disciplinary Board for legal or judicial ethics or legal or judicial professionalism credit.

(d) For teaching in a program qualifying under subsections (1) through (5) of section (c) of this rule, the following credits shall be given:

(1) Three additional hours for each hour of instructional responsibility as a lecturer when no handout is prepared and six hours for each hour of lecture when a handout is required.

(2) Two hours for each hour as a panelist or mock trial judge.

(3) When the same lecture or other instructional activity is repeated in a single calendar year, additional credit shall be given equivalent to the actual time spent in delivering that presentation.

Rule 23-2. Judicial Education Reporting

On or before January 31 of each calendar year, each Judge shall make and submit to the Clerk evidence of compliance with the requirements of the program for mandatory continuing judicial education as set forth in BCR 23-1.

Rule 23-3. Failure to Comply with Judicial Education Requirements

(a) If a Judge fails to comply with the requirements of this article at the end of an applicable period, such Judge may submit to the Court a specific plan for making up the deficiency of necessary hours within 60 days after the last day for the reporting of activities for the preceding calendar year.

(b) If such remediation plan is not submitted, or if a plan is submitted but not complied with during the 60-day remediation period, the Court shall administer a reprimand to the noncomplying Judge.

Rule 23-4. Judicial Education Exemptions

The Court may exempt a Judge from the continuing judicial education requirements but not from the reporting requirements of this article for a period of not more than one calendar year upon a finding by the Court of special circumstances unique to that member constituting undue hardship.

ARTICLE 24. GENERAL PROVISIONS

Rule 24-1. Georgia State-wide Business Court Seal

The Chief Judge, if any, may designate a Business Court seal. Such seal shall be the official Court seal for use in such official and ceremonial purposes as the Chief Judge, if any, shall designate. If no Chief Judge is designated, the senior most Judge of the Business Court may designate the official seal for the Court.

Rule 24-2. Effective Date

These rules shall take effect on August 1, 2021.