



A CITIZEN’S GUIDE TO FILING APPEALS IN THE COURT OF APPEALS OF GEORGIA

NOTE:

- (1) This guide is intended for pro-se parties. There are significant filing differences between attorneys and pro-se parties. Attorneys must e-file all filings and pro-se parties must submit paper filings.**
- (2) Parties must check the latest statutes and Court rules – this guide may not have the latest information.**
- (3) This guide ONLY applies to cases where the notice of appeal or application to appeal is filed on or after January 1, 2017.**

January 2017

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I. INTRODUCTION

This guide is intended to assist self-represented parties (parties who decide not to obtain a lawyer) by providing general information regarding the appeals process in Georgia and laying out the basic procedural steps that must be followed in appealing to the Court of Appeals of Georgia. **This guide is not legal advice and may not be cited as legal authority.** Parties are strongly encouraged to obtain a lawyer to represent them in an appeal. The rules are complicated, and there are important deadlines that must be followed. The failure to follow rules or meet deadlines may – and often does – result in losing an appeal. Such failure may also result in documents being returned for correction. For parties who decide to represent themselves, it is important to read – and understand – the Georgia laws regarding appeals and all the Court rules. This guide should be used along with those relevant Georgia statutes and Court rules, which will be referenced throughout this guide. This guide is not all-inclusive. This guide is not a substitute for reading and understanding the Georgia Rules of Appellate Procedure.

You are not permitted to file pleadings on behalf of anyone other than yourself unless you are a licensed attorney admitted to practice in this Court. A corporation must be represented by a licensed attorney and may not be represented by an employee, director, or officer of the corporation. See *Eckles v. Atlanta Technology Group, Inc.*, 267 Ga. 801 (1997). Although you have the constitutional right in the State of Georgia to represent *yourself*, the unauthorized practice of law in Georgia – representing someone else – is forbidden and may subject you to criminal penalties. O.C.G.A. § 15-19-51.

Contact by any party with a judge of this Court or any member of a judge’s staff is strictly forbidden. All communication with the Court shall be by written documents filed with the Court along with copies mailed to (served upon) opposing counsel and any unrepresented parties. Additionally, staff of the Clerk of the Court (the “Clerk’s office”) are not permitted to give suggestions or legal advice or make any specific recommendations regarding how you should pursue your appeal or defend against an appeal.

Please note that **all documents filed by pro-se parties must be in a paper format. Attorneys practicing before the Court must submit all documents electronically.**

A. GENERAL INFORMATION ABOUT THE COURT OF APPEALS

The Court of Appeals of Georgia is the intermediate appellate court for the State of Georgia. The Court has fifteen judges and they are divided into five divisions. Each division, which is a panel of three judges, is headed by a presiding judge. Generally, an appeal will be decided only by a three-judge panel, who will review the record, the briefs, and the relevant law. If all judges on the panel agree on how the appeal should be decided, they will issue an opinion/judgment. If they do not all agree, the Court may be expanded to additional judges who will decide the case. In some cases, all fifteen judges of the Court will decide an appeal.

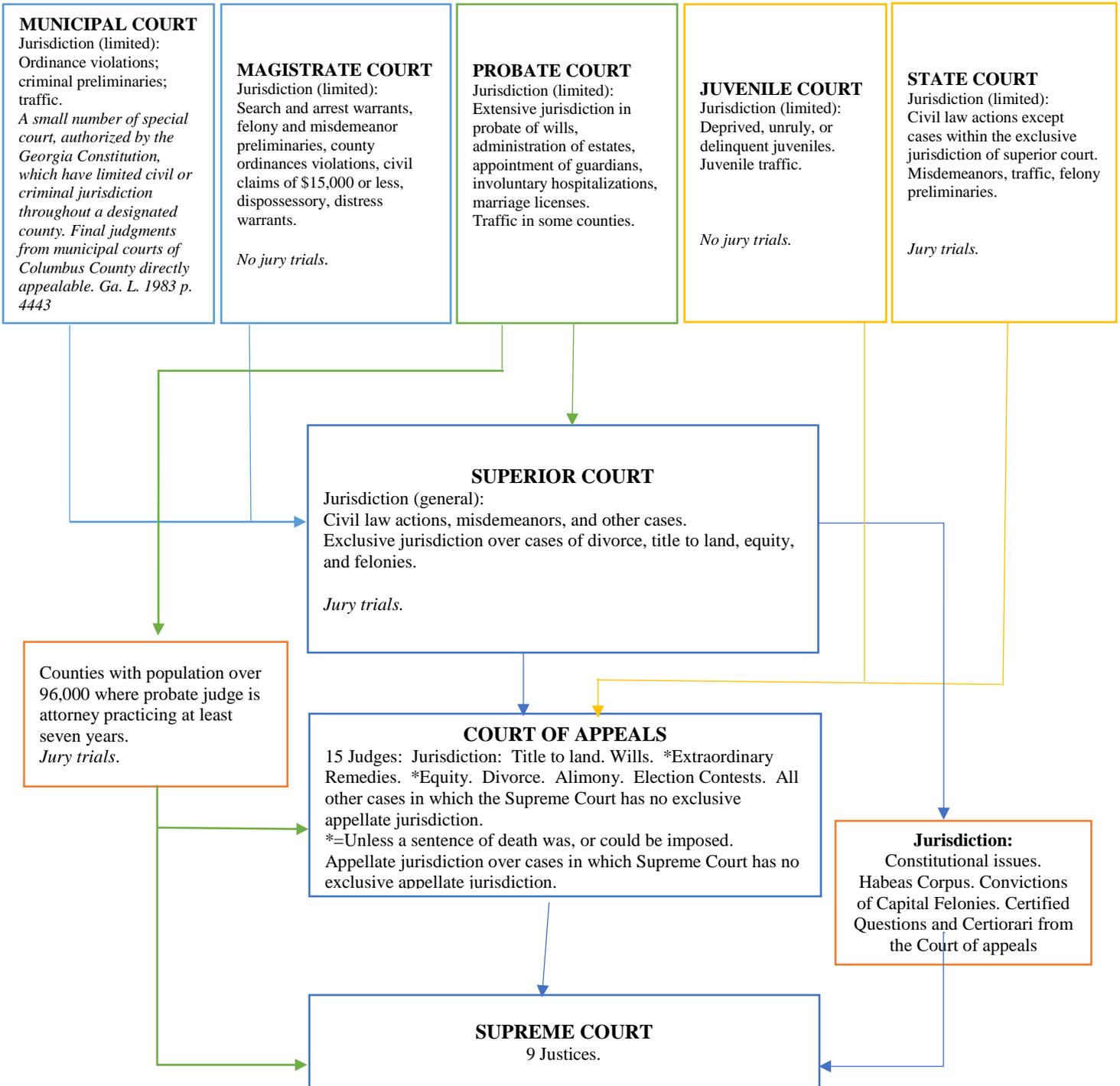
The Court of Appeals of Georgia reviews appeals from the trial courts in which jurisdiction is not exclusively reserved to the Supreme Court of Georgia or other courts. The jurisdiction of each court is discussed later.

The Clerk's office of the Court of Appeals of Georgia is open Monday through Friday from 8:30 a.m. until 4:30 p.m. The office is closed on all state holidays and during times of inclement weather. Notice of weather closures is posted on the Court's website under the announcements tab. The address is:

Court of Appeals of Georgia
Clerk of Court
47 Trinity Avenue, Suite 501
Atlanta, Georgia 30334.
Telephone: 404-656-3450

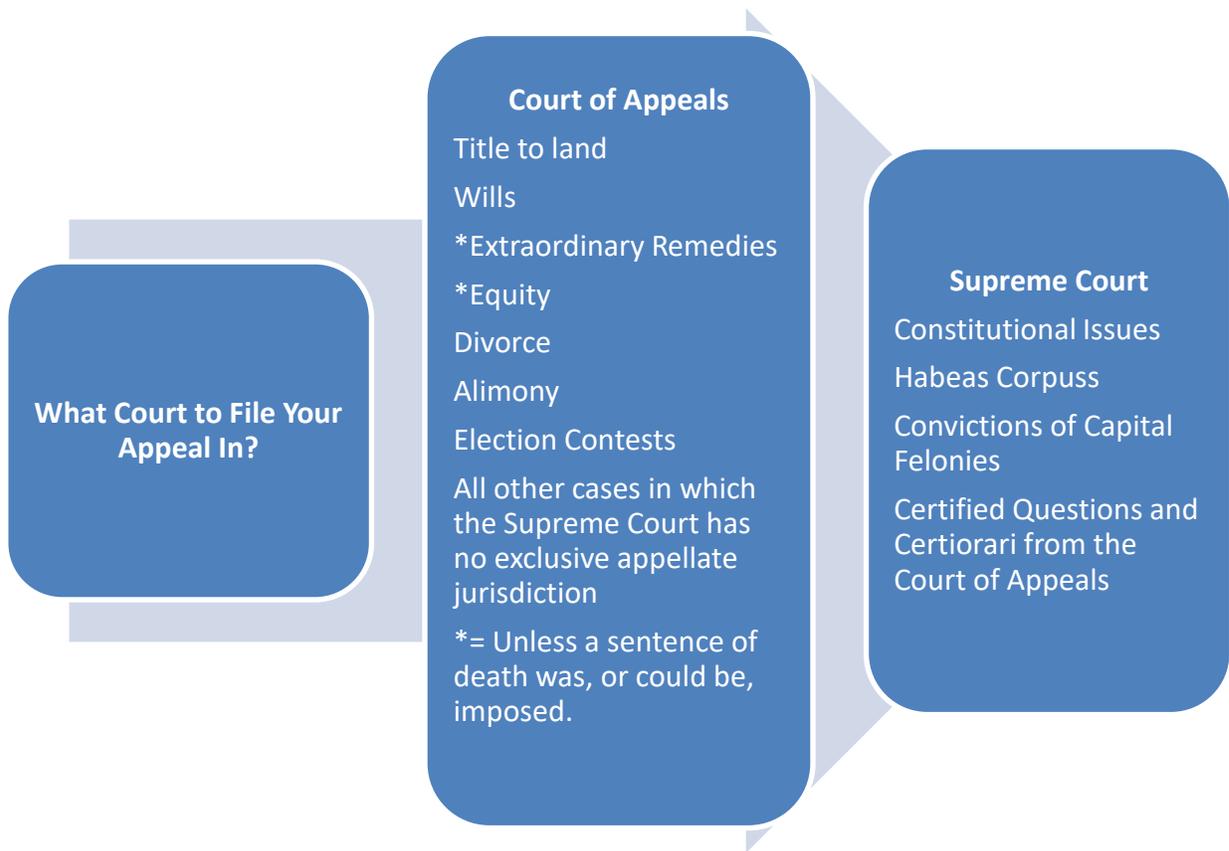
Below is a chart that outlines the basic structure of the court system in Georgia and the jurisdiction of each court. Check for legislative changes as the information below is based upon legislation effective on January 1, 2017.

THE GEORGIA COURT SYSTEM



APPELLATE COURT JURISDICTION CHART

You may refer to the chart below and the most recent legislation to determine whether to appeal to the Georgia Supreme Court or the Court of Appeals.



On January 1, 2017, O.C.G.A 15-3-3.1 became effective. It states that, "Pursuant to Article VI, Section VI, Paragraph III of the Constitution of this state, the Court of Appeals rather than the Supreme Court shall have appellate jurisdiction in the following classes of cases:

- (1) Cases involving title to land;
 - (2) All equity cases, except those cases concerning proceedings in which a sentence of death was imposed or could be imposed and those cases concerning the execution of a sentence of death;
 - (3) All cases involving wills;
 - (4) All cases involving extraordinary remedies, except those cases concerning proceedings in which a sentence of death was imposed or could be imposed and those cases concerning the execution of a sentence of death;
 - (5) All divorce and alimony cases; and
 - (6) All other cases not reserved to the Supreme Court or conferred on other courts.
- (b) This Code section shall not otherwise affect the jurisdiction of the Supreme Court or the Court of Appeals."

This statute will assist you in determining whether to make your notice of appeal to the Supreme Court or the Court of Appeals. Similarly, it will assist in your determination of where to file your application for discretionary appeal.

B. IMPORTANT DEFINITIONS

The following are definitions of common terms used during the appellate process. They are significant in understanding the appellate process and in preparing an appeal.

APPEAL – A review by the Court of Appeals of Georgia of what happened in the trial court to determine whether any mistakes of law occurred, and, if so, whether the party who filed the appeal is entitled to have the judgment of the trial court reversed, vacated, remanded (sent back to the trial court for further proceedings), or otherwise changed.

APPELLANT – A party who appeals from the trial court’s decision.

APPELLEE – A party against whom an appeal is taken and who responds to the appeal.

APPELLANT’S BRIEF – The document that the appellant submits to the Court to explain why the lower court made the wrong decision. This is the first brief submitted to the Court following the docketing notice.

APPELLEE’S BRIEF – The document that the appellee submits to the Court in response to the appellant’s initial brief, generally explaining why the lower court’s decision was right and arguing that the Court of Appeals should uphold that decision.

BRIEF – A written statement that explains the arguments of a party to an appeal.

CERTIFICATE OF IMMEDIATE REVIEW – A certificate signed by the trial judge that signifies that the trial court’s order, decision, or judgment that is not directly appealable is of such importance to the case that immediate review should be had.

CERTIFICATE OF SERVICE – A statement by a party that he or she has served

(in accordance with Rule 6) the opposing party or parties with a copy of a document prior to its filing with the Court. The Certificate of Service must be dated and signed by the party filing the document, and it must contain the name and complete mailing address of the opposing party or parties. No document will be accepted for filing without a Certificate of Service.

CITATION – A reference to legal authority, which includes cases that have already been decided by a court (“case law”), statutes, and parts of the state and federal constitutions. These references should be used in support of arguments explaining a party’s position. A citation can also reference documents or specific facts that are included in the record.

CIVIL CASE – A case involving a dispute between two or more parties in which a plaintiff is requesting the Court to grant some form of relief due to an injury that the plaintiff has suffered because of the actions of the defendant party.

COURT OF APPEALS – The intermediate level court in Georgia. This Court hears appeals of cases that have been adjudicated in the lower trial courts.

DECISION – The written decision of the court that explains the reasons why the court ruled the way it did.

DEFENDANT – The party being sued or charged with a crime.

DISCRETIONARY APPLICATION – There are certain types of cases in which a party does not have the right to a direct

appeal. For these types of cases, a party must first obtain permission to file a direct appeal by means of an application. These case types, and the procedures that must be followed to file an application for discretionary appeal, are set out in O.C.G.A. § 5-6-35. O.C.G.A. § 42-12-1 (the Prisoner Litigation Reform Act of 1996) sets out another type of case that must be initiated by filing a discretionary application.

DOCKET – An organized list of proceedings in a case that includes the documents that have been filed with the clerk of the lower court and the dates on which they were filed.

ENUMERATION OF ERRORS – The portion of the appellant’s brief that specifically states what the appealing party claims is error committed by the trial court and states the place in the record or transcript where each error occurred. This should be Part II of the appellant's brief.

FILE STAMP – The official stamp of a clerk’s office that indicates the date on which that document was recorded as filed with the clerk.

INDIGENT – Someone who is unable to pay the costs and fees related to a case due to financial hardship.

INTERLOCUTORY APPLICATION – Generally, a case must have been completely resolved in the lower court before a litigant may file an appeal. An interlocutory application is a request to the Court of Appeals to permit an appeal to be filed from an order of the trial court even though the trial court has not yet entered its final order or judgment in the case. An order that is not final is an interlocutory order, and it may be appealed by an interlocutory application only

if the trial court grants a Certificate of Immediate Review. See Rule 30.

JUDGMENT OR ORDER – A ruling made by the trial court judge. This decision usually comes at the end of a case and is in favor of one of the parties. An order or judgment must be in writing and must be entered (meaning it has been filed with the clerk of the trial court) before the Court of Appeals will have jurisdiction to consider an appeal from that order or judgment. Sometimes a judgment or order may be issued before the trial is finished or the “final judgment” is issued. These orders can be appealed only by way of an interlocutory application.

JURISDICTION – The power or authority given to the Court of Appeals by the Georgia Constitution and laws of this State to hear and resolve particular types of appeals. For the jurisdiction of the Supreme Court of Georgia and the Court of Appeals of Georgia, see Art. VI, Sec. V, Para. III and Art. VI, Sec. VI, Para. I through VI of the 1983 State Constitution.

LITIGANTS – The persons who are involved in a lawsuit.

MOTION – A written request asking the Court to take some action or issue a specific ruling or order.

MOTION FOR RECONSIDERATION – A motion asking the Court to reconsider one of its orders or opinions. Motions for reconsideration must be physically received by the Court by 4:30 p.m. on the tenth day after the order or opinion was issued. The Court may shorten this time period. See Rule 37.

MOVANT – The party who asks the Court to do something by filing a motion.

NOTICE OF APPEAL – The document that is required to be filed in the trial court to initiate a direct appeal. In most cases, it must be filed within 30 days of the entry of the order or judgment being appealed. In dispossessory cases, the notice of appeal must be filed within seven days. For forms of notices of appeals, see Form 1 and Form 2 (attached) and review O.C.G.A. § 5-6-51 and O.C.G.A. § 44-7-56.

NOTICE OF INTENTION TO PETITION FOR WRIT OF CERTIORARI – A document filed with the Court of Appeals to alert the Court that a party intends to apply for a writ of certiorari with the Supreme Court of Georgia, i.e., a request the Supreme Court to review the decision of the Court of Appeals. See Form 4.

OPINION – An opinion or decision is the written finding of the Court in a particular appeal.

ORAL ARGUMENT – The oral presentation of a party’s position regarding an appeal to a panel of judges. Permission for oral argument must be requested by the parties and granted by the Court. While oral argument is welcomed by the Court, most appeals are decided on briefs alone, without oral argument. See Rule 28.

PAUPER’S AFFIDAVIT (Affidavit of Indigence) – An affidavit stating under oath and under penalty of perjury that the party is unable to pay the filing fee. A pauper’s affidavit must be sworn to before a notary public and signed, sealed, and dated by the notary public. If the record on appeal already contains evidence of indigence, it is not necessary to file a pauper’s affidavit. Indigent status will result in a waiver by the Court of the filing fee; it does not excuse a party from paying copy costs. See Form 2; See Rule 5.

PLAINTIFF – A party who starts a lawsuit by filing a complaint.

PRECEDENT – A previously decided case that is recognized as binding on future cases that have similar facts and/or legal issues.

PRO SE – A person, not represented by an attorney, who is representing himself or herself in a case.

RECORD – A compilation of the pleadings, evidence, and other documents filed in the trial court, including any motions, orders, judgments, or transcripts filed in the case. In a notice of appeal, a party must designate the portions of the record to be prepared for review by the Court of Appeals.

REMITTITUR – A document issued by the Court of Appeals of Georgia to the trial court that returns jurisdiction to the trial court and shows the final judgment of the Court of Appeals, either reversing or affirming the trial court’s decision.

REPLY BRIEF – A document that is sometimes submitted to the Court by the appellant, explaining why the arguments made in the appellee’s brief are not valid. An appellant’s brief and respondent’s brief are always required to be submitted for a case on appeal. However, the Court does not require an appellant to submit a reply brief; such briefs are optional.

STATE ATTORNEY – A state’s attorney or state attorney is a lawyer representing the interests of the state in a legal proceeding, typically as a prosecutor. It is an official title in the United States, sometimes appointed but most commonly an elected official serving as the chief law enforcement officer of his or her county, circuit, or district.

SUPREME COURT OF GEORGIA – The highest court in the State of Georgia. If a party is unhappy with a judgment of the Court of Appeals, that party may submit a petition for certiorari asking the Supreme Court to hear their case.

TABLE OF AUTHORITIES – A listing of all the cases, statutes and other legal references included in a brief to support a party’s position on an issue.

TRANSCRIPT – A document recording everything that was said and containing the exhibits admitted during a hearing or trial in the lower court. A transcript must be certified by the court reporter and the clerk of the trial court and delivered to the Court by the trial

court clerk. The Court cannot accept a transcript delivered to the Court by a party or attorney even if it is certified.

TRIAL COURT/LOWER COURT – The lower court level where civil and criminal cases start. Decisions made by these courts can be appealed to the Court of Appeals or Supreme Court of Georgia, depending on which appellate court has jurisdiction over the subject matter.

C. HELPFUL RESOURCES

Court/Clerk Websites

- Georgia Court of Appeals website: www.gaappeals.us
- Georgia Court of Appeals Rules: <http://www.gaappeals.us/rules2/index.php>
- Georgia Court of Appeals web-docket and case search. Use this link to check the status of your case online: <http://www.gaappeals.us/docket/index.php>

Georgia Statutes

Official Code of Georgia Annotated: www.legis.ga.gov (*click the tab "Georgia Code" on the left side of the page to proceed to statutes*).

Books on Georgia Appellate Practice

- Michael B. Terry, Georgia Appeals Practice and Procedure with Forms, American (Lawyer Media, 2014 & 2015)
- McFadden, Brewer & Sheppard, Georgia Appellate Practice with Forms (Thompson West 2012-2013)
- Chilton D. Varner & S. Samuel Griffin, Appellate Handbook for Georgia Lawyers (West Publishing, 2012-2013)
- Alston & Bird, LLP, Georgia Appellate Practice Handbook 7th ed. (2012)
<http://www.alston.com/Files/Publication/c6777bfa-5041-4e23-aa55-27415f9eac75/Presentation/PublicationAttachment/fbbf6731-53c3-45ae-90b2-e1e59cf718a6/Appellate-Handbook-1.pdf>

Legal Resources

- Cornell Law School, Legal Information Institute – *legal research tools and a collection of many state statutes and constitutions*: www.law.cornell.edu.
- Find Law – *information on legal topics by subject matter and jurisdiction*: www.findlaw.com
- Georgetown Law Library Research Guides – *collection of legal research guides and resources organized by subject matter and jurisdiction*: <http://www.law.georgetown.edu/library/research/guides/index.cfm>

II. APPEALING A CASE - OVERVIEW

An appeal is a review of what happened in the trial court to determine whether any mistakes of law occurred and if so, whether the appellant is entitled to relief. The Court of Appeals of Georgia is bound by the record from the trial court. Parties are not permitted to give testimony before the Court of Appeals or to introduce physical or documentary evidence that was not introduced in the trial court. The Court of Appeals decides an appeal strictly on the basis of the trial court record, briefs, and, in some instances, oral arguments of the parties. There are three methods of filing an appeal of a decision in a case: direct appeals, discretionary applications, and interlocutory applications. The procedures are different for each type of appeal. There are also critical deadlines for filing each type of appeal. This means, if you want to appeal a case, you must determine what type of appeal is appropriate and which court – the Supreme Court of Georgia or the Court of Appeals of Georgia – has jurisdiction to hear the case. The details below provide general information on how to proceed with each type of appeal.

1. Research should be conducted to determine what type of appeal is appropriate as well as the applicable deadlines. Is it a discretionary application to appeal or a direct appeal?
 - a. Rulings that are directly appealable are set out in O.C.G.A. § 5-6-34 (a). (See Attachment E.)
 - b. Rulings that require discretionary applications or interlocutory applications are described in O.C.G.A. § 5-6-35 (See Attachment F.)
2. Determine what appellate court has jurisdiction to hear the appeal? See the prior information regarding jurisdiction, consult the statutes, and make your appeal to the appropriate appellate court, i.e. to the Court of Appeals or the Supreme Court.
3. Once it is determined what type of appeal is appropriate, the appellant must then either file a timely notice of appeal with the trial court or file a timely application for discretionary or interlocutory appeal with the Court of Appeals. If a notice of appeal is filed, the lower court clerk will prepare the record, certify it is accurate, and deliver it to the Court of Appeals for filing. **Note: The clerk of the lower court will not prepare the record until the appellant pays all copy costs to that court or is deemed a pauper by that Court.**
4. If a Notice of Appeal is filed in the lower court, the Court of Appeals will only docket the case when the complete record is received at the Court of Appeals. Once docketed, the parties will receive a docketing notice. See Rule 13. If a party files an application for a discretionary or interlocutory appeal, the Court of Appeals may either grant or deny the application. **If the application is granted, the party has ten days to file a notice of appeal in the trial court.**
5. Upon receipt of the docketing notice, the appellant must prepare and file a brief – generally within **twenty days** – explaining the arguments for the appeal. See Rules 23, 24 & 25. (For interlocutory and discretionary appeals, a brief should be included with the application.)

6. The appellee will then file an appellee's brief that responds to the appellant's arguments listed in the appellant's brief. See Rule 23 (b).
7. Sometimes the appellant will file a reply brief with the court. This shorter brief simply replies specifically to arguments made in the appellee's response brief. See Rule 23 (c).
8. The case will then be reviewed by one of the panels of judges and a decision will be made on whether the trial court decision is affirmed or some relief granted. (Note: there are circumstances where the number of judges deciding an appeal may change).
9. Following the Court's decision on appeal, a party dissatisfied with the decision may file a motion for reconsideration asking the Court to reconsider its ruling. **It is important to remember that a motion for reconsideration must be physically received in the Clerk's office within ten days of the order or judgment. The Court may reduce this time limit.** See Rule 37.
10. A party may file a notice of intention to petition for a writ of certiorari within ten days after an opinion is issued or if a motion for reconsideration is filed, after a judgment or order ruling on the motion for reconsideration, whichever is later. The party must file the petition for writ of certiorari with the Supreme Court, and must file a notice of filing petition for writ of certiorari in the Court of Appeals. Both the petition and the notice **must be filed on the same day.** See Rule 38.
11. If a petition for writ of certiorari has not been filed, a remittitur will be issued to the trial court, showing the final judgment of the Court of Appeals. Once the remittitur is issued to the trial court, sole jurisdiction of the case lies with the trial court. See Rule 39.

Disclaimer – It is important to follow the Georgia statutes regarding appellate procedure as well as the rules of the Court of Appeals. Failure to do so may result in dismissal of an appeal or documents being returned to a party. It is strongly advised that parties wishing to appeal a case obtain an attorney to represent them in this complex process.

III. TYPES OF APPEALS

The following describes three different types of appeals: (1) direct appeals, (2) discretionary applications to appeal, and (3) interlocutory applications to appeal.

A. DIRECT APPEALS

The types of cases that may be appealed to the Court of Appeals of Georgia by direct appeal are set out in O.C.G.A. § 5-6-34 (a). If the case in the lower court falls within one of the categories set out in O.C.G.A. § 5-6-34 (a), the appellant must first file a notice of appeal. **The notice of appeal is not filed with the Court of Appeals. Instead, it is filed with the clerk of the trial court in which the judgment or order being appealed from was entered.** Generally, the notice of appeal must be filed within **thirty days** of the date of the entry of the order or judgment that is being appealed. O.C.G.A. § 5-6-38. The date of the entry of the order or judgment is the date the order or judgment was filed and clocked in by the clerk of the trial court. If the party is appealing a dispossessory order, other than those where the only issue is rent due and such amount is \$2,500 or less, the time for filing the notice of appeal is **seven days**. O.C.G.A. § 44-7-56.

Pursuant to O.C.G.A. § 5-6-37, the notice of appeal must contain:

- (1) The title and lower court docket number of the case;
- (2) The name of the appellant and the name, address, email, and bar number of appellant's attorney, if applicable;
- (3) A concise statement of the judgment, ruling, or order entitling the appellant to an appeal;
- (4) The name of the court to which the appeal is directed (i.e., the Court of Appeals of Georgia or the Supreme Court of Georgia);
- (5) A designation of what portions of the record are to be omitted from the trial court record on appeal, if applicable;
- (6) A concise statement of why the Court of Appeals has jurisdiction of the appeal rather than the Supreme Court; and
- (7) A brief statement of the offense and the punishment ordered if the appeal is from a judgment of conviction in a criminal case.

The notice of appeal should state whether the record will include transcripts of evidence. If the appellant requests a transcript, he or she must communicate with the lower court clerk and/or court reporter to handle the filing of the transcript. See Rule 17. Typically, the appellant must pay the cost of preparing the transcript to the lower court clerk. The notice of appeal must also be signed by the appellant and must have the appellant's complete address and telephone number.

The notice of appeal **must be accompanied by a proper certificate of service**. The certificate of service must contain the complete address of all appellees or, if an appellee is represented by counsel, the address of his or her attorney. Without these complete addresses, the Court will be unable to send the docketing notices, and, therefore, will return the notice of appeal and record to the trial court.

Sample notice of appeal forms for both civil and criminal cases are attached at the end of this guide and are labeled as FORM 1 (civil) and FORM 2 (criminal). O.C.G.A. § 5-6-34 can also be found at the end of this guide, labeled as Attachment E. The statute may have been revised since completion of this guide, so consult the latest version of the statute.

B. DISCRETIONARY APPLICATIONS

An appeal must be initiated by discretionary application in the types of cases listed in O.C.G.A. § 5-6-35 (a). Those cases are:

- (1) Appeals from decisions of the superior courts reviewing decisions of the State Board of Workers' Compensation, the State Board of Education, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations;
- (2) Appeals from judgments or orders in divorce, alimony, and other domestic relations cases including, but not limited to, granting or refusing a divorce or temporary or permanent alimony or holding or declining to hold persons in contempt of such alimony judgment or orders;
- (3) Appeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;
- (4) Appeals from cases involving garnishment or attachment, except as provided in paragraph (5) of subsection (a) of Code Section 5-6-34;
- (5) Appeals from orders revoking probation;
 - (5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual Offender Registration Review Board;
 - (5.2) Appeals from decisions of superior courts granting or denying petitions for release pursuant to Code Section 42-1-19;
- (6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;
- (7) Appeals, when separate from an original appeal, from the denial of an extraordinary motion for new trial;

- (8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief upon a complaint in equity to set aside a judgment;
- (9) Appeals from orders granting or denying temporary restraining orders;
- (10) Appeals from awards of attorney's fees or expenses of litigation under Code Section 9-15-14;
- (11) Appeals from decisions of the state courts reviewing decisions of the magistrate courts by de novo proceedings so long as the subject matter is not otherwise subject to a right of direct appeal; and
- (12) Appeals from orders terminating parental rights.

Discretionary applications are only granted when:

- (1) Reversible error appears to exist; or
- (2) The establishment of precedent is desirable. See Rule 31(b).

Discretionary applications are filed directly with the Court of Appeals. A discretionary application must be filed within thirty days (or seven days in a dispossessory action) from the stamped "filed" date of the trial court's signed order or judgment being appealed. See Rule 31(c). **The discretionary application must contain a copy of the signed order or judgment being appealed which was stamped "filed" in the trial court.** See Rule 31(c). If the application does not contain such an order, the application will be returned and the time limit for filing the appeal will continue to run (**i.e., an improper filing does not toll (delay or stop) the time for filing an appeal**).

A discretionary application should also contain whatever portions of the record that the applicant thinks the Court should review in order to make a determination that the trial court likely committed reversible error.

Application briefs, and responses to those briefs, are limited to **30 pages in civil cases and 50 pages in criminal cases**, exclusive of any attached exhibits and portions of the record. See Rule 31 (g)(2)(i). An original of the application must be filed with proper service made to the opposing counsel or party. See Rule 6. An application must contain an index and tabs for the exhibits included. See Rule 31 (g)(2)(ii).

The respondent (opposing party) has ten days from the date of the filing of a discretionary application to file a response, if the respondent wishes to do so. A response is not required. See Rule 31 (j).

The Court is required to issue an order within **30** days of the docketing of a discretionary application and within **45** days of docketing an interlocutory application. The Court has the discretion to grant or deny the application, or dismiss it if the Court lacks jurisdiction to consider

it. If the Court grants the application, the applicant then has **10** days from the date of the order granting the application to file a notice of appeal in the trial court. The case will then proceed as a direct appeal.

If a party files an application when the party should have filed a direct appeal, the application will be granted and the party will have the right to file a notice of appeal within ten days of the date of the order granting the application. O.C.G.A. § 5-6-35 (j). This does not hold true in the reverse. That is, if a party files a direct appeal and should have filed an application, the direct appeal will be dismissed for lack of jurisdiction.

Below is a list of the items that must be included in a discretionary application. See Rule 31, O.C.G.A. § 5-6-35:

- (1) A cover page that shows:
 - (a) The style of the case (case name indicating the parties' names: applicant(s) vs. respondent(s);
 - (b) The name and county of the originating trial court and trial court case number;
 - (c) A blank line for entry of the Court of Appeals docket number; and
 - (d) The title of the application (See Form 6);
 - (2) An explanation of why the Court of Appeals of Georgia rather than the Supreme Court of Georgia has jurisdiction;
 - (3) A short statement of the facts of the case and trial court proceedings that are pertinent to the argument;
 - (4) An argument stating the reasons why the Court of Appeals should grant the discretionary application by:
 - (a) Showing the existence of reversible error or,
 - (b) Showing why a precedent (a decision that will be a rule in all future similar situations) needs to be set;
- Citations to the trial court pleadings, transcripts, and relevant law supporting your argument should be included;
- (5) The signature and full postal address and telephone number of the applicant;
 - (6) A certificate of service containing the full name and postal address of the opposing party;
 - (7) Tabbed and indexed exhibits including:

- (a) A stamped “filed” copy of the trial court’s order being appealed that includes the trial court judge’s signature;
- (b) Copies of the pleadings filed in the trial court (as necessary to show why the Court should grant the application); and
- (d) Relevant portions of transcripts, depositions, or other evidence of record needed to show why the Court should grant the application.

If an application is granted, a party has ten days to file a notice of appeal with the trial court.

C. INTERLOCUTORY APPLICATIONS

Interlocutory applications are appeals from orders in the trial court that do not terminate or dispose of the case. This means that, while a specific issue that has been ruled upon by the trial court is being appealed, the case from which the issue arose remains pending in the trial court. Interlocutory applications are unlikely to be used by pro-se appellants. This type of appeal is most often used by counsel in more complex litigation. An interlocutory application may be filed upon the grant of a certificate of immediate review by the trial court. The decision of whether to grant a certificate of immediate review is left solely to the trial court. This decision is not appealable.

If the trial court grants a certificate of immediate review, it must be entered in the trial court within ten days of the date of the entry of the order or judgment being appealed. The interlocutory application must be filed with the Court of Appeals within ten days of the date of the entry of the Certificate of Immediate Review. Failure to meet either of these time frames will most likely result in the dismissal of the interlocutory application.

An interlocutory application must contain a signed copy of the order or judgment being appealed that is stamped “filed” in the trial court and a stamped “filed” copy of the certificate of immediate review. The interlocutory application should also contain as much of the record as the parties deem appropriate for the Court to consider. Application briefs are limited to 30 pages in civil cases and 50 pages in criminal cases, exclusive of attached exhibits and parts of the record. The party must file one original with the Clerk’s office via mail or hand delivery.

The respondent has ten days from the date of the filing of the interlocutory application to file a response, if respondent wishes to do so. A response is not required.

The Court of Appeals will grant, deny or dismiss the interlocutory application within 45 days of the filing date of the interlocutory application. The Court will only grant an interlocutory application when: (1) the issue to be decided appears to be dispositive of the case; (2) the order appears erroneous and will probably cause a substantial error at trial or will adversely affect the rights of the appealing party until entry of final judgment; or (3) the establishment of precedent is desirable.

This is a list of items that must be included when submitting an application for interlocutory appeal. See Rule 30; Form 6.

- (1) An explanation of why the Court of Appeals of Georgia rather than the Supreme Court of Georgia has jurisdiction.
- (2) A stamped “filed” copy of the trial court’s order to be appealed that includes the trial court judge’s signature.
- (3) A stamped “filed” copy of the certificate of immediate review that includes the trial court judge’s signature.
- (4) A copy of any petition or motion that led directly to the judgment or order being appealed.
- (5) Certificate of service.

IV. MOTIONS

A motion is a written request asking the Court to take some action or to issue a specific ruling or order. The written motion is the only method to make such a request. It must be filed as a separate document and cannot be filed in the body of a brief. Each motion/request must be filed separately. See Rule 41. There is no required time for the Court to decide a motion. It is strongly advised that motions be submitted as soon as possible. The most common motions are motions for an extension of time to file a brief and motions for reconsideration.

A. MOTION FOR EXTENSION OF TIME TO FILE A BRIEF

Motions to extend the time to file a brief may be submitted to the Court in writing and must explain the reason for the extension and show that a good faith effort has been made on the part of the moving party to meet the initial deadline. The motion should be submitted as soon as possible, and the motion **must** be submitted on or before the deadline for filing the brief. See Rule 16.

B. MOTION FOR RECONSIDERATION

This is a written request by a party asking the Court to reconsider one of its orders or opinions. Motions for reconsideration must be physically received in the Clerk's office within ten days of the date of the order or opinion to be considered issued unless the Court requires a shorter time period. See Rule 37 (b). A motion for reconsideration is granted only when it appears that the Court overlooked a material fact in the record, a statute or a decision that is controlling as authority and that would require a different judgment from that rendered, or has erroneously construed or misapplied a provision of law. See Rule 37 (e). A second motion for reconsideration cannot be submitted unless permitted by order of the Court. See Rule 37 (d). Motions for reconsideration must be formatted according to See Rule 24.

C. REQUESTS TO ARGUE

Only a small number of cases in the Court of Appeals have oral argument. If a party wishes to request oral argument, he or she must file a written motion making the request and do so within twenty days of the docketing notice. The motion must explain why oral argument would benefit the Court.

If oral argument is granted by the Court, the parties will receive an order to that effect. If oral argument is granted, and a party later decides not to attend oral argument, the party must notify the opposing counsel or party and the Court. Oral argument granted to one party is automatically extended to the other party. A waiver of oral argument after it has been granted does not necessarily take the case off the oral argument calendar if the opposing party wishes to argue. If oral argument is granted each party generally has fifteen minutes to present their case. Oral argument is not permitted on applications or motions including motions for reconsideration. See Rule 28.

V. BRIEFS

A. APPELLANT'S BRIEF

The appellant makes their argument in the appellant's written brief. The appellant must file a brief – one original only (no other copies) – with the Court of Appeals within 20 days of the docketing date. The appellant must file a brief in each case that is docketed, even if multiple appeals relate to the same lower-court case. The failure to file the brief timely may result in the dismissal of the appeal and/or contempt. The brief must conform to the rules of the Court and be served via U.S. Postal Service upon opposing counsel or parties. A proper certificate of service must be attached to the brief or the brief will be rejected by the Court and returned to the party. Note that a returned brief does not toll the time for submitting a brief. See Rule 23 (a).

The appellant's brief explains what judgments or orders are being appealed, the reasons why the trial court erred in making those judgments or orders, and what the appellant wants the Court to do if it concludes that the trial court erred. See Rule 25 (a).

The appellant may use only the information in the record and transcripts to prepare the statement of facts. The Court is not a fact-finding court but a court for the corrections of errors. For every statement of fact there should be a citation or reference to a page in the record or transcript. See Rule 25 (a). **The appellant's initial brief is limited to 30 pages in civil cases and 50 pages in criminal cases.** See Rule 24.

The appellant's brief should contain the following parts (See Rules 24, 25):

- (1) Table of contents with page references to the sections of the brief;
- (2) Table of authorities with page references to where cases, statutes and other authorities are cited;
- (3) Part one addresses the facts of the dispute and should include a statement of the proceedings in the trial court, the relevant facts of the case from the record with citations to the record or transcript, and the method by which each listed error was preserved in the trial court for consideration on appeal;
- (4) Part two states an enumeration (listing) of the errors made by the trial court; and
- (5) Part three contains the argument for why the trial court was not correct, the applicable standard of review, and citations to cases, statutes, and other legal authorities supporting the argument and appropriate standard of review.

There is an additional checklist for the appellant's brief and a sample appellant's brief form attached at the end of this guide. See Attachment A; Form 7.

B. APPELLEE’S BRIEF

The appellee has 40 days from the docketing date or 20 days after the appellant’s brief is filed, whichever is later, to file the appellee’s brief. Failure of the appellee to file his or her brief on time may result in non-consideration of the appellee’s brief and/or contempt. The appellee must file an original of this brief for each appeal. See Rule 23 (b).

The appellee’s brief responds to the issues raised by the appellant, showing why the appellant’s arguments are incorrect and providing support for the trial court’s decision. If the appellee does not agree with the appellant’s statement of facts, he or she should include the facts important to his or her case with reference to the record or transcripts. The appellee’s brief is limited to 30 pages in civil cases and 50 pages in criminal cases. It should follow the same format presented above for the appellant’s brief. See Rules 24, 25 (b).

The appellee’s brief must include:

- (1) Table of contents with page references to the sections of the brief;
- (2) Table of authorities with page references to where cases, statutes and other authorities are cited;
- (3) Part one should focus on any material inaccurate or incomplete statements of fact contained in the appellant’s statement of facts. It should also reference any additional parts of the record deemed material.
- (4) Part two contains the appellee’s argument and citation of authorities concerning each enumeration of error. It should also contain the standard of review if different than that stated by the appellant.

There is an additional checklist for the appellee’s brief and a sample appellee’s brief form attached to the end of this guide. See Attachment B; Form 8.

C. APPELLANT’S REPLY BRIEF

The appellant has twenty days after the filing of the appellee’s brief to file a reply brief. The appellant’s reply brief addresses the arguments made by the appellee showing how they do not overcome the arguments made in the appellant’s initial brief. **No new issues may be raised in the reply brief.** The reply brief for both civil and criminal appeals is limited to 15 pages in length. Reply briefs are not required by the Court. See Rules 23(c), 24(f).

VI. COURT DECISIONS AND POST-JUDGMENT OPTIONS

After both parties have filed their briefs, the Court will review the record, the briefs, and the law and make a decision in the appeal. Typically, the Court will render an opinion and a judgment in the appeal. Sometimes the Court may dismiss an appeal for a myriad of reasons. If the Court renders an opinion, it will also decide whether the opinion will be published or non-published.

Parties who are dissatisfied with a decision of the Court of Appeals may file a motion for reconsideration and/or a petition for a writ of certiorari. (See Rule 37 and 38.)

A party may file a motion for reconsideration if he or she believes that the Court overlooked a material fact in the record, a statute, or a decision that is controlling as authority and that would require a different judgment than that rendered, or has erroneously construed or misapplied a provision of law or a controlling authority. Typically, motions for reconsideration must be physically received by the Court within ten days of the date of the order or opinion.

A dissatisfied party may also file notice of intention to petition for a writ of certiorari alerting the Court to hold the remittitur while the party applies for a petition of certiorari to the Supreme Court. The notice must be filed within ten days of the order or opinion of the Court of Appeals or ten days after the Court's ruling on a motion for reconsideration. This notice of intent may be filed after a party has filed a motion for reconsideration. However, a party may file a notice of intent without ever filing a motion for reconsideration. See Rule 38. When a party files a petition for writ of certiorari in the Supreme Court, the party must also file a notice of filing in the Court of Appeals the same day.

VII. MISCELLANEOUS PROCEDURES

A. FILING DOCUMENTS IN THE COURT OF APPEALS

As stated above, all pro-se parties must submit items in a paper format. (Attorneys admitted to practice in the Court are required to file all documents electronically). Documents submitted to the Court must be filed with the Clerk's office, be signed by the party or counsel, and contain a proper certificate of service showing that it was mailed to the opposing party or counsel. Pro-se parties need only file one original, i.e., no need to file any copies. See Rule 6.

Documents may be mailed, sent by express mail or courier service, or hand delivered. Fax filings are not accepted. See Rule 4.

The Clerk's office **closes at 4:30 p.m.**, but the Court has a drop box for filings outside the Clerk's office on the ground floor of the 47 Trinity Avenue building in Atlanta. Although building hours are subject to change, the Georgia Building Authority normally does not currently lock the building until 5:00 p.m.

Filings placed in the drop box will be removed before 8:15 a.m. the following day. Filings in the drop box, if accompanied by the proper filing fee or a sufficient pauper's affidavit, if required, will be deemed filed on the previous business day, assuming the documents are properly signed and have an appropriate certificate of service. See Rule 4 (b). However, this rule does not apply to motions for reconsideration. See Rule 37 (b).

Incarcerated parties/prisoners who are representing themselves upon appeal may file documents with prison officials for forwarding to the Clerk's office. See Rule 4 (d).

B. COSTS

The cost of filing a direct appeal or an application is \$80 for criminal cases and \$300 for civil cases. If filing an application, costs must be paid when the application is filed. In a direct appeal, costs must be paid by the date the appellant files his or her brief. If a case is dismissed prior to the filing of the appellant's brief, costs are required to be paid upon receipt of the Court's bill for costs. The Clerk is prohibited from receiving an application for filing without the filing fee unless it is accompanied by an adequate pauper's affidavit, the pro-se applicant or appellant is incarcerated or the attorney for the applicant or appellant shows that he or she was appointed due to the applicant or appellant's indigence. If an application is granted, another fee is not required. See Rule 5.

If an appellant believes that he or she is unable to pay the filing fees because of indigent status, the appellant must submit a sufficient pauper's affidavit along with their notice of appeal or application. This is not necessary if the party is incarcerated. See Rule 5. A sample pauper's affidavit form is attached. See Form 3.

C. DOCKETING A DIRECT APPEAL

Once a notice of appeal is filed in the trial court, the trial court clerk will prepare copies of the record in accordance with the record request in the notice. The record, and transcript, if any, will be sent by the clerk of the trial court to the Court of Appeals, along with a copy of the notice of appeal. Direct appeals will not be docketed until the record is received from the lower court clerk in the proper format. See Rule 11. The final order of the trial court that is being appealed must be included in the record from the trial court accompanying the notice of appeal and must have been stamped “filed” by the clerk of the trial court. If the order does not contain the trial court clerk’s stamp, the notice of appeal and record will be returned to the trial court. See Rule 17.

Once docketed, the Clerk of the Court of Appeals will send a notice to the parties and/or their attorneys that the appeal has been received and docketed. **This “Docketing Notice” is very important since it contains the deadlines for filing briefs, requests to argue, and calendaring information.** This notice is sent via U.S. mail; therefore, it is critical that you have provided the Court with a valid mailing address. The docketing notice should be read carefully. See Rule 13.

You can check the status of your case from the docket or see opinions of the Court on the Court’s website at <http://www.gaappeals.us/docket/index.php>. Although the text of briefs, orders, and records are not currently available on the web page, you can review these records at the Clerk’s office. Photostatic copies of documents filed with the Court of Appeals are available from the Clerk at a cost of \$1.50 per page.

VIII. INDEX OF SAMPLE FORMS AND ATTACHMENTS

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FORM 2

NOTICE OF APPEAL: CRIMINAL (O.C.G.A. § 5-6-51(2) - Statutory Form)

IN THE _____ COURT OF _____ COUNTY
STATE OF GEORGIA

_____ ,)	
)	
The State,)	(Indictment)
)	(Accusation)
Vs.)	No. _____
)	
_____ ,)	
)	
Defendant.)	

NOTICE OF APPEAL

Notice is hereby given that _____ Defendant above-named, hereby appeals to the Court of Appeals of Georgia from the judgment of conviction and sentence entered herein on __ (date) __ , _____.

The offense(s) for which defendant was convicted is (are) _____, and the sentence(s) imposed is (are) as follows: _____.

Motion for new trial (or motion in arrest of judgment, etc.) was filed and overruled on __ (date) __ , _____.

The clerk will please omit the following from the record on appeal: _____.
Transcript of evidence and proceedings _____ (will/will not) be filed for inclusion in the record on appeal.

The Court of Appeals, rather than the Supreme Court, has jurisdiction of this case on appeal for the reason that _____.

CERTIFICATE OF SERVICE

I certify that I have this day served _____ (opposing party or attorney) with a copy of this Notice of Appeal by _____ (mailing a copy first class mail postage prepaid) to him/her at: _____ (complete address of party served).

This the _____ day of _____, _____.

(Firm)
(Address)
(Telephone)
(Email)

(Name)
Georgia Bar No. _____

FORM 3

**PAUPER'S AFFIDAVIT (AFFIDAVIT OF INDIGENCY)
COURT OF APPEALS OF GEORGIA**

_____, *
APPELLANT *
Vs * CASE NUMBER
_____, * _____
APPELLEE

PAUPER'S AFFIDAVIT

Comes now _____ (Appellant's name) first being duly sworn, deposes and states I am financially unable to pay the filing fee required for filing costs in the Court of Appeals of Georgia, and I request I be permitted to file _____ (Appellant's Brief or Appellant's Application) without having to pay filing fees. I further swear that the responses which I have made to the questions and instructions below are true.

1. Are you presently employed? Yes No

If the answer is "Yes", state the amount of your salary or wages per month, and give the name and address of your employer: _____

If the answer is "No", state the date of last employment and the amount of the salary and wages per month which you received: _____

2. Have you received within the past twelve months any money from any of the following sources?

- | | | |
|--|------------------------------|-----------------------------|
| Business, profession or form of self-employment? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Pensions, annuities or life insurance payments? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Rent payments, interest or dividends? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Gifts or inheritances? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Any other sources? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If the answer to any of the above is "Yes", describe each source of money and state the amount received from each source during the past twelve months: _____

3. Do you own any cash, or do you have money in a checking or savings account? (Include any funds in prison accounts) Yes No

If the answer is "Yes", state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)? Yes No

If the answer is "Yes", describe the property and state its approximate value:

5. List the persons who are dependent upon you for financial support, state your relationship to those persons, and indicate how you contribute toward their support: _____

I understand that a false statement or answer to any question in this affidavit will subject me to penalties for perjury and that state law provides as follows:

(a) A person to whom a lawful oath or affirmation has been administered commits the offense of perjury when, in a judicial proceeding, he knowingly and willfully makes a false statement material to the issue on point in question.

(b) A person convicted of the offense of perjury shall be punished by a fine of not more than \$1,000 or by imprisonment for not less than one nor more than ten years, or both. O.C.G.A. §16-10-70.

I, _____, do swear and affirm under penalty of law that the statements contained in this affidavit are true. I further attest that this application for in forma pauperis status is not presented to harass or to cause unnecessary delay or needless increase in the costs of litigation.

This the _____ day of _____, _____.

(Your name printed or typed)

(Sign your name.)

(Your complete address and telephone number)

Sworn to and subscribed before me

SEAL

This the _____ day of _____, _____.

Notary Public

FORM 4

**NOTICE OF INTENT
TO APPLY FOR CERTIORARI IN SUPREME COURT OF GEORGIA**

COURT OF APPEALS OF GEORGIA

_____, *
APPELLANT *
Vs. * CASE NUMBER
_____, *
APPELLEE *

NOTICE OF INTENT

Comes now _____ (Appellant/Appellee) in the above appeal and files this Notice of Intent to apply for certiorari to the Supreme Court of Georgia.

This the _____ day of _____, _____.

_____ (Sign your name.)

(Your complete address.)

CERTIFICATE OF SERVICE

I certify that I have this day served _____ (opposing party or attorney) with a copy of this Notice of Intent by _____ mailing a copy first class mail postage prepaid to him/her at: _____

(Complete address of party served).

This the _____ day of _____, _____.

_____ (Sign your name.)

FORM 5

NOTICE OF FILING CERTIORARI IN SUPREME COURT OF GEORGIA

COURT OF APPEALS OF GEORGIA

_____, *
APPELLANT *
Vs. * CASE NUMBER
_____, * _____
APPELLEE

NOTICE OF FILING PETITION OF CERTIORARI

Comes now _____ (Appellant/Appellee) in the above appeal and shows he/she this day filed an application for certiorari with the Supreme Court of Georgia.

This the _____ day of _____, _____.
_____. (Sign your name.)

(Your complete address.)

CERTIFICATE OF SERVICE

I certify that I have this day served _____ (opposing party or attorney) with a copy of this Notice of Filing Petition of Certiorari by _____ mailing a copy first class mail postage prepaid to him/her at: _____

(Complete address of party served).

This the _____ day of _____, _____.
_____. (Sign your name.)

FORM 6

APPLICATION FOR DISCRETIONARY OR INTERLOCUTORY APPEAL

IN THE COURT OF APPEALS OF GEORGIA

_____)
)
Appellant[s],)
)
Vs.)
)
_____)
)
Appellee[s].)
)

APPLICATION FOR APPELLATE REVIEW

_____, applicant, applies to this Court as follows:

(1) To issue an order granting the applicant an appeal from the [order/judgment] of the _____ Court of _____, Honorable _____, presiding, in the case styled _____, Plaintiff v. _____, Defendant, Case No. _____, this [order/judgment] having held: _____. The order was entered on (date) _____ and stamped "filed" by the lower-court Clerk on (date) _____.

(2) Applicant shows that the jurisdiction is properly in this Court because _____.

[If the order or judgment is interlocutory]

(3) This application of appeal is filed within 10 days of the granting and filing of the Certificate of Immediate Review.

-Or-

[If a final order or judgment]

(4) This application of appeal is filed within 30 days of the entry of the order, decision or judgment complained of.

-Or-

[If a motion for new trial, motion in arrest of judgment, or a motion for judgment notwithstanding the verdict]

(5) This application for appeal is filed within 30 days after the entry of the order [granting, overruling, or otherwise finally disposing of] the motion.

(6) Copies of all pertinent documents have been attached to this application as exhibits including a copy of the [order/judgment] being appealed, as well as a copy of any petition or motion which led directly to the [order/judgment] being appealed, and a copy of any responses to such petition or motion.

[If an interlocutory order]

(7) The need for interlocutory appellate review is _____.

(8) Applicant submits that an appeal should be granted because _____.

Applicant respectfully shows that if this Honorable Court declines the appeal of this matter and the trial court's ruling will be permitted to stand, such would be a miscarriage of justice because _____.

Counsel for Appellant
Georgia Bar No. _____

CERTIFICATE OF SERVICE

I certify that I have this day served _____ (opposing party or attorney) with a copy of this (Discretionary Appeal) (Interlocutory Appeal) by _____ mailing a copy first class mail postage prepaid to him/her at: _____ (complete address of party served).

This the _____ day of _____, _____.

(Firm)
(Address)
(Telephone)
(Email)

(Name)
Georgia Bar No. _____

FORM 7

BRIEF OF APPELLANT

IN THE COURT OF APPEALS
STATE OF GEORGIA

_____)	
)	
)	Appellant[s],
)	
Vs.)	File No. _____
)	
_____)	
)	
)	Appellee[s].
))	

BRIEF OF APPELLANT

COMES NOW Appellant _____, [Plaintiff/Defendant] below, and files this brief on appeal.

**PART ONE
FACTS**

(Here insert facts and procedural background sufficient for understanding of the issues on appeal.)

PRESERVATION OF ERROR

(Here describe how each error enumerated was preserved.)

**PART TWO
ENUMERATION OF ERRORS**

(Here reproduce the enumeration of errors.)

**PART THREE
STANDARD OF REVIEW**

(Here include a concise statement of the standard of review for each error enumerated, along with supporting authority.)

ARGUMENT AND CITATION OF AUTHORITIES

(Here include argument and citation of authorities.)

Attorney for the Appellant
Georgia Bar No. _____

Address

Telephone Number

FORM 8

BRIEF OF APPELLEE

IN THE COURT OF APPEALS
STATE OF GEORGIA

_____ ,)	
)	
)	
Appellant[s],)	
)	
Vs.)	File No. _____
)	
_____ ,)	
)	
)	
Appellee[s].)	
)	
)		

BRIEF OF APPELLEE

COMES NOW Appellee _____, [Plaintiff/Defendant] below, and files this brief on appeal.

**PART ONE
CONTROVERTED FACTS**

(Here set forth any material inaccuracy or incompleteness of the statement of facts in the appellant's brief, such additional statement as may be deemed necessary, and such additional parts of the record or transcript deemed material.)

**PART TWO
STANDARD OF REVIEW**

(Here state any disagreement with the standard of review advocated in the appellant's brief and supporting authority for such disagreement.)

ARGUMENT AND CITATION OF AUTHORITIES

(Here include argument and citation of authorities for each enumeration of error.)

Attorney for Appellee
Georgia Bar No. _____

Address

Telephone Number

IX. ATTACHMENTS

ATTACHMENT A GEORGIA COURT OF APPEALS CHECKLIST FOR APPELLANT’S BRIEF

SUBJECT	REQUIREMENTS	RULE
	I. GENERAL	
COSTS TO FILE	<ul style="list-style-type: none"> • Civil: \$300 / Criminal: \$80 • Exemptions: (1) pauper’s affidavit (must be notarized), (2) pro Se and incarcerated, or (3) Public Defender appointed counsel. 	Rule 5
COPIES	<ul style="list-style-type: none"> • File one original. 	Rule 6
FILING DATE FOR PAPER SUBMISSIONS	<ul style="list-style-type: none"> • A document will be deemed filed on the date it was physically received in the Clerk office with sufficient costs and stamped filed. (See Rule 4(b) for drop box rules.) • If mailed, it will be deemed filed on the date it was postmarked by the U.S. Postal Service or on the commercial carrier’s transmittal form if the package is properly addressed, postage prepaid, and date is legible. 	Rule 4 (a); 4 (b); 4 (c); 4 (d)
E-FILING (FOR ATTORNEYS ONLY)	<ul style="list-style-type: none"> • Certain documents are permitted to be filed electronically. • The e-filing system is not available to pro-se parties. Pro-se parties must file hard copies. • See e-filing instructions at www.gaappeals.us. 	Rule 4 (e); 46
DEADLINE TO FILE	<ul style="list-style-type: none"> • Within twenty days after the appeal is docketed. • Failure to file within that time, unless extended upon motion, may result in the dismissal of the appeal and may subject the offender to contempt. 	Rule 23 (a)
EXTENSIONS TO FILE BRIEFS	<ul style="list-style-type: none"> • Extensions of time to file briefs must be requested by motion and are subject to the Court’s discretion. • All extensions are by written order. • Failure to request an extension of time prior to the deadline may result in non-consideration of the motion and/or the dismissal of the appeal. 	Rule 16 (b)
BRIEF REQUIRED	<ul style="list-style-type: none"> • Briefs must be filed in all cases. Failure to file a brief in any case may result in dismissal of that case. 	Rule 23 (a)

	<ul style="list-style-type: none"> If you have companion, related, or combined cases, you must file briefs in each case, but the brief may state the adoption of other portions of the related brief. 	
	II. PREPARATION	
PAPER	<ul style="list-style-type: none"> Typed or printed on 8 ½" X 11" white paper Top bound with staples or fasteners (round head/ACCO) (Unless E-Filing.) 	Rule 2 (c) (1)
SPACING	<ul style="list-style-type: none"> No less than double spacing between the lines. This EXCLUDES quotations and footnotes. 	Rule 2 (c) (2)
FONT	<ul style="list-style-type: none"> Times New Roman Regular 14 pt. No smaller than ten characters per inch 	Rule 2 (c) (3)
MARGINS	<ul style="list-style-type: none"> Top: Not less than two inches. Bottom, Left & Right: At least one inch. Writing on only one side of each sheet. 	Rule 24 (c)
PAGE #	<ul style="list-style-type: none"> Arabic numerals at the bottom of the pages. 	Rule 24 (e)
PAGE LIMITS	<ul style="list-style-type: none"> Civil: Thirty Pages / Criminal: Fifty Pages Supplemental: fifteen pages. Do not attach exhibits. Page limits do not include: 1) Table of Content, 2) Tables of Citations, 3) Cover Sheets, 4) Certificates of Service 	Rule 24 (f); 24 (g)
	III. STRUCTURE & CONTENT	
CASE #	<ul style="list-style-type: none"> Ensure the correct Case Number is located on the brief. 	
PART 1	<ul style="list-style-type: none"> Succinct/accurate statement of the proceedings/facts. 	Rule 25 (a) (1)
PART 2	<ul style="list-style-type: none"> Enumeration of Errors. 	Rule 25 (a) (2)
PART 3	<ul style="list-style-type: none"> Argument and citation of authorities. Concise statement of the applicable standard of review with supporting authority for each issue presented. 	Rule 25 (a) (3)
CITATIONS	<ul style="list-style-type: none"> Name of case, volume, page and year of Official Report. Cases not yet reported: Cite by the Court of Appeals or Supreme Court case number and date of decision. 	Rule 24 (d); 25 (c) (2)
EXHIBITS	<ul style="list-style-type: none"> Do not attach exhibits. Refer to exhibits in the certified record. 	Rule 24 (g)
PERSONALLY SIGN	<ul style="list-style-type: none"> Brief must be personally signed by counsel (or pro-se party) and include: (1) Bar number (if applicable), (2) Mailing address, (3) Telephone number, (4) e-mail. 	Rule 2 (a)

CERT. OF SERVICE	<ul style="list-style-type: none"> • Must serve a copy of all documents on each opposing counsel or pro-se party by US mail before filing with the court. • If criminal case, serve the District Attorney. • Must include: (1) Full Name, (2) Complete Mailing Address, (3) Actual Signature of Counsel. 	Rule 2 (a); 6
SUPPLEMENTAL BRIEFS	<ul style="list-style-type: none"> • Supplemental briefs may only be filed by leave of Court. • If permission is granted, file an original. • Not to exceed fifteen pages. • Parties are not permitted to file letter briefs or letter cites. 	Rule 24 (f); 27 (a); 27 (b);
REPLY BRIEF	<ul style="list-style-type: none"> • Appellant may file a reply brief within twenty days from the date of filing of appellee's brief. • Not to exceed to fifteen pages. 	Rule 23 (c); 24 (f)

ATTACHMENT B

**GEORGIA COURT OF APPEALS
CHECKLIST FOR APPELLEE’S BRIEF**

SUBJECT	REQUIREMENTS	RULE
	I. GENERAL	
COPIES	<ul style="list-style-type: none"> File 1 original. 	Rule 6
FILING DATE FOR PAPER SUBMISSIONS	<ul style="list-style-type: none"> A document will be deemed filed on the date it was physically received in the Clerk office with sufficient costs and stamped filed. (See Rule 4(b) for drop box rules.) If mailed, it will be deemed filed on the date it was postmarked by the U.S. Postal Service or on the commercial carrier’s transmittal form if the package is properly addressed, postage prepaid, and date is legible. 	Rule 4 (a); 4 (b); 4 (c); 4 (d)
E-FILING (FOR ATTORNEYS ONLY)	<ul style="list-style-type: none"> Certain documents are permitted to be filed electronically. Pro-se parties must file briefs as hardcopies. See e-filing instructions at www.gaappeals.us. 	Rule 4 (e); 46
DEADLINE TO FILE	<ul style="list-style-type: none"> Within forty days after the appeal is docketed or twenty days after the filing of Appellant’s Brief, whichever is later. 	Rule 23 (b)
EXTENSION TO FILE BRIEFS	<ul style="list-style-type: none"> Extensions of time to file briefs must be requested by motion and are subject to the Court’s discretion. All extensions are by written order. Motions for Extension of Time to file a brief must be made in time for the Court to act before the deadline. 	Rule 16 (b)
BRIEF REQUIRED	<ul style="list-style-type: none"> Briefs must be filed in all cases. If you have companion, related, or combined cases, you must file briefs in each case, but the brief may state the adoption of other portions of the related brief. 	Rule 23 (a);
	II. PREPARATION	
PAPER	<ul style="list-style-type: none"> Typed or printed on 8 ½” X 11” white paper Top bound with staples or fasteners (round head/ACCO) (Unless E-Filing.) 	Rule 2 (c) (1)
SPACING	<ul style="list-style-type: none"> No less than double spacing between the lines. Includes quotations and footnotes. 	Rule 2 (c) (2)
FONT	<ul style="list-style-type: none"> Times New Roman Regular 14 pt. No smaller than ten characters per inch. 	Rule 2 (c) (3)
MARGIN	<ul style="list-style-type: none"> Top: Not less than two inches. Bottom, Left & Right: At least one inch. 	Rule 24 (c)

	<ul style="list-style-type: none"> • Writing on only one side of each sheet. 	
PAGE #	<ul style="list-style-type: none"> • Arabic numerals at the bottom of the pages. 	Rule 24 (e)
PAGE LIMITS	<ul style="list-style-type: none"> • Civil: thirty pages / Criminal: fifty pages • Supplemental: fifteen pages. • Do not attach exhibits. • Page limits do not include: 1) Table of Content, 2) Tables of Citations, 3) Cover Sheets, 4) Certificates of Service 	Rule 24 (f) & (g);
III. STRUCTURE & CONTENT		
CASE #	<ul style="list-style-type: none"> • Ensure the correct Case Number is located on the brief. 	
PART 1	<ul style="list-style-type: none"> • Point out any material inaccuracy or incompleteness of appellant's statement of facts and any additional statement of facts deemed necessary. 	Rule 25 (b) (1)
PART 2	<ul style="list-style-type: none"> • Argument and the citation of authorities as to each enumeration of error. • Include the standard of review if different from that contended by the appellant. 	Rule 25 (b) (2)
CITATIONS	<ul style="list-style-type: none"> • Name of case, volume, page and year of Official Report. • Cases not yet reported: Cite by the Court of Appeals or Supreme Court case number and date of decision. 	Rule 24(d); 25 (c) (2)
EXHIBITS	<ul style="list-style-type: none"> • Do not attach exhibits. • Refer to exhibits in the certified record. 	Rule 24 (g)
PERSONALLY SIGN	<ul style="list-style-type: none"> • Brief must be personally signed by counsel (or pro-se party) and include: 1) Bar number (if applicable), 2) Mailing address, 3) Telephone number, 4) E-mail. 	Rule 2 (a);
CERT. OF SERVICE	<ul style="list-style-type: none"> • Must serve a copy of all documents on each opposing counsel or pro-se party by US mail before filing with the court. • If criminal case, serve the District Attorney. • Must include: 1) Full Name, 2) Complete Mailing Address, 3) Actual Signature of Counsel. 	Rule 2 (a); 6
SUPPLEMENTAL BRIEFS	<ul style="list-style-type: none"> • Supplemental briefs may only be filed by leave of Court. • If permission is granted, file an original. • Not to exceed fifteen pages. • Parties are not permitted to file letter briefs or letter cites 	Rule 24 (f); 27 (a); 27 (b)

ATTACHMENT C

**GEORGIA COURT OF APPEALS
CHECKLIST FOR APPLICATION FOR DISCRETIONARY
APPEALS**

SUBJECT	REQUIREMENTS	RULE
	IV. GENERAL	
COPIES	<ul style="list-style-type: none"> File 1 original and 1 copy. 	Rule 6
FILING DATE FOR PAPER SUBMISSIONS	<ul style="list-style-type: none"> A document will be deemed filed on the date physically received in the Clerk office. (See Rule 4(b) for drop box rules.) If mailed, it will be deemed filed on the date it was postmarked by the U.S. Postal Service or on the commercial carrier's transmittal form if the package is properly addressed, postage prepaid, and date is legible. Must be in compliance with all requirements below to be accepted. 	Rule 4(a); 4 (b); 4 (c); 4 (d)
EXTENSION TO FILE AN APPLICATION	<ul style="list-style-type: none"> No extensions of time shall be granted in filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application. No extension of time shall be granted to file a response to a discretionary application. 	Rule 31 (i)
E-FILING (FOR ATTORNEYS ONLY)	<ul style="list-style-type: none"> Certain documents are permitted to be filed electronically. Pro-se parties must file applications as hardcopies. See e-filing instructions at www.gaappeals.us. 	Rule 4 (e); 46
DEADLINE TO FILE	File within 30 days after the entry of the order, decision or judgment. (If a dispossessory action, must file within 7 days.)	O.C.G.A. § 5-6-35(d)
OPPOSING PARTY'S RESPONSE	Opposing party may file a response within 10 days. No response is required.	O.C.G.A. § 5-6-35 (e) Rule 31 (j)
PAGE LIMIT	Applications and responses are limited to 30 pages in civil cases and 50 pages in criminal cases, exclusive of attached exhibits and parts of the record.	Rule 31 (g) (2) (i)
	V. PREPARATION	
PAPER	<ul style="list-style-type: none"> Typed or printed on 8 ½" X 11" white paper Top bound with clamps or fasteners (round head/ACCO) (Unless E-Filing.) 	Rule 2 (c) (1)
SPACING	<ul style="list-style-type: none"> No less than double spacing between the lines. Includes quotations and footnotes. 	Rule 2 (c) (2)

FONT	<ul style="list-style-type: none"> • Times New Roman Regular 14 pt. • No smaller than ten characters per inch. 	Rule 2 (c) (3)
MARGIN	<ul style="list-style-type: none"> • Top: Not less than two inches. • Bottom, Left & Right: At least one inch. • Writing on only one side of each sheet. 	Rule 24 (c)
PAGE #	Arabic numerals at the bottom of the pages.	Rule 24 (e)
CASE #	Ensure the correct Case Number is located on the application.	
CONTENT	<ul style="list-style-type: none"> • The application is a petition enumerating errors and stating why the appellate court has jurisdiction • It must include: <ul style="list-style-type: none"> * A stamped “filed” copy of the trial court order of judgment being appealed. * A copy of the petition or motion that led directly to the order or judgment being appealed, and, * A copy of any responses to the petition or motion, * Payment of all costs or that an exception allows waiver of costs. 	O.C.G.A. § 5-6-35 (c) O.C.G.A. §5-6-35 (d) Rule 31 (c), (d), (e)
TAB AND INDEX	All submitted material from the record should be tabbed and indexed and shall be securely bound at the top with clamps or fasteners (round head or ACCO). If not tabbed, indexed and securely bound at the top, the application is subject to dismissal or return for preparation according to the Court's rules.	Rule 31 (g) (2) (ii)
PERSONALLY SIGN	Must be personally signed by counsel (or pro-se party) and include: 1) Bar number (if applicable), 2) Mailing address, 3) Telephone number, 4) E-mail.	Rule 2 (a);
CERT. OF SERVICE	<ul style="list-style-type: none"> • Must serve a copy of all documents on each opposing counsel or pro-se party by US mail before filing with the court. If criminal case, serve the District Attorney. • Certification must include: 1) name and complete mailing address of opposing counsel or pro-se party, and, 2) signature of pro se appellant (or counsel). 	Rule 2 (a); 6

ATTACHMENT D

**GEORGIA COURT OF APPEALS
CHECKLIST FOR APPLICATION FOR INTERLOCUTORY
APPEALS**

SUBJECT	REQUIREMENTS	RULE
	VI. GENERAL	
COPIES	<ul style="list-style-type: none"> File 1 original and 1 copy. 	Rule 6
FILING DATE FOR PAPER SUBMISSIONS	<ul style="list-style-type: none"> A document will be deemed filed on the date physically received in the Clerk office. (See Rule 4(b) for drop box rules.) If mailed, it will be deemed filed on the date it was postmarked by the U.S. Postal Service or on the commercial carrier's transmittal form if the package is properly addressed, postage prepaid, and date is legible. Must be in compliance with all requirements below to be accepted. 	Rule 4(a); 4 (b); 4 (c); 4 (d)
EXTENSION TO FILE AN APPLICATION	<ul style="list-style-type: none"> No extensions of time shall be granted in filing a discretionary application unless the motion for extension is filed on or before the due date of the discretionary application. No extension of time shall be granted to file a response to a discretionary application. 	Rule 30 (i)
E-FILING (FOR ATTORNEYS ONLY)	<ul style="list-style-type: none"> Certain documents are permitted to be filed electronically. Pro-se parties must file applications as hardcopies. See e-filing instructions at www.gaappeals.us. 	Rule 4 (e); 46
DEADLINE TO FILE	File within 10 days after the entry of the entry of the certificate of immediate review.	O.C.G.A. § 5-6-34(d)
OPPOSING PARTY'S RESPONSE	Opposing party may file a response within 10 days. No response is required.	O.C.G.A. § 5-6-35 (e) Rule 30 (j)
PAGE LIMIT	Applications and responses are limited to 30 pages in civil cases and 50 pages in criminal cases, exclusive of attached exhibits and parts of the record.	Rule 30 (g) (2) (i)
	VII. PREPARATION	
PAPER	<ul style="list-style-type: none"> Typed or printed on 8 ½" X 11" white paper Top bound with clamps or fasteners (round head/ACCO) (Unless E-Filing.) 	Rule 2 (c) (1)
SPACING	<ul style="list-style-type: none"> No less than double spacing between the lines. Includes quotations and footnotes. 	Rule 2 (c) (2)

FONT	<ul style="list-style-type: none"> • Times New Roman Regular 14 pt. • No smaller than ten characters per inch. 	Rule 2 (c) (3)
MARGIN	<ul style="list-style-type: none"> • Top: Not less than two inches. • Bottom, Left & Right: At least one inch. • Writing on only one side of each sheet. 	Rule 24 (c)
PAGE #	Arabic numerals at the bottom of the pages.	Rule 24 (e)
CASE #	Ensure the correct Case Number is located on the application.	
CONTENT	<ul style="list-style-type: none"> • The application is a petition enumerating errors and stating why the appellate court has jurisdiction • It must include: <ul style="list-style-type: none"> * A stamped “filed” copy of the trial court order of judgment being appealed. * A stamped “filed” copy of the certificate of immediate review. * A copy of the petition or motion that led directly to the order or judgment being appealed. * A copy of any responses to the petition or motion. * Payment of all costs or that an exception allows waiver of costs. 	O.C.G.A. § 5-6-35 (c) O.C.G.A. §5-6-35 (d) Rule 30 (c), (d), (e)
TAB AND INDEX	All submitted material from the record should be tabbed and indexed and shall be securely bound at the top with clamps or fasteners (round head or ACCO). If not tabbed, indexed and securely bound at the top, the application is subject to dismissal or return for preparation according to the Court's rules.	Rule 30 (g) (2) (ii)
PERSONALLY SIGN	Must be personally signed by counsel (or pro-se party) and include: 1) Bar number (if applicable), 2) Mailing address, 3) Telephone number, 4) E-mail.	Rule 2 (a);
CERT. OF SERVICE	<ul style="list-style-type: none"> • Must serve a copy of all documents on each opposing counsel or pro-se party by US mail before filing with the court. If criminal case, serve the District Attorney. • Certification must include: 1) name and complete mailing address of opposing counsel or pro-se party, and, 2) signature of pro se appellant (or counsel). 	Rule 2 (a); 6

ATTACHMENT E: O.C.G.A. § 5-6-34 (Check for the most recent version.)

TITLE 5. APPEAL AND ERROR
CHAPTER 6. CERTIORARI AND APPEALS TO APPELLATE COURTS GENERALLY
ARTICLE 2. APPELLATE PRACTICE

O.C.G.A. § 5-6-34 (2014)

§ 5-6-34. Judgments and rulings deemed directly appealable; procedure for review of judgments, orders, or decisions not subject to direct appeal; scope of review; hearings in criminal cases involving a capital offense for which death penalty is sought; appeals involving nonmonetary judgments in child custody cases.

(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the following judgments and rulings of the superior courts, the constitutional city courts, and such other courts or tribunals from which appeals are authorized by the Constitution and laws of this state:

(1) All final judgments, that is to say, where the case is no longer pending in the court below, except as provided in Code Section 5-6-35;

(2) All judgments involving applications for discharge in bail trover and contempt cases;

(3) All judgments or orders directing that an accounting be had;

(4) All judgments or orders granting or refusing applications for receivers or for interlocutory or final injunctions;

(5) All judgments or orders granting or refusing applications for attachment against fraudulent debtors;

(6) Any ruling on a motion which would be dispositive if granted with respect to a defense that the action is barred by Code Section 16-11-173;

(7) All judgments or orders granting or refusing to grant mandamus or any other extraordinary remedy, except with respect to temporary restraining orders;

(8) All judgments or orders refusing applications for dissolution of corporations created by the superior courts;

(9) All judgments or orders sustaining motions to dismiss a caveat to the probate of a will;

(10) All judgments or orders entered pursuant to subsection (c) of Code Section 17-10-6.2;

(11) All judgments or orders in child custody cases awarding, refusing to change, or modifying

child custody or holding or declining to hold persons in contempt of such child custody judgment or orders; and

(12) All judgments or orders entered pursuant to Code Section 35-3-37.

(b) Where the trial judge in rendering an order, decision, or judgment, not otherwise subject to direct appeal, including but not limited to the denial of a defendant's motion to recuse in a criminal case, certifies within ten days of entry thereof that the order, decision, or judgment is of such importance to the case that immediate review should be had, the Supreme Court or the Court of Appeals may thereupon, in their respective discretions, permit an appeal to be taken from the order, decision, or judgment if application is made thereto within ten days after such certificate is granted. The application shall be in the nature of a petition and shall set forth the need for such an appeal and the issue or issues involved therein. The applicant may, at his or her election, include copies of such parts of the record as he or she deems appropriate, but no certification of such copies by the clerk of the trial court shall be necessary. The application shall be filed with the clerk of the Supreme Court or the Court of Appeals and a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties in the case in the manner prescribed by Code Section 5-6-32, except that such service shall be perfected at or before the filing of the application. The opposing party or parties shall have ten days from the date on which the application is filed in which to file a response. The response may be accompanied by copies of the record in the same manner as is allowed with the application. The Supreme Court or the Court of Appeals shall issue an order granting or denying such an appeal within 45 days of the date on which the application was filed. Within ten days after an order is issued granting the appeal, the applicant, to secure a review of the issues, may file a notice of appeal as provided in Code Section 5-6-37. The notice of appeal shall act as a supersedeas as provided in Code Section 5-6-46 and the procedure thereafter shall be the same as in an appeal from a final judgment.

(c) In criminal cases involving a capital offense for which the death penalty is sought, a hearing shall be held as provided in Code Section 17-10-35.2 to determine if there shall be a review of pretrial proceedings by the Supreme Court prior to a trial before a jury. Review of pretrial proceedings, if ordered by the trial court, shall be exclusively as provided by Code Section 17-10-35.1 and no certificate of immediate review shall be necessary.

(d) Where an appeal is taken under any provision of subsection (a), (b), or (c) of this Code section, all judgments, rulings, or orders rendered in the case which are raised on appeal and which may affect the proceedings below shall be reviewed and determined by the appellate court, without regard to the appealability of the judgment, ruling, or order standing alone and without regard to whether the judgment, ruling, or order appealed from was final or was appealable by some other express provision of law contained in this Code section, or elsewhere. For purposes of review by the appellate court, one or more judgments, rulings, or orders by the trial court held to be erroneous on appeal shall not be deemed to have rendered all subsequent proceedings nugatory; but the appellate court shall in all cases review all judgments, rulings, or orders raised on appeal which may affect the proceedings below and which were rendered subsequent to the first judgment, ruling, or order held erroneous. Nothing in this subsection shall require the appellate court to pass upon questions which are rendered moot.

(e) Where an appeal is taken pursuant to this Code section for a judgment or order granting nonmonetary relief in a child custody case, such judgment or order shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order.

ATTACHMENT F: O.C.G.A. § 5-6-35 (Check for the most recent version.)

TITLE 5. APPEAL AND ERROR
CHAPTER 6. CERTIORARI AND APPEALS TO APPELLATE COURTS GENERALLY
ARTICLE 2. APPELLATE PRACTICE

O.C.G.A. § 5-6-35 (2014)

§ 5-6-35. Cases requiring application for appeal; requirements for application; exhibits; response; issuance of appellate court order regarding appeal; procedure; supersedeas; jurisdiction of appeal; appeals involving nonmonetary judgments in custody cases.

(a) Appeals in the following cases shall be taken as provided in this Code section:

(1) Appeals from decisions of the superior courts reviewing decisions of the State Board of Workers' Compensation, the State Board of Education, auditors, state and local administrative agencies, and lower courts by certiorari or de novo proceedings; provided, however, that this provision shall not apply to decisions of the Public Service Commission and probate courts and to cases involving ad valorem taxes and condemnations;

(2) Appeals from judgments or orders in divorce, alimony, and other domestic relations cases including, but not limited to, granting or refusing a divorce or temporary or permanent alimony or holding or declining to hold persons in contempt of such alimony judgment or orders;

(3) Appeals from cases involving distress or dispossessory warrants in which the only issue to be resolved is the amount of rent due and such amount is \$2,500.00 or less;

(4) Appeals from cases involving garnishment or attachment, except as provided in paragraph (5) of subsection (a) of Code Section 5-6-34;

(5) Appeals from orders revoking probation;

(5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual Offender Registration Review Board;

(5.3) Appeals from decisions of superior courts granting or denying petitions for release pursuant to Code Section 42-1-19;

(6) Appeals in all actions for damages in which the judgment is \$10,000.00 or less;

(7) Appeals, when separate from an original appeal, from the denial of an extraordinary motion for new trial;

(8) Appeals from orders under subsection (d) of Code Section 9-11-60 denying a motion to set aside a judgment or under subsection (e) of Code Section 9-11-60 denying relief upon a complaint in equity to set aside a judgment;

(9) Appeals from orders granting or denying temporary restraining orders;

(10) Appeals from awards of attorney's fees or expenses of litigation under Code Section 9-15-14;

(11) Appeals from decisions of the state courts reviewing decisions of the magistrate courts by de novo proceedings so long as the subject matter is not otherwise subject to a right of direct appeal; and

(12) Appeals from orders terminating parental rights.

(b) All appeals taken in cases specified in subsection (a) of this Code section shall be by application in the nature of a petition enumerating the errors to be urged on appeal and stating why the appellate court has jurisdiction. The application shall specify the order or judgment being appealed and, if the order or judgment is interlocutory, the application shall set forth, in addition to the enumeration of errors to be urged, the need for interlocutory appellate review.

(c) The applicant shall include as exhibits to the petition a copy of the order or judgment being appealed and should include a copy of the petition or motion which led directly to the order or judgment being appealed and a copy of any responses to the petition or motion. An applicant may include copies of such other parts of the record or transcript as he deems appropriate. No certification of such copies by the clerk of the trial court shall be necessary in conjunction with the application.

(d) The application shall be filed with the clerk of the Supreme Court or the Court of Appeals within 30 days of the entry of the order, decision, or judgment complained of and a copy of the application, together with a list of those parts of the record included with the application, shall be served upon the opposing party or parties as provided by law, except that the service shall be perfected at or before the filing of the application. When a motion for new trial, a motion in arrest of judgment, or a motion for judgment notwithstanding the verdict has been filed, the application shall be filed within 30 days after the entry of the order granting, overruling, or otherwise finally disposing of the motion.

(e) The opposing party or parties shall have ten days from the date on which the application is filed in which to file a response. The response may be accompanied by copies of the record in the same manner as is allowed with the application. The response may point out that the decision of the trial court was not error, or that the enumeration of error cannot be considered on appeal for lack of a transcript of evidence or for other reasons.

(f) The Supreme Court or the Court of Appeals shall issue an order granting or denying such an appeal within 30 days of the date on which the application was filed.

(g) Within ten days after an order is issued granting the appeal, the applicant, to secure a review of the issues, shall file a notice of appeal as provided by law. The procedure thereafter shall be the same as in other appeals.

(h) The filing of an application for appeal shall act as a supersedeas to the extent that a notice of appeal acts as supersedeas.

(i) This Code section shall not affect Code Section 9-14-52, relating to practice as to appeals in certain habeas corpus cases.

(j) When an appeal in a case enumerated in subsection (a) of Code Section 5-6-34, but not in subsection (a) of this Code section, is initiated by filing an otherwise timely application for permission to appeal pursuant to subsection (b) of this Code section without also filing a timely notice of appeal, the appellate court shall have jurisdiction to decide the case and shall grant the application. Thereafter the appeal shall proceed as provided in subsection (g) of this Code section.

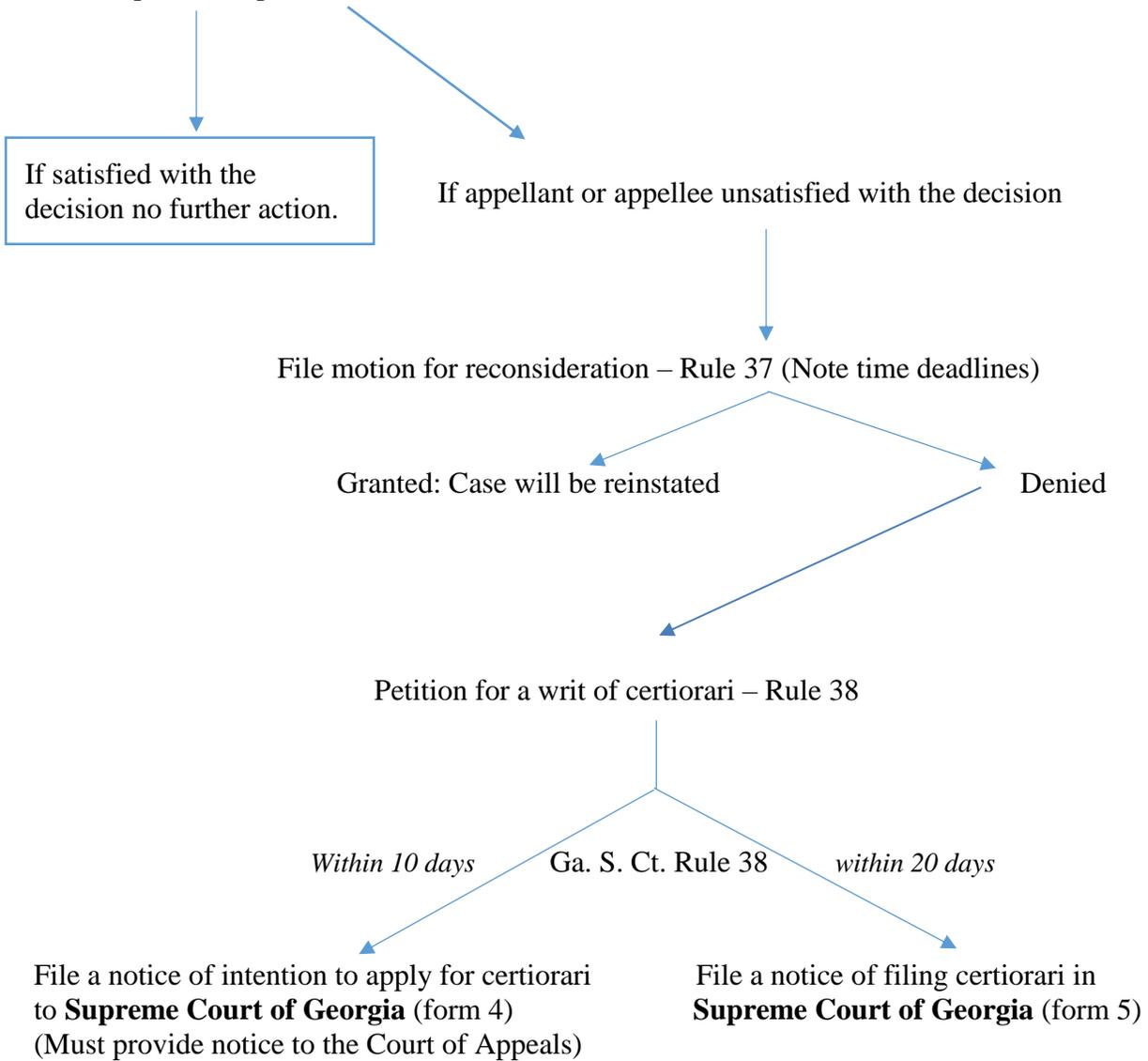
(k) Where an appeal is taken pursuant to this Code section for a judgment or order granting nonmonetary relief in a child custody case, such judgment or order shall stand until reversed or modified by the reviewing court unless the trial court states otherwise in its judgment or order.

ATTACHMENT G

PROCEDURE TO FILE A DIRECT APPEAL

1. Appellant files a notice of appeal in the trial court. See O.C.G.A. § 5-6-34 & § 44-7-56. Must file within 30 days (or 7 days in a dispossessory action) from the stamped filed date of the trial court order or judgment appealed.
 - Appellant must designate in the notice of appeal that portion of the record and/or any transcripts to be transmitted to the Court of Appeals, which are needed to address the merits of the appeal. See O.C.G.A. § 5-6-42, § 5-6-43 and § 5-6-44.
 - Normally, appellant must pay costs to trial court before the appeal will be transmitted.
 - If portions of the record and/or transcripts are omitted by the appellant, the appellee may designate portions of the record and/or transcripts to be transmitted.
2. After preparing the record and receiving the transcripts, the trial court clerk transmits the record and/or transcripts to the Court of Appeals.
3. Upon receiving the complete record, the Court of Appeal docket the appeal. The case is given a case number and is assigned to a panel of judges. A docketing notice will be sent to the appellant(s) and appellee(s).
4. Within 20 days of the docketing date, the appellant must either file a brief or seek an extension of time in which to file a brief. See Rules 23, 24 & 25.
 - a. The required format for a brief can be found in Court of Appeals Rules 24 & 25.
 - b. Unless an extension is granted, any response brief must be filed within 40 days after the case is docketed or 20 days of the filing date of the Appellant's brief, whichever is later. See Rule 23, 24 & 25.
5. Appellee must file their response brief 40 days after the case is docketed or 20 days after appellee files their brief, whichever is later. See Rule 23, 24, & 25.
6. Appellant may file a response to the appellee's brief within 20 days of the appellee's brief. See Rule 23 (c) & 27.
7. The Court issues its judgement in the case. The ruling is transmitted to all parties.

8. Options for parties:



PROCEDURE TO FILE A DISCRETIONARY OR INTERLOCUTORY APPLICATION

O.C.G.A. § 5-6-35/Rule 31. File in Court of Appeals (note strict deadlines)

Discretionary application-granted only if:

- (1) Reversible error appears to exist; or
 - (2) The establishment of precedent is desired.
- See O.C.G.A. § 5-6-35; Rule 31.

Interlocutory application-granted only if:

- (1) Issue to be decided appears to be dispositive of the case;
 - (2) The order appears to be erroneous and will probably cause a substantial error at trial or will adversely affect the rights of the appealing party until entry of final judgment in which case the appeal will be expedited; or
 - (3) The establishment of precedent is desirable.
- See O.C.G.A. § 5-6-34 (b); Rule 30.

If Court Grants, then: Appellant files a notice of appeal within ten days

If Court Denies, then: File motion for reconsideration within ten days (Rule 37)

- a. Granted- no further action required
- b. Denied- File notice of intention to apply for certiorari to Georgia Supreme Court within ten days **once filed, must provide notice to Court of Appeal** (Rule 38)

ATTACHMENT I: IMPORTANT DEADLINES

- (1) Time for filing notice of appeal: O.C.G.A. § 5-6-38
- (2) Time for filing notice of appeal in dispossessory cases: O.C.G.A. § 44-7-56
- (3) Extension of time for filing notice: O.C.G.A. § 5-6-39
- (4) Time for filing a notice of cross appeal: O.C.G.A. § 5-6-38
- (5) Time for filing discretionary application: O.C.G.A. § 5-6-35
- (6) Time for filing notice of appeal if the discretionary application is granted: See Rule 31
- (7) Time for filing transcript of evidence: O.C.G.A. § 5-6-42
- (8) Time for filing designation of record by appellee: O.C.G.A. § 5-6-42
- (9) Time for preparing a copy of record by the clerk of the trial court: O.C.G.A. § 5-6-43
- (10) Time for filing briefs: See Rule 23
- (11) Time for filing motion for reconsideration: See Rule 37
- (12) Time for filing notice of intention to petition for a writ of certiorari to Supreme Court of Georgia: See Rule 38