

Court of Appeals of the State of Georgia

ATLANTA, May 17, 2023

The Court of Appeals hereby passes the following order:

It is hereby ordered that the following Court Rules are amended:

II. ATTORNEYS

Rule 9. Attorneys, Registered Law Students, and Registered Law School Graduates.

(d) Substitution or Withdrawal of Counsel.

(1) Substitution of Counsel.

VII. BRIEFS

Rule 23. Time of Filing; Contempt; Dismissal.

(a) Appellant's Brief.

XVI. SUPERSEDEAS AND EMERGENCY MOTIONS

Rule 40. Supersedeas and Emergency Motions.

(b) Emergency Motions.

(c) Mandamus.

The complete rule changes are attached with a clean copy of the amended rule. These rules of the Court of Appeals of Georgia are adopted effective May 17, 2023, and will be applied to all cases decided by the Court of Appeals on or after that date.



Court of Appeals of the State of Georgia

Clerk's Office, Atlanta, May 17, 2023

*I certify that the above is a true extract from
the minutes of the Court of Appeals of Georgia.*

*Witness my signature and the seal of said court
hereto affixed the day and year last above written.*

Stephen E. Carlton

, Clerk.

II. ATTORNEYS

Rule 9. Attorneys, Registered Law Students, and Registered Law School Graduates.

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(d) Substitution or Withdrawal of Counsel.

(1) Substitution of Counsel.

If a new attorney is substituting for an existing attorney, the new attorney must file a notice of substitution. The notice must be served on the former attorney and on opposing counsel (or opposing party if unrepresented), be signed by the new attorney, and include the new attorney's physical mailing address, email address, phone number, and Bar number. The former attorney need take no further action to withdraw as counsel of record for the party. The substitution may not delay the appeal of the case.

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VII. BRIEFS

Rule 23. Time of Filing; Contempt; Dismissal.

(a) Appellant's Brief.

Appellant's brief shall be filed within 20 days after the appeal is docketed. Failure to file within that time, unless extended upon motion for good cause shown, may result in the dismissal of the appeal, and may subject the offending party and/or counsel to sanctions, including contempt. See Rule 7, Contempt, and Rule 13, Notice of Docketing.

Pursuant to Rule 16 (b), appellant's motion for an extension of time to file a brief and enumeration of errors must be filed before the date the documents are due or the Court may dismiss the appeal. If two or more appeals are consolidated, a brief is still required to be filed in each appeal. Parties may adopt, and are encouraged to adopt, all or a portion of another brief in the same case or from another case pending in this Court. The party adopting language from another brief shall specify precisely what portion of the other brief the party is adopting and list the case number, if different.

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XVI. SUPERSEDEAS AND EMERGENCY MOTIONS

Rule 40. Supersedeas and Emergency Motions.

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(b) Emergency Motions.

In the exercise of its inherent power, this Court may issue such orders or give such direction to the trial court as may be necessary to preserve jurisdiction of an appeal or to prevent the contested issue from becoming moot. This power shall be exercised sparingly. Generally, no order shall be made or direction given in an appeal until it has been docketed in this Court.

A Rule 40 (b) motion shall:

- (1) Contain an explanation why an order of this Court is necessary and why the action requested is time-sensitive;
- (2) Contain a stamped “filed” copy of the order being appealed;
- (3) Contain a stamped “filed” copy of the notice of appeal, if one has been filed in the trial court;
- (4) Show that service was perfected upon the opposing party contemporaneously with or before filing the motion with the Court; and
- (5) Be accompanied by the filing fee or evidence that one or more of the fee waiver provisions of Rule 5 apply, unless the motion is filed in a pending case already docketed with the Court. The filing fee shall be in the amount set out in Rule 5, Filing Fees.

(c) Mandamus.

In the exercise of its power under Ga. Const. Art. VI, Sec. I, Par. IV this Court may issue process in the nature of mandamus to the trial court as may be necessary in aid of its jurisdiction or to protect or effectuate its judgments. This Court’s original mandamus jurisdiction is narrow and will be exercised sparingly.

A Rule 40 (c) motion shall:

- (1) Contain an explanation why an order of this Court is necessary and why mandamus jurisdiction lies in this Court rather than a superior court;
- (2) Include sufficient material to apprise the Court of the issues, in context, and to support the arguments advanced. Failure to submit sufficient material to apprise the Court of the issues and support the argument shall result in denial of the motion; and
- (3) Show that service was perfected upon the opposing party and upon the officer whose compelled performance is requested contemporaneously with or before filing the motion with the Court.