

## CRITERIA FOR BUSINESS COURT DESIGNATION

Following is the criteria for the Gwinnett Judicial Circuit Business Case Division, a pilot project in the Gwinnett Judicial Circuit.

### **BUSINESS CASE DIVISION**

#### **1.**

The Judges of the Gwinnett Superior Court and the Gwinnett State Court hereby create a “Business Case Division” (hereinafter referred to as the “Division”).

#### **2.**

The purpose of the Division is to provide judicial attention and expertise to certain complex Business Cases.

#### **3.**

(a) For purpose of this rule, Business Cases include actions in which the amount in controversy (or, in a case of injunction relief the value of the relief sought or the cost of not getting the relief) exceeds \$100,000 and which are brought pursuant to the following:

- (i) Georgia Securities Act of 1973, as amended, O.C.G.A. § 10-5-1, et seq.;
- (ii) Uniform Commercial Code, O.C.G.A. § 11-1-101, et seq.;
- (iii) Georgia Business Corporation Code, O.C.G.A. § 14-2-101, et seq.;
- (iv) Uniform Partnership Act, O.C.G.A. § 14-8-1, et seq.;

(v) Uniform Limited Partnership Act, O.C.G.A. § 14-9A-1, et seq.;

(vi) Georgia Revised Uniform Limited Partnership Act, O.C.G.A. § 14-9-100, et seq.;

(vii) Georgia Limited Liability Company Act, O.C.G.A. § 14-11-100, et seq.; and

(viii) any other action that the parties to the action and the Court believes warrants the attention of the Division, including large contractual and business tort cases as well as other complex commercial litigation.

(b) Notwithstanding anything contained herein to the contrary, cases that include the following claims shall not be classified as a Business Case without the consent of all parties:

- (i) Personal injury;
- (ii) Wrongful death;
- (iii) Employment discrimination; and
- (iv) Consumer claims in which each individual plaintiff's claims are in the aggregate less than \$100,000.

#### **4.**

The Division is to be created on a trial basis beginning January 1, 2008 and ending June 31, 2008 and is to be composed of one State Court Judge (selected by the

majority vote of the State Court Judges) who manage, administer, and try the cases assigned to the Division. At the end of the trial period, the Division Judges shall compile a report documenting the cases assigned, and the dispositions to determine if the Business Division should be continued.

**5.**

A Business Case filed in the Gwinnett Judicial Circuit shall be eligible for consideration to assignment to the Division based upon: (1) the parties' joint request; (2) the motion of one party; or (3) a request submitted by the Superior Court Judge or State Court Judge currently assigned that case, with notice to the parties. The motion or request by a party or parties shall be directed to the Judge currently assigned the case and a copy shall be mailed to the Business Case Division to determine, after allowing the parties twenty (20) days for briefing of the issue, whether the case is should be accepted for assignment into the Business Case Division. The active Judge assigned to the case shall have the final authority to make such an assignment regardless of the objection or agreement of all parties. If the case is accepted by the Business Case Division, the assigned judge shall designate the case to be heard by the Business Case Division for judicial assistance.

**6.**

Upon a motion or request by a party or parties, the assigned Judge shall determine within 30 days whether the case is appropriate for assignment to the Division after all parties have had an opportunity to respond to said request.

**7.**

The Business Division shall accept or reject the proposed assignment within 10 days.

**8.**

The Division shall be composed of one State Court Judge during the trial period, and the State Court Judge shall be designated as a Superior Court Judge on any Superior Court cases sent to the Business Division through a Judicial Assistance Order.

**9.**

The Business Cases assigned to the Division shall be governed by applicable law, including the Georgia Civil Practice Act, O.C.G.A. § 9-11-1, et seq., and the Uniform Superior Court Rules/State Court Rules as may be applicable.

**10.**

The Division Judge, in consultation with all parties and pursuant to applicable law, shall have the ability to modify the schedule for the administration of Business Cases, including the schedule for conducting discovery, filing dispositive motions, conducting pre-trial procedures, and conducting jury and non-jury trials.

**11.**

In particular, the Division Judge, pursuant to O.C.G.A § 9-11-5(e) may modify the procedure for filing papers with the Court, including allowing such filings to be made by facsimile or by e-mail with the Court. Upon the written consent of all parties and upon any necessary waivers as may be required by law, the Division Judge may allow for service of papers filed with the Court by electronic means, including by facsimile or by email. In the event that any procedures are modified pursuant to this paragraph, an electronic signature shall be deemed an original signature.

**12.**

The Division Judge, in consultation with all parties, shall have the ability to order nonbinding mediation, arbitration, or other means of alternative dispute resolution as dictated by the needs of a particular Business Case. The Division Judge, with the consent of all parties, may conduct such non-binding mediation, arbitration, or other means of alternative dispute resolution.

**13.**

The calendar for the Division shall be prepared under the supervision of the Division Judge and shall be made available to all parties with Business Cases pending in the Division. Pursuant to agreement of the parties and the Court, the Court may notify parties of such calendar by electronic means, including by facsimile or by email.

**14.**

Subject to the rules of evidence, the Division encourages the parties to use electronic presentations and technologically generated demonstrative evidence to enhance the trier-of-fact's understanding of the issues before it and to further the convenience and efficiency of the litigation process.

**15.**

Within thirty (30) days of a Business Case being assigned to the Division, or such shorter or longer time as the Division Judge shall order, the parties shall meet with the Division Judge to discuss the entrance of a case management order, including the following issues: (i) the length of the discovery period, the number of fact and expert depositions, and the length of such depositions; (ii) a preliminary deposition schedule; (iii) the identity and number of any motions to dismiss or other preliminary or pre-discovery motions which shall be filed and the time period in which they shall be filed, briefed, and, if appropriate, argued; (iv) the time period after the close of discovery within which post-discovery dispositive motions shall be filed, briefed, and, if appropriate, argued; (v) the need for any alternative form of dispute resolution; (vi) an estimate of the volume of documents and electronic information likely to be the subject of discovery from the parties and non-parties, and whether there are means by which to render document discovery more manageable and less expensive; (vii) and modifications to the rules under the Civil Practice Act or the Uniform Superior Court Rules as may be applicable to a particular case; (viii) such other matters as the Division Judge may assign

to the parties for their consideration. Within ten (10) days of such a meeting, the parties shall submit a proposed case management order to the Division Judges for consideration.

**16.**

In an effort to reduce the length of discovery and quickly resolve any discovery disputes, the Division Judge shall be available to the parties to resolve disputes that arise during the course of discovery.

**17.**

In addition to telephone conferencing pursuant to Rule 9 of the Uniform Superior Court Rules, by mutual agreement between the parties and the Division Judge, counsel may arrange for any hearing or other conference to be conducted by video conference, subject to the same rules of procedure and decorum as if the hearing or conference were held in open court pursuant to Uniform Superior Court and Uniform State Court Rule 9.2.