IN THE SUPERIOR COURTS OF THE CONSASAUGA JUDICIAL CIRCUIT
WHITFIELD AND MURRAY COUNTIES

STATE OF GEORGIA

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WHITFIELD COUNTY, GA.
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Melissa Kendrick
CLERK OF SUPERIOR COURT

CIRCUIT PROCEDURES AND STANDING ORDERS

ADMINISTRATION/CASE MANAGEMENT

Note: The procedures and standing orders are effective upon filing with the Clerk of Court and publication. All prior local rules in conflict are revoked.

TABLE OF CONTENTS

CIRCUIT PROCEDURES

ADMINISTRATION:

I.	Purpose	3
II.	Access	3
III.	Bailiff Duties	4
IV.	Alternative Dispute Resolution (ADR)	4
V.	Criminal Judge (CJ) Duties	4
VI.	Presiding Judge (PJ) Duties	6
VII.	Grand Jury Judge	6
VIII.	Domestics	6
IX.	Juvenile Court	8
X.	Interpreters	8
XI.	Court Reporters	8
XII.	Inclement Weather Procedures	9
XIII.	Judicial Assistance	10
XIV.	Media Access to Courtrooms	10
XV.	Process Servers: Appointment	10
XVI.	Unassigned Courtrooms, Offices and Chambers	11
XVII.	Security	11

CASE MANAGEMENT:

I.	Individual Assignment	12
II.	Whitfield County – Assignment of Criminal Cases	13
III.	Criminal Non-Jury (CJ) Calendaring Procedures-Whitfield	14
IV.	Murray County – Assignment of Criminal Cases	15
V.	Civil Duties of the Clerk-Whitfield and Murray	15

APPENDICES/EXHIBIT

A	ADR LOCAL RULES
B	DIVORCING PARENT SEMINAR RULES
C	GAL APPOINTMENT RULES

ADMINISTRATION

I. PURPOSE

The following procedures and standing Orders are published and promulgated, pursuant to Uniform Superior Court Rule 1.2, for the purpose of assigning all civil and criminal actions according to a plan approved by the Judges. It is the intent that the procedures set forth herein will provide for the effective and efficient administration of justice and disposition of business in this Court. These procedures are for the benefit and guidance of lawyers, parties and members of the public who are involved or interested in actions now pending, or hereafter filed in this Court.

II. ACCESS

Ex-Parte Hearings:

(a) If a lawyer wants to see a Judge, the Judge's secretary must be called and the lawyer be announced by court administration staff.

(b) If the lawyer has a client with him or her, the secretary or Judge will decide if the parties will be invited into the Judge's chambers, courtroom or other location.

(c) If there is a file relating to the matter, the lawyer should notify the clerk's office so that the file will be brought to the Judge.

Uncontested Matters

Agreed Orders submitted to the Judge for signature must be accompanied by the Clerk's file.

III. BAILIFF DUTIES

(a) During trials, bailiffs should assist jurors reporting for jury duty into the jury assembly room. Once all the jurors are present, the bailiff shall take the jury to the jury room of the judge presiding over the trial. Once all jurors are in the jury room, the bailiff shall notify the Judge that the jury is present.

(b) Bailiffs shall never allow a member of the jury to move freely about the inner court halls. If the jurors have been allowed to disperse to a public area by the Judge, the bailiff shall escort jurors to the public area and back.

(c) Prior to leaving for the day, bailiffs must check in with the Judge presiding over the trial.

(d) At no time shall a bailiff communicate with a juror regarding a case.

(e) Only one (1) bailiff shall sit between the jury box and witness box.

(f) Bailiffs are to ensure that the courtroom has water prior to the start of court, and replenish only during breaks or at the request of the Judge.

IV. ALTERNATIVE DISPUTE RESOLUTION (ADR)

See Appendix A

See Courts website for Standing Order, www.whitfieldcountyga.com

V. CRIMINAL JUDGE (CJ)

Each week a Judge will serve as Criminal Judge (CJ). Such service will be on an equal rotating basis. Each judge shall be responsible for and shall perform the following duties during or in anticipation of his or her respective week of service as Criminal Judge:

(a) **Concerning Criminal Matters**: Hear and decide matter requiring expedited disposition by the Superior Court, prior to the time of indictment or the filing of an accusation and assignment of the action to a particular Judge.

(b) **Probation Violations**: The CJ will conduct preliminary hearings for defendants arrested on probation violation warrants. If the defendant admits the alleged violation, the CJ will decide on the appropriate disposition. If the defendant denies the alleged violation, a hearing will be scheduled before the assigned Judge, per the alphabet system as described elsewhere in the case management system of these procedures. If there are co-defendants, the alphabet system will identify the assigned Judge.

(c) **Suspended Sentences**: When a petition is filed to revoke a suspended sentence, an Order will schedule the matter before the sentencing Judge. If the defendant fails to appear, an Arrest Order will be issued. When the defendant is arrested the defendant will be brought before the CJ. If the defendant admits failure to comply with the conditions of his/her sentence, the CJ will decide on the appropriate disposition. If the defendant denies failure to comply or desires a hearing before the sentencing Judge, the same will be scheduled.

(d) **Guilty Pleas**: All non-jail cases will be scheduled before the assigned Judge. With respect to jail cases, misdemeanor cases may be brought before the CJ for sentencing regardless of case assignment. Felony cases will be brought before the assigned Judge for sentencing, unless the case has been transferred by order of the assigned Judge to the CJ.

(e) **Bench Warrants**: Where defendants are brought before the CJ from the jail, having been arrested on bench warrants (for a felony or misdemeanor charges), the CJ will decide whether or not to set bail. If the defendant wants to plead guilty, the CJ may accept the plea and sentence regardless of case assignment, or he or she may schedule sentencing before the assigned Judge. The CJ may order a pre-sentence investigation and schedule it before the assigned Judge.

(f) **Motions for Bond**: The defendant shall be scheduled before the assigned Judge, unless the assigned Judge authorizes the CJ to hear the case.

(g) **Warrants**: The CJ shall handle warrants as required at 11:00 a.m. and 4:00 p.m. daily.

(h) If the Grand Jury Judge is unavailable, then the CJ Judge may receive presentments.

VI. Presiding Judge (PJ)

(a) **Concerning Civil Matters**: The PJ shall hear and decide matters requiring immediate determination, prior to the filing of the complaint and the assignment to a particular judge, such as routine ex-parte matters which have not been assigned, and applications for injunctions. Hear all uncontested domestic matters in Whitfield County and Murray County, regardless of assignment. In the event the PJ is unavailable, the CJ should be asked first to cover any request.

(b) **Grand Jury**: Assist Grand Jury Judge, when necessary, by receiving special presentments. If neither Grand Jury nor Criminal Judge is available, any available Judge may receive presentments.

VII. GRAND JURY JUDGE

(a) Service as a Grand Jury Judge: One judge will serve as Grand Jury Judge for each Grand Jury summoned. Such service will be on a rotating basis.

(b) Duties of the Grand Jury Judge: Swear, empanel, charge, and oversee the utilization of the Grand Jury. Accept presentments, no bills and true bills from said Grand Jury and discharge the Grand Jurors who serve during such term. The Judge shall, also, hear and decide any objections to the presentments as may be filed.

VIII. DOMESTICS

A. DIVORCING PARENT SEMINAR

See Appendix B

See Courts website for Standing Order, www.whitfieldcountyga.com

B. GUARDIAN AD LITEM (GAL)

See Appendix C

C. PARENTING PLANS

Pursuant to O.C.G.A. §19-9-1 (a), the Conasauga Judicial Circuit will require the parenting plans to be submitted according to the following schedule:

In any action when child custody is at issue, pursuant to O.C.G.A. §19-9-1, each party shall submit a parenting plan unless the parties jointly submit an agreed upon parenting plan. This requirement excludes emergency relief for family violence.

Agreed Plans

In custody actions where the parties have agreed upon a parenting plan, the parties must file said plan with the Court by the final hearing date, or incorporate such parenting plan into a proposed order that the parties are jointly providing to the Court for approval.

Contested Actions

In temporary custody actions, the parties shall serve each other their proposed temporary parenting plans five (5) days or more prior to the scheduled hearing date and shall provide copies to the Court on the day of the hearing.

In permanent custody actions, the parties shall serve each other their proposed permanent parenting plans ten (10) days or more prior to the scheduled final hearing date and shall provide copies to the Court prior to the scheduled final hearing.

The statutory filing requirements for parenting plans differ from those for the child support guidelines. **Only the final parenting plan adopted by the Court should be filed in the Clerk's office.**

Mediation

The parties shall serve the mediator the proposed parenting plans, either temporary or permanent, five (5) days prior to the scheduled mediation date.

D. EMERGENCY DOMESTIC HEARINGS

In cases where the PJ has signed an ex-parte Order, all requests for emergency hearings shall be made to the assigned judge. If the assigned Judge is not available, the matter will be referred to the Judge who signed the original ex-parte Order. If that judge is not available, one of the remaining judges will be contacted to assist. In all cases, the Judge will decide if the matter requires an emergency hearing.

E. TEMPORARY PROTECTIVE ORDERS

(a) Ex Parte Temporary Protective Order (TPO) hearings for both counties will be held each day at 11:00 a.m. and 4:00 p.m. in the PJ's courtroom unless another location is deemed suitable by the PJ.

(b) In Murray County, Final TPO hearings will be held each week by the PJ scheduled on the Master Calendar for Murray County.

IX. JUVENILE COURT

(a) Serve Whitfield and Murray County Juvenile Court as needed, or by request of the Chief Juvenile Court Judge.

(b) The Juvenile Court Administrator for each county shall report directly to the Superior Court Administrator, as agreed by the Chief Juvenile Court Judge.

X. INTERPRETERS

For all matters, in which an interpreter is needed, it is the responsibility of the parties, to include; the District Attorney's office, the Public Defender's office, the Child Support Enforcement Agency, all private attorney's, etc., to notify the Court Administrator's Office, a minimum of 72 working hours in advance.

XI. COURT REPORTERS

Court reporters shall be present for all criminal matters in compliance with Rule 2.1 of the Judicial Council of Georgia Policies and Fees for County Reporting Services in Criminal Cases.

For all civil and domestic matters, any party desiring takedown shall contact the assigned Judge's official court reporter directly at least (7) seven days prior to the scheduled hearing. In the event the official court reporter cannot be present, the court reporter shall notify the court administrator's office as soon as possible.

All court reporters shall be subject to the fee schedule set out by the Judicial Council of Georgia Fees for Services by Official Court Reporters.

For all billing submitted to the court administrator's office, court reporters shall use the form promulgated by the Judicial Council of Georgia

XII. INCLEMENT WEATHER PROCEDURES

Whitfield County

If the weather causes a change to Whitfield County's regular schedule, then notifications will be issued in the following manner:

(a) The information will be posted on the front page of Whitfield County's website, www.whitfieldcountyga.com

(b) The County Inclement Weather Hotline will be activated: (706)-876-1660.

(c) The County Emergency Management Director has arranged to have notices put on the following radio and television stations:

WRCB Channel 3; WTVC Channel 9; WDEF Channel 12; WDNN North Georgia TV Channel 10, FOX News Channel 61; Charter Communications; US 101, News Radio, WSB Channel 2-Atlanta; WXIA Channel 11-Atlanta; FOX Channel 5-Atlanta; WYYU 104.5 FM; WQMT 99 FM; WOCE 101.9 FM (Spanish); WBLJ 1230 AM; WDAL 1430 AM (Spanish)

Murray County

If the weather causes a change to Murray County's regular schedule, then notifications will be issued in the following manner:

WRCB Channel 3; WTVC Channel 9; WDEF Channel 12; WDNN North Georgia TV Channel 10, FOX News Channel 61; Charter Communications; US 101, News Radio, WSB Channel 2-Atlanta; WXIA Channel 11-Atlanta; FOX Channel 5-Atlanta; WYYU 104.5 FM; WQMT 99

FM; WOCE 101.9 FM (Spanish); WBLJ 1230 AM; WDAL 1430 AM (Spanish)

While the Superior Court takes into consideration all weather conditions and the counties' right to close due to inclement weather, it is at the discretion of each Judge as to whether or not he or she will hold court on any given day. In the event of inclement weather, attorneys scheduled for court should make contact with the Court Administrator's office to determine if Court will be held. In the event that a county or city school is closed, jury trials will be postponed until further notice by the Court.

XIII. JUDICIAL ASSISTANCE

Judicial Assistance may be requested in accordance with the policy and procedures of the Council of Superior Court Judges at any time a judge may need to recuse him or herself from a case, be absent, or have any type of conflict. When this happens, another judge will be requested through the 7th Judicial Districts Administrative Judge.

XIV. MEDIA ACCESS TO COURTROOMS

Any media that wish to install recording and/or photographing equipment must complete and return to the Court for approval a timely media request form in compliance with Uniform Superior Court Rule (USCR) 22. These forms may be obtained from the Court Administrator's Office.

XV. PROCESS SERVERS: APPOINTMENT

Any individual that seeks appointment under O.C.G.A. § 9-11-4 (c) (4) as a process server must do the following:

(a) Petition the Court for appointment and pay any applicable fees to the Clerk of Court.

(b) Seek approval from the Sheriff of the county in which the petition is filed.

After the petitioner obtains approval from the Sheriff, the court will:

1. Enter an order which requires the petitioner to obtain a bond in the same amount as that of a deputy or sheriff in the county;

2. Notify the petitioner that the appointment may be terminated on the motion of the petitioner, the Sheriff or the Court.

3. Notify the petitioner that the appointment is for the current calendar year and that new petition must be filed annually requesting approval for the upcoming year.

XVI. UNASSIGNED COURTROOMS, OFFICES & CHAMBERS

Prior to the use of any room, the following procedures shall be followed:

(a) Contact the Court Administrator's Office to see if a desired location is available for the date and time requested.

(b) The Court Administrator's Office will then verify with the Chief Judge that the space may be used for the purpose indicated.

(c) Assuming there is no conflict with the space requested; those using the space shall be required to clean up before leaving.

XVII. SECURITY

The Conasauga Judicial Circuit in compliance with O.C.G.A. § 50-14-3 (9) and § 15-16-10 (10) adopts the Security and Emergency Contingency Plans as submitted by the Sheriffs of Murray and Whitfield Counties.

(a) The will be no access to the judge's hall or Administrative Office area without prior approval. All persons shall be announced prior to being allowed in judge's chambers.

I. INDIVIDUAL ASSIGNMENT SYSTEM

Random Method of Assignment

In accordance with the Uniform Superior Court Rule 3.1:

In multi-judge circuits, unless a majority of the Judges in a circuit elect to adopt a different system, all actions, civil and criminal shall be assigned by the Clerk of each Superior Court according to a plan approved by such Judges to the end that each Judge is allocated an equal number of cases. The Clerk shall have no power or discretion in determining the Judge to whom any case is assigned; the Clerk's duties are ministerial only in this respect and the Clerk's responsibility is to carry out the method of assignment established by the Judges. The assignment system is designed to prevent any persons choosing the Judge to whom an action is to be assigned. All persons are directed refrain from attempting to affect such assignment in any way. If the order or the timing of filing is a factor in determining case assignment, neither the clerk nor any member of the clerk's staff shall disclose to any person the judge to whom a case is or will assigned until such time as the case is, in fact, filed and assigned.

Companion and Related Cases

All actions involving substantially the same parties, or substantially the same subject matter, or substantially the same factual issues, whether pending simultaneously or not, shall be assigned to the same Judge. Whenever such an action is refiled, such action shall be assigned to the Judge to whom the original action was or is assigned. Generally, such actions will be assigned to the Judge to whom the action with the lower action number is assigned.

Open and Pending Cases

All open and pending civil cases shown as such by the Clerk of Superior Court's computerized information system shall remain with the currently assigned Judge.

Child Support Enforcement Unit (CSEU) cases shall be assigned on a ratio of five CSEU actions, or any lesser number filed at a given time, for one civil action.

Probation Revocations

Probation revocation actions shall be assigned alphabetically irresponsive of which Judge entered the final disposition. If a visiting Judge sentenced a defendant in a criminal case, for which a revocation action is being filed, the Clerk of Superior Court shall assign the revocation alphabetically.

Motions

All criminal and civil motions shall be filed with the Clerk of Superior Court accompanied by a scheduling Order. The Order shall be completed with a hearing date set by the Judge or the Clerk of Superior Court.

Exclusive Jurisdiction

The Judge to whom any action is assigned shall have exclusive jurisdiction, thereof. An assigned Judge may transfer an assigned action to another Judge with the latter's consent, in which event the latter becomes the assigned Judge.

Accountability/Treatment Courts

Case assignments to the Circuit's accountability/treatment courts shall be in accordance with the requirements and policies of that accountability/treatment court.

II. WHITFIELD COUNTY – ASSIGNMENT OF CRIMINAL CASES

Criminal actions shall be assigned to each Judge on the basis of the first letter of a defendant's last name. Each Judge will be assigned a group of letters to equalize the distribution of criminal cases as nearly as possible, as follows:

Judge Boyett:	C, K, L, N, O, R, U, X, Z
Judge Morris:	A, D, P, S, Y, V
Judge Wilbanks:	F, G, H, J, W
Judge Minter:	B, I, M, Q, T, E

(a) Letters may be changed by the Judges as needed to equalize the distribution of criminal cases.

(b) Co-Defendants: Cases involving multiple defendants will be assigned based on the first letter of the last name of the defendant whose name comes first in the alphabet.

(c) Non-jury criminal matters will be routinely scheduled before the CJ on Tuesday and Friday of each week.

III. CRIMINAL NON-JURY (CJ) CALENDERING PROCEDURES-WHITFIELD

(a) The deadline for adding cases to the calendar is 12:00 noon on the day prior to the CJ date.

(b) When placing a case on the CJ calendar prior to the deadline, the following shall apply:

1. Probation Preliminaries – the jail notifies the Clerk.

2. Bench Warrants – the jail notifies the Clerk.

3. Bonds not set at first appearance – the jail notifies the Clerk.

4. Guilty pleas – the D.A. or defense attorney shall notify the Court Administrator's Office. The administrator's office shall then notify all parties involved, and ensure that the case is set on the proper Judge's calendar.

5. Bond hearings (defense attorney requested) – in cases involving victims, the defense attorney must notify the D.A. at least twenty-four (24) hours in advance to allow for the notification of the victim(s). The defense attorney must then notify the Court Administrator's Office.

6. Motion hearings – The D.A. shall notify the Court Administrator's Office as stated above. The Clerk shall not accept a motion requiring an evidentiary hearing without an Order attached allowing at least five (5) business days notice to the other side, unless the notice time is shortened by the Court.

7. Probation Revocation Hearings – set by the Judge in open court.

8. Sentencing Hearings – set by the Judge in open court.

(c) No case may be added to the calendar after 4:30 p.m. the day before CJ, except for a plea resulting in the defendant's release from jail or confirmed consent by the CJ.

IV. MURRAY COUNTY – ASSIGNMENT OF CRIMINAL CASES

(a) Murray County Superior Court's schedule will appear on a Master Calendar published by the Court. With regard to Wednesday morning non-jury criminal matters, the District Attorney's Office will be responsible for preparing a calendar, under the Court's direction and supervision.

(b) The Clerk of Superior Court will refer counsel to the appropriate Judge on any matter requiring the court's attention.

(c) Jury Trials will be scheduled during the months of February, June and October.

(d) Non-jury criminal matters will be routinely scheduled on Wednesday of each week.

(e) Other non-jury matters will be scheduled by the clerk according to the Master Calendar.

V. CIVIL DUTIES OF THE CLERK – WHITFIELD AND MURRAY

(a) The Clerk of Superior Court shall not accept for filing any civil action unless the Initiation Form required by USCR 39.2.1 and 39.2.2 has been completed. This shall include information with regard to Companion or Related Actions per USCR 3.2, when applicable. If there is uncertainty in regard to the assignment of a case asserted to be companion or related action, the matter shall be referred to the concerned Judge or the PJ for direction.

(b) The Clerk of Superior Court shall include the first letter of the assigned Judge's last name, or other letter as the Judge shall direct on service copies on all actions.

(c) In the event a case is transferred to a Judge other than the originally assigned Judge, upon filing of the Transfer Order, the clerk shall include the assigned letter of the new Judge. In the event the matter is assigned to a visiting Judge, the letter designation shall be "VJ".

(d) Upon the filing of a contempt citation based upon a final decree, the action shall be assigned to the Judge who entered the final decree.

(e) If a visiting Judge granted a divorce upon which a contempt action is being brought, the Clerk of Superior Court shall assign the action as if it were a new case.

These local procedures and standing Orders are hereby approved and adopted.

SO ORDERED, this 3rd day of July, 2018.

FILED & RECORDED
WHITFIELD COUNTY, GA.
2018 JUL -3 PM 2:50
Angelica Kendricks
CLERK OF SUPERIOR COURT

William T. Boyett, Chief Judge
Conasauga Judicial Circuit

Cindy Morris, Judge
Conasauga Judicial Circuit

Jim E. Wilbanks, Judge
Conasauga Judicial Circuit

Scott Minter, Judge
Conasauga Judicial Circuit

Appendix A

PROCEDURES OF THE SUPERIOR COURTS OF THE CONASAUGA JUDICIAL CIRCUIT OF GEORGIA FOR ALTERNATIVE DISPUTE RESOLUTION

These amended ADR procedures apply to the Superior Courts of Whitfield and Murray Counties, and are provided to facilitate the continuing mediation process in these counties as mandated by this Court's Order, and supplement the terms and provisions thereof.

GENERAL POLICY:

The Court will make information about alternative dispute resolution (ADR) options available to all litigants.

DEFINITION:

Mediation is a process in which a neutral facilitates settlement discussions between parties. The neutral has no authority to make a decision or impose a settlement upon the parties. The neutral attempts to focus the attention of the parties upon their needs and interests rather than upon rights and positions. Although in court-annexed or court-referred mediation programs the parties may be ordered to attend a mediation session, any settlement is entirely voluntary. In the absence of settlement, the parties do not lose their rights to a jury trial.

RULE 1. REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION ("ADR")

(a) Except as hereinafter provided, all contested civil or domestic matters' shall be referred to mediation in the Superior Courts. Parties are ordered to cooperate in the selection of a mediator, scheduling of a mediation date and to appear for mediation conference. Compliance does not require that the parties reach a settlement. Cases shall be screened by the Judge or the dispute resolution office to determine:

(1) Whether the case is appropriate for mediation;

(2) Whether the parties are able to compensate the mediator if compensation is required;

(3) Whether a need for emergency relief makes referral inappropriate until the request for relief is heard by the Court.

(b) Cases in which there are allegations of domestic violence will be screened to determine whether mediation is appropriate:

(1) Criminal cases that involve domestic violence will not be referred to mediation from any court.

(2) Civil cases will be screened for domestic violence through intensive intake. Intake procedures are designed to identify those cases which should not be referred to mediation and those cases which might benefit from mediation.

(3) Until appropriate safeguards are in place, including screening and evaluation, civil cases involving issues of serious domestic violence (systematic use of force or threat of force, use of a weapon, or serious injury) should not be referred to mediation.

(4) If allegations of domestic violence arise in the context of a mediation, a mediator who has had no special training in handling cases involving domestic violence should in most instances conclude the mediation and send the case back to the Court. In concluding the mediation, the mediator should take precautions to guard the safety of the other party and of the mediator.

(5) The Court will develop a protocol for identification of civil cases involving issues of domestic violence which might benefit from mediation. Only

mediators who have received special training should mediate such cases.

(6) No case involving issues of serious domestic violence will be sent to mediation without the consent of the alleged victim given after a thorough explanation of the process of mediation. With the consent of the alleged victim a case involving issues of serious domestic violence may be sent to mediation at the discretion of the Court. Safeguards will be in place to assure the safety of the parties, attorneys, and the mediator both during and after the session as follows:

a. The parties should be living separately. The program should exercise care to avoid disclosure of the parties' place of residence by either the program staff or mediator.

b. The alleged victim shall have an attorney or advocate available for the entire session or sessions. If the alleged victim does not have an attorney, she/he should be invited to bring an advocate or friend to the mediation session to be available for consultation and to see him/her safely to his/her car.

c. Arrangements should be made for the parties to arrive and leave the mediation session separately.

d. The session itself should be made safe through adequate security and any other necessary means.

e. Arrangements should be made for the session to be held entirely in caucus if that is necessary.

f. The mediator conducting the session should have received special training in dealing with issues of domestic violence in the context of mediation.

g. At the earliest possible point in the mediation the mediator should explore power dynamics in order to 1) confirm the comfort of each party with the mediation format and 2) confirm the ability of each party to bargain for him/herself.

(c) Parties who have been through an approved ADR process privately will not be required to participate in a duplicative process.

(d) Any party to a civil dispute may request that the Court refer the case back to mediation for a second mediation, or request that a matter be referred to another ADR process. The request for referral should be made to the Judge assigned to the case.

(e) The scheduling of a case for a mediation conference shall not remove the case from assignment to a Judge, interfere with discovery, nor serve to postpone scheduled motions before the court. The Court may refer the matter to mediation before any hearings before the Court.

(f) Interim or Emergency Relief. A party may apply to the Court for interim or emergency relief at any time. Mediation shall continue while such a motion is pending absent a contrary Order of the Court or a decision of the mediator to adjourn pending disposition of the motion. Time for completing mediation shall be tolled during any periods where mediation is interrupted pending resolution of such a motion.

(g) If court personnel other than Judges are involved in ADR referral decisions, these individuals will receive appropriate training and will work within clearly stated written policies, procedures and criteria for referral. The Georgia Commission on Dispute Resolution will assist the Courts in developing guidelines for training court personnel in referral decisions.

RULE 2. TIMING OF REFERRAL TO ADR

(a) Conference or Hearing Date. Unless otherwise ordered by the Court, the first mediation conference shall be held:

(1) within 60 days of filing of domestic cases;

(2) within 30 days of the filing of appeals from Magistrate Court;

(3) after 120 days from the filing of the last responsive pleading in general civil cases; and

(4) after 120 days from filing of an appeal in DOT condemnation cases and/or special master proceedings.

(b) Notice. The parties shall select a mediator in accordance with Rules 4 and 5 herein. Within 10 calendar days after the case is referred to mediation, the parties will inform the mediation coordinator of the name of the mediator and the date and time for mediation. Notice to the mediation coordinator is technically the plaintiff's responsibility. However, upon agreement, anyone may schedule the mediation.

(1) If you want this case to be scheduled for mediation prior to the time frames indicated above, please contact the Court Administrator's office at 706-278-5897 or visit one of the circuit websites www.whitfieldcountyga.com or www.murraycountyga.org for a referral form.

(2) If you want to use a mediator not connected with the Conasauga Circuit, please contact the Court Administrator's office for the necessary procedure.

(3) Agreements between the parties for the selection of otherwise qualified mediators or neutrals will be honored, provided that the selected alternate mediator thereafter submits a mediation report to the Court Administrator's ADR office.

(4) In particular cases, the Court may modify or shorten the schedule for mediation by Order and notice to all parties.

(c) Once a mediation session is scheduled, **NO UNILATERAL RESCHEDULING IS PERMITTED**. The party or attorney who is requesting that a mediation session be rescheduled must obtain consent from opposing counsel and the assigned mediator. The dispute resolution office must also be notified of any rescheduling attempts.

(d) Cancellations, with no attempt to reschedule the mediation session, will not be permitted unless approved in advance by the Judge to whom the case has been assigned, or is in compliance with the Uniform Rule related to conflicts. If a session is canceled due to conflict, the attorney with the conflict must coordinate the rescheduling. If a case is resolved prior to the scheduled mediation session, the session may be canceled upon written notification to the mediator and dispute resolution office of the settlement. **NO OTHER CANCELLATIONS WILL BE PERMITTED**.

(e) An Order providing for an extension of a discovery period shall not extend the time for scheduling mediation, unless approved by the Judge.

RULE 3. EXEMPTION FROM ALTERNATIVE DISPUTE RESOLUTION

(a) Any party to a dispute referred to mediation may petition the court to exclude the case from mediation if:

(1) The issue to be considered has been previously mediated by a mediator registered with the Georgia Commission on Dispute Resolution as mediator in the area of the dispute;

(2) The issue presents a question of law only;

(3) Other good cause is shown before the Judge to whom the case is assigned;

(4) The issues have been referred by a Consent Order of the Court to a private provider of mediation services;

(5) The case was filed under the Family Violence Act.

(b) The following actions shall **NOT** be referred to mediation except upon petition of all parties or upon sua sponte **ORDER** of the Court:

(1) Appeals from rulings of administrative agencies, including challenges to zoning decisions by governmental units;

(2) Forfeitures of seized property;

(3) Habeas corpus and extraordinary writs;

(4) Bond validations;

(5) Child Support Matters brought by the Department of Human Resources;

(6) Declaratory relief;

(7) URESA (Uniform Reciprocal Enforcement of Support Act);

(8) Matters where all issues are completely resolved by written agreement signed by all parties and filed in said action.

RULE 4. APPOINTMENT OF MEDIATOR

(a) The parties shall agree upon a mediator from the list of mediators registered by the Georgia Commission on Dispute Resolution who have been chosen for service in the program.

(1) Parties who have been through an approved ADR process privately will not be required to participate in duplicative process;

(2) After a case is filed, parties are free to choose their own neutral and negotiate a fee with that neutral before a case is ordered to an ADR process; however, the confidentiality and immunity protections of the Georgia Supreme Court ADR Rules do not apply in the absence of a court order referring the case to mediation;

(3) Once the case is ordered to an ADR process, parties are still allowed to choose their own neutral and proceed under that neutral's fee or negotiate a fee with that neutral provided the neutral chosen is registered with the Georgia Commission on Dispute Resolution in the appropriate category;

(4) Where possible, parties should be allowed input into the choice of process as well as choice of a neutral.

(5) Should the parties fail to agree upon a mediator, the Court or a member of the Administrators Office will appoint a mediator from the list of mediators qualified for service in the program and may set the fee.

(b) Disqualification of a Mediator. Any party may move to enter an order to disqualify a mediator for good cause. If the Court rules that a mediator is disqualified from a case, an Order shall be entered setting forth a qualified replacement from the list of mediators in good standing of the Conasauga Circuit Mediator Roster. The motion disqualifying the mediator shall be presented to the Court Administrators office who shall present the motion to the Judge to whom the case is assigned.

RULE 5. NEUTRAL QUALIFICATIONS FOR SERVICE IN THE PROGRAM

The qualifications and training for a neutral shall not be less than the minimum qualifications set out in the Georgia Supreme Court Alternative Dispute Resolution Rules. The neutrals must be registered with the Georgia Commission on Dispute Resolution. The program will maintain a roster of mediators chosen for service in the program. Mediators serving in the program will be evaluated by the program on an ongoing basis.

RULE 6. COMPENSATION OF NEUTRALS

(a) Parties are encouraged to agree upon compensation of the mediator at or before the first mediation conference. Mediators are required to list their fee schedules as part of their mediator roster information. When deemed appropriate, the mediator may be compensated a maximum of one hour preparation time per case.

(b) If the parties are unable to agree upon compensation of the mediator, then the assigned Judge at the interlocutory hearing or final trial may order either or both parties to pay or share the cost of the mediator.

(c) Before being placed on the Roster of Approved Mediators, a mediator must agree to provide pro bono hours and hours at reduced rates to defray mediation costs for parties with limited ability to pay. The number of hours required will be determined by the Superior Court Judges of the Circuit.

(d) The referring Judge may choose to not enter a Final Order in a case until such payments for mediation services have been fully made or other approved payment arrangements are in place.

RULE 7. CONFIDENTIALITY AND IMMUNITY

(a) **The extent of Confidentiality:** Any statement made during a court-annexed or court-referred mediation conference or as a part of intake by program staff in preparation for mediation is confidential, not subject to disclosure, may not be disclosed by the mediator or program staff, and may not be used as evidence in any subsequent administrative or judicial proceeding. A written and executed agreement or memorandum of agreement resulting from a court-annexed or court-referred mediation is not subject to the confidentiality described above.

Any document or other evidence generated in connection with a court-annexed or court-referred mediation is not subject to discovery. An agreement resulting from a court-annexed or court-referred mediation conference is not immune from discovery unless the parties agree in writing. Otherwise discoverable material is not rendered immune from discovery by use in mediation.

Neither the mediator nor any observer present with permission of the parties in a court-annexed or court-referred ADR process may be subpoenaed or otherwise required

to testify concerning a mediation conference in any subsequent administrative or judicial proceeding. A mediator's notes or records of the court-annexed or court-referred program are not subject to discovery. Notes and records of a court ADR program are not subject to discovery to the extent that such notes or records pertain to cases and parties ordered or referred by a court to the program.

(b) **Exceptions to Confidentiality:** Confidentiality on the part of program staff or the neutral does not extend to the issue of appearance. Confidentiality does not extend to a situation in which; there are threats of imminent violence to self or others, or the mediator believes that a child is abused or that the safety of any party or third person is in danger. Confidentiality does not extend to documents or communications relevant to legal claims or disciplinary complaints brought against a neutral or an ADR program and arising out of an ADR process. Documents or communications relevant to such claims or complaints may be revealed only to the extent necessary to protect the neutral or ADR program. Nothing in the above rule negates any statutory duty of a neutral to report information. Parties should be informed that information necessary to monitor the quality of a program is not considered a breach of confidentiality.

(b) **Immunity:** No mediator in a court-annexed or court-referred program shall be held liable for civil damages for any statement, action, omission, or decision made in the course of any ADR process unless that statement, action, omission or decision is 1) grossly negligent and made with malice, or 2) is in willful disregard of the safety or property of any party to the ADR process.

RULE 8. APPEARANCE

The presence of parties at all mediation conferences is required unless the court

finds that a party is a nonresident or is incapacitated or otherwise authorizes the party's absence. The requirement that a party appear at a mediation conference is satisfied if the following persons are physically present:

(a) The party and/or

(1) The party's representative who has

a. Full authority to settle without further consultation and;

b. A full understanding of the dispute and full knowledge of the facts;

(2) A representative of the insurance carrier for any insured party if that representative has full authority to settle without further consultation, except that telephone consultation with persons immediately available are permitted.

(b) Attorneys **ARE NOT REQUIRED** to attend mediation conferences **AND** may not be excluded by the Court or the mediator.

(c) In domestic relations cases involving temporary or permanent child support, alimony, equitable division of property, modification of alimony or attorneys' fees, a financial affidavit **(DRFA)** is required pursuant to U.S.C.R. 24.2. If a party fails to bring a copy of a current, notarized financial affidavit, that party will be deemed to have not appeared and subject to the sanctions stated in Rule 11 below. **STRICT ADHERENCE IS REQUIRED.**

In addition to the information as provided for in the DRFA, and in order to maximize the opportunity of resolution of issues at the time of mediation, each party or their counsel shall then make available to the mediator and the opposing party or attorney additional basic financial data, including form W-2S and form 1099S for all income for the presiding tax year, a copy of their federal tax return for the past tax year, most recent status

reports on any form of retirement plan, IRA's or similar funds, and other such easily accumulated data.

(d) In domestic relations cases in which the parties are required to attend the "Divorcing Parents Seminar" or other court approved seminar pursuant to a standing Court Order or a specific Order in the case, the parties are strongly encouraged to attend the seminar prior to the mediation session.

(e) Where an action is prosecuted against a public entity which is comprised of an elected body or board and the individual members are named as defendants, then the "appearance" requirement of Rule 8(a) shall be satisfied if the mediation conference is attended by the private party's attorney and a designed representative for the entity which is a party. In these particular kinds of actions, "full authority to settle" would be construed as the authority to make a recommendation subject to approval by a governing authority, elected body or board.

RULE 9. SANCTIONS FOR FAILURE TO APPEAR

If a party fails to appear at a duly noticed mediation conference without good cause, fails to give 24 hours notice of cancellation or rescheduling, or fails to bring a current, notarized financial affidavit when required, the dispute resolution staff shall notify the Judge to whom the case is assigned. The Judge, upon motion, may impose sanctions including the award of mediator and attorney costs against the party failing to appear.

RULE 10. COMMUNICATIONS WITH PARTIES

The only ex parte communication between a party and mediator outside of the mediation conference shall be for the purposes of verifying appointment times and locations or answering

questions about the mediation process and procedures. The mediator may meet privately with any party or any attorney during the mediation conference.

RULE 11. COMMUNICATIONS WITH THE COURT

(a) In order to preserve the objectivity of the Court and the neutrality of the mediator, there should be no communication between the mediator and the Court. If any communication between the Court and a mediator is necessary, the communication shall be in writing or through the dispute resolution coordinator. Copies of any written communication with the court should be given to parties and their attorneys.

(b) Once mediation is underway in a given case, contact between the dispute resolution coordinator and the Court concerning that case should be limited to:

(1) Communicating with the Court about the failure of a party to attend;

(2) Communicating with the Court with the consent of the parties concerning procedural action on the part of the court that might facilitate the mediation;

(3) Communicating to the Court the mediator's assessment that the case is inappropriate for that process;

(4) Communicating any request for additional time to complete the mediation;

(5) Communicating information that the case has settled or has not settled and whether agreement has been reached as to any issues in the case;

(6) Communicating the contents of any agreements unless the parties agree in writing that the agreement should not be disclosed;

(7) Communicating with the consent of the parties information concerning any discovery, pending motions or action of any party that, if resolved or completed, would facilitate the possibility of settlement.

RULE 12. COMPLETION OF MEDIATION

(a) Mediation shall in any event be completed prior to any scheduled **FINAL** hearing, trial or stipulation to any pre-trial calendar, and within the time frames specified at Rule 2(a) above, whichever is sooner, unless extended or otherwise authorized by Order of the Court.

(b) The length of the mediation session will depend on the nature of the contested issues and on the parties themselves. The parties should be prepared to spend a minimum of two hours at the initial session.

(c) The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference not withstanding Rule 2. No further notification is required for parties present at the adjourned conference.

(d) Agreement. If an agreement is reached, it shall be reduced to writing. If possible, the agreement should be reduced to writing at the end of the mediation conference. In the event that the agreement cannot be reduced to writing at the end of the mediation conference, it should be reduced to writing within 3 calendar days after the mediation. It is the mediator's responsibility to draw the agreement unless all parties determine otherwise.

(1) If parties are represented by counsel present at the mediation, the agreement should be reduced to writing by the mediator and signed by the mediator, parties, and attorneys at the end of the mediation conference.

(2) If any party is unrepresented or is represented by an attorney who is not present, the agreement should be reduced to writing by the mediator and signed by the mediator and parties at the end of the mediation conference. The parties will have an opportunity to have the agreement reviewed by an

attorney. If there is no objection to the agreement within 3 calendar days following signing, the responsible party or counsel will file the agreement with the Court.

(e) If a partial agreement is reached, it shall be reduced to writing and signed by the parties and counsel, if any, in the same manner as outlined above for the full agreement.

(f) If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the dispute resolution director. The dispute resolution coordinator shall notify the Judge to whom the case was assigned of the lack of an agreement. With the consent of the parties, the mediator's report may also identify any pending notices or outstanding legal issues, discovery processes, or other action by any party that, if resolved or completed, would facilitate the possibility of a settlement.

RULE 13. ROLE OF COUNSEL

Attorneys of record shall never be excluded from the mediation conference. The mediator shall at all times be in control of the mediation and procedures to be followed during the mediation. Counsel shall be permitted to communicate privately with their clients at any time. Counsel's presence at the mediation is a matter to be decided by the attorney and the client. If counsel is not present, any agreement reached is subject to counsel's review and approval. See Rule 12(d).

RULE 14. CONFLICTS

For the purpose of conflicts, as contemplated under the Uniform Rules of Superior Courts, the mediation procedure shall be construed as being a non-jury proceeding and counsel and the parties may rely upon said designation in resolving any scheduling conflicts.

RULE 15. EVALUATION

The dispute resolution coordinator will provide to the Office of Dispute Resolution information that will allow an evaluation of the program. This information will be provided on an ongoing basis. The model for this evaluation will be provided by the Georgia Office of Dispute Resolution. Participants will not be contacted for evaluation without their permission. The program should seek permission of the parties for this contact either at the beginning of the mediation or by means of an exit survey.

Appendix B

RULES OF THE SUPERIOR COURTS OF

THE CONASAUGA JUDICIAL CIRCUIT OF GEORGIA

DIVORCING PARENTS SEMINAR

Pursuant to Uniform Superior Court Rule 24.8, this Court Mandated the Divorcing Parents Seminar.

Section 1. This Rule applies to all parties in all divorce, separate maintenance, paternity, change of custody, visitation, legitimation and other domestic relations actions (not to include URESA, CSRA, domestic violence and contempt actions) where the interests of children under 18 years of age are involved.

Section 2. All parties shall successfully complete the program entitled "Seminar For Divorcing Parents".

Section 3. All parties shall pay the registration fee and register for the seminar within 31 days of service on the original Defendant and shall complete requirements of the seminar on the next available date(s) for attendance after registration.

Section 4. Upon a party's failure to successfully complete the seminar pursuant to this rule, the assigned Judge may take appropriate action, including but not limited to contempt and awards of attorney's fees and expenses.

Section 5. For good cause shown, the assigned Judge may waive the requirement of completion of this program in individual cases.

Section 6. The attorney, in any Final Order made by way of a motion for judgment on the pleadings, shall certify that both parties have attended the program.

Amended: 13 October 2017

Appendix C

RULES OF THE SUPERIOR COURTS OF

THE CONASAUGA JUDICIAL CIRCUIT OF GEORGIA

FOR GUARDIANS AD LITEM APPOINTMENT

IN DOMESTIC RELATIONS CASES

RULE 1. APPOINTMENT

(a) The Guardians ad Litem ("GAL") is appointed to assist in a domestic relations case by the Superior Court Judge assigned to hear that particular case, or otherwise having the responsibility to hear such case. The appointing Judge has the discretion to appoint any person as a GAL so long as the person so selected has been trained as a GAL or is otherwise familiar with the role, duties, and responsibilities as determined by the Judge and these rules. The Judge shall notify the Superior Court Administrator's Office of his/her desire to appoint a GAL.

RULE 2. QUALIFICATIONS

To serve as a GAL in this circuit and the guardian must be a member in good standing of the State Bar of Georgia, have attended the circuit's Seminar For Divorcing Parents and have received training as provided by or approved by the Judges of the Circuit. This training should include, but not be limited to, instruction in the following subjects: domestic relations law and procedure, including the appropriate standard to be applied in the case; domestic relations courtroom procedure; role, duties, and responsibilities of a GAL; recognition and assessment of a child's best interests; methods of performing a child custody/visitation investigation; methods of obtaining relevant

information concerning a child's best interest; the ethical obligations of a GAL, including the relationship between the GAL and counsel, the GAL and the child, and the GAL and the court; recognition of cultural and economic diversity in families and communities; base child development, needs, and abilities at different ages; interviewing techniques; communicating with children; family dynamics and dysfunction, domestic violence and substance abuse; recognition of issues of child abuse; and available services for child welfare, family preservation, medical, mental health, educational, and special needs, including placement, evaluation, diagnostic and treatment services.

RULE 3. ROLE AND RESPONSIBILITIES

The GAL shall represent the best interests of the child. The GAL is an officer of the court and shall assist the Court and the parties in reaching a decision regarding child custody, visitation and other child-related issues. Should the issue of child custody and/or visitation be tried, the GAL shall be available to offer testimony in accordance with provisions of RULES 6 and 7 herein. The GAL holds a position of trust with respect to the minor child(ren) at issue, and must exercise due diligence in the performance of his/her duties. A GAL should be respectful of, and should become educated concerning, cultural and economic diversity as may be relevant to assessing a child(ren)'s best interests. A GAL's appointment, unless ordered otherwise by the Court for a specific designated period, shall last until such time as the matters in the action are settled, dismissed, or otherwise adjudicated. The GAL shall have the authority to bring a contempt action, or other appropriate remedy, to recover court-ordered fees for the GAL's services.

RULE 4. DUTIES

By virtue of the order of appointment, a GAL shall have full right and authority to investigate completely all aspects of a case and to interview all parties and other persons deemed necessary to complete the investigation upon notice to the persons by the GAL. The GAL shall as well have full right and authority to inspect all records relating to the minor child(ren) maintained by the Department of Family and Children Services, Clerk of the Court in this and any other jurisdiction, the Juvenile Court, any school, hospital, medical care provider, mental health provider, and any other social or human services agency without the necessity of written consent by the parents or the court. The GAL shall have full right and authority, upon reasonable notice, to examine any residence wherein any person related to the case proposes to house the minor child(ren). The GAL may request the court to order an examination of the child(ren), parents or anyone seeking custody of the child(ren), by a medical or mental health professional, if appropriate. The GAL shall be entitled to notice of, and shall be entitled to participate in all hearings, trials, investigations, depositions, or other proceedings concerning the child(ren) and counsel for both parties is responsible for ensuring that the GAL receives notice of these proceedings at the earliest possible time.

RULE 5. PARTY RESPONSIBILITIES

The parties shall make every good faith effort to cooperate with the GAL by participating in interviews and by providing, in a timely manner, any financial, medical, mental health, employment or other records of the parties. The GAL is entitled to request a criminal history (NCIC and GCIC) on the parties and the parties shall sign any

documents and pay any costs necessary to provide such to the GAL. In the event that a party or other person shall refuse to be interviewed or otherwise cooperate with the GAL, the GAL shall so report to the Court and shall prepare the case without the assistance of the party or witness unless the Court directs otherwise.

RULE 6. WRITTEN REPORT

Unless otherwise directed by the appointing Judge, the GAL shall produce a written report to the court detailing the GAL's findings and recommendations and shall serve a copy of said report to the parties through counsel. In the event either party objects to the report or any portion thereof, the party shall, within ten (10) days of receiving the report, file objections with the court and serve a copy on the GAL. At trial, the report may be admitted into evidence for direct evidence and impeachment purposes, or for any other purposes allowed by the laws of this state. The Court may consider the report, including the recommendations, in making its decision. However, the recommendations of the GAL are not a substitute for the Court's independent discretion and judgment, nor is the report a substitute for the GAL's attendance and testimony at the final hearing, unless all parties otherwise agree.

(a) CONTENTS OF REPORT:

The report shall summarize the GAL's investigation; including identifying all sources contacted or relied upon in preparing the report. The GAL shall offer recommendations concerning child custody, visitation, and other child-related issues and the reasons supporting those recommendations.

(b) RELEASE OF REPORT TO COUNSEL AND PARTIES: The Report shall be released to counsel (including counsel's staff and experts) and parties only, unless otherwise ordered by the Court.

(c) UNAUTHORIZED DISSEMINATION OF REPORT:

Any unauthorized dissemination of the GAL's report by a party or counsel to any person, shall be subject to sanctions, including a finding of contempt by the court.

(d) SEALING OF WRITTEN REPORT: If filed, the Report shall be filed under seal by the Clerk of Superior Court in order to preserve the security, privacy, and best interests of the child(ren) at issue.

RULE 7. ROLE AT HEARING AND TRIAL

It is expected that the GAL shall be called as the court's witness at trial unless otherwise directed by the court. The GAL shall be subject to examination by the parties and the Court. The GAL is qualified as an expert witness on the best interest of the child(ren) in question. The GAL may testify as to the foundation provided by witnesses and sources, and the results of the GAL's investigation, including a recommendation as to what is in a child(ren)'s best interest. The GAL shall not be allowed to question witnesses or present argument, absent exceptional circumstances and upon approval of the Court.

RULE 8. FILING MOTIONS AND PLEADINGS

If appropriate, the GAL may file motions and pleadings if the GAL determines that the filing of such motion or pleading is necessary to preserve, promote, or protect the

best interest of a child(ren). This would include the GAL's right to file appropriate discovery requests and request the issuance of subpoenas. Upon the filing of any such motions or pleadings, the GAL shall promptly serve all parties with copies of such filings.

RULE 9. RIGHT TO RECEIVE NOTICE OF MEDIATION SESSIONS, HEARINGSAND TRIALS

Counsel shall notify the GAL of the date and time of all mediation sessions, depositions, hearings and trials or other proceedings concerning the child(ren). Counsel shall serve the GAL with proper notice of all legal proceedings, court proceedings wherein the child(ren)'s interests are involved and shall provide the GAL with proper and timely written notice of all non-court proceedings involving the child(ren)'s interests.

RULE 10. APPROVAL OF SETTLEMENT AGREEMENTS

If the parties reach an Agreement concerning issues affecting the best interest of a child, the GAL shall be so informed and shall have the right and opportunity to make objections to the court to any proposed settlement of issues relating to the children prior to the court approving the Agreement.

RULE 11. COMMUNICATIONS BETWEEN GAL AND COUNSEL

A GAL may communicate with a party's counsel without including the other counsel in the same conversation, meeting or, if by writing, notice of the communication. When communicating with the GAL, counsel is not required to notify opposing counsel

of the communication or, if in writing, provide opposing counsel with a copy of the communication to the GAL.

RULE 12. EX PARTE COMMUNICATION BETWEEN GAL AND THE COURT

The GAL shall not have Ex Parte communications with the Court except only in matters of emergency concerning the child's welfare. Upon making such concerns known to the Court, the GAL may request an immediate hearing to address the emergency. Notification shall be provided immediately to the parties and counsel of the nature of the emergency and time of hearing.

RULE 13. PAYMENT OF GAL FEES AND EXPENSES

It shall be within the Courts' discretion to determine the amount of fees awarded to the GAL. Such determinations, including matters related to if and how payment of retainers and fees shall be apportioned between parties or if and how fees are to be paid from other sources shall be made at the time of appointment of the GAL by the court.

RULE 14. REMOVAL OF GAL FROM THE CASE

Upon motion of either party, the court may remove the GAL from the case for good cause.