

UNIFORM TRANSFER RULES

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These rules are adopted pursuant to the authority of Art. VI, Sec. IX, Par. I on the 1983 Constitution of the State of Georgia to implement Art. VI, Sec. I, Par. VIII of the 1983 Constitution which provides that: "Any court shall transfer to the appropriate court in this state any civil case in which it determines that jurisdiction or venue lies elsewhere."

T-1. These rules are applicable to Superior Courts, State Courts, Probate Courts, Magistrate Courts, and Juvenile Courts except when in conflict with the Juvenile Proceedings Code.

T-2. These rules are applicable only when the court in which the case is pending is alleged to lack jurisdiction or venue or both.

T-3. These rules are applicable to transfers of civil cases from a court within a county to another court within that county, and from a court within a county to a court in another county.

T-4. These rules shall become operative when a party makes a motion to dismiss, or any other motion or defense, on the basis that the court in which the case is pending lacks jurisdiction or venue or both. Such motion shall be treated as a motion to transfer pursuant to these rules. A motion to transfer shall be made only in the court in which the case is pending. These rules also become operative when a court on its own motion, after a hearing thereon, determines that it lacks subject matter jurisdiction.

T-5. A party making a motion to transfer on the basis that the court in which the case is pending lacks jurisdiction or venue or both shall do so in compliance with OCGA § 9-11-12, except as otherwise provided in rule T-6 (and except that a motion to transfer made in a Magistrate Court need not comply with OCGA § 9-11-12 but such motion shall be made pursuant to rules applicable to Magistrate Courts). Unless otherwise ordered by the court, notice of a written motion to transfer shall be served upon all parties, including any who failed to file pleadings in the matter, at least 10 days before the motion is heard.

T-6. If the basis for the motion to transfer is that a defendant necessary to the court's jurisdiction has been dismissed either during or at the conclusion of trial, such motion shall be made immediately and orally. If the motion to transfer the case against the remaining defendant is granted, the case against the dismissed defendant shall be severed from that case so that the order of dismissal will be final for purposes of appeal.

T-7. A party making a motion to transfer shall specify the court in which jurisdiction and venue lies (except in Magistrate Courts).

T-8. A party opposing a written motion to transfer shall notify the court of such opposition promptly and in no event more than ten days after the making and service of such motion. A motion required to be in writing shall be opposed in writing. A motion made orally, if opposed, shall be opposed orally and at the time of its being made. A party opposing a motion to transfer

shall specify the basis on which the court in which the case is pending has jurisdiction, or venue, or both (except in Magistrate Courts).

T-9. After the filing of a motion to transfer, the court in which the case is pending may stay all other proceedings pending determination of the motion to transfer.

T-10. No action or proceeding shall be transferred except upon written order of the court in which the case is pending, notice of which shall be given to all parties. Such order shall specify the court to which the case is to be transferred. (a) Such order shall also provide notice to the plaintiff that if costs are not paid within twenty (20) days as provided in rule T-11, the case shall automatically stand dismissed without prejudice. The court granting (or denying) an order of transfer may impose reasonable attorney fees incurred in relation to such motion in favor of the prevailing party. Unless the court in its discretion expressly determines otherwise in such order of transfer, and except in Magistrate Courts (see OCGA § 15-10-80), a transfer fee of \$50 shall automatically be imposed. (b) Where a party has filed a successful claim of indigence, the payment of costs shall not be a condition of transfer.

T-11. Upon the filing of an order transferring a case with the clerk of the court entering such order, the clerk shall promptly compute the court costs, including the costs incident to preparing and transferring the record as provided in rule T-12 and the \$50 transfer fee provided for in rule T-10, and notify counsel for plaintiff (or the plaintiff if there be no counsel) in writing of the amount of the court costs. Plaintiff shall pay the unpaid costs within twenty (20) days of mailing or delivery of the cost bill. If costs are not paid within twenty (20) days, the case shall automatically stand dismissed, without prejudice, except where the plaintiff has filed as an indigent. Rule T-11 shall not be applicable in Magistrate Courts.

T-12. Upon timely payment of costs, the clerk of the court ordering transfer shall promptly make copies of (1) the complaint or initial pleading, (2) the motion to transfer if in writing, and (3) the order of transfer. The foregoing copies shall be retained by the clerk of the court ordering transfer. The originals of all pleadings, orders, depositions and other papers on file shall be indexed and certified by the clerk of the court ordering transfer and transmitted, with the \$50 transfer fee (if applicable), to the clerk of the court to which the case is to be transferred in the manner provided by law for transmittal of records to the appellate courts.

T-13. Upon receipt by the clerk of the court to which the case is transferred of the pleadings, orders, depositions and other papers specified above, such clerk shall assign the case the appropriate number. The case shall continue in the court to which transferred as though initially commenced there and all pleadings, orders, depositions and other papers shall be deemed to be amended accordingly. It shall not be necessary that service be perfected a second time upon the defendants, except that any publication which is required to be made in a newspaper in the proper venue shall be republished. Any interlocutory or other order already entered in the case shall, upon motion of any party, be reviewed and reissued or vacated by the court to which the case is transferred.