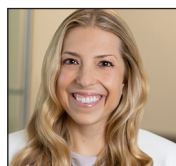




Fulton County Judges Panel

Introducing a new installment of Access Atlanta Bar, focusing on judges from counties in and around Atlanta.



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On November 16, 2021, the Atlanta Bar Association hosted the first installment of Access Atlanta Bar: Judge Panel Series via Zoom. The November panel highlighted the following Fulton County judges:

- **The Honorable Jane C. Barwick** (Superior Court of Fulton County)
- **The Honorable Diane E. Bessen** (State Court of Fulton County)
- **Chief Judge Christopher S. Brasher** (Superior Court of Fulton County)
- **The Honorable Ashley Drake** (Magistrate Court of Fulton County)
- **Chief Judge Kenya M. Johnson** (Probate Court of Fulton County)
- **Chief Judge Cassandra Kirk** (Magistrate Court of Fulton County)
- **The Honorable Henry M. Newkirk** (Superior Court of Fulton County)
- **The Honorable Christopher E. Ward**

(Municipal Court of Atlanta)

- **The Honorable Christopher M. Yokom** (Juvenile Court of Fulton County)

Brooke M. French (Kaye, Lembeck, Hitt & French Family Law LLC) moderated the panel.

Below, please find advice shared by the judges. Please note responses have been paraphrased and edited for length.

Do you think Fulton County will continue to hold virtual proceedings after COVID-19 has subsided?

Judge Bessen: Fulton County is doing virtual voir dire. Every aspect of the trial is set up in a hybrid fashion, but I do not envision it moving totally virtual.

Judge Brasher: I do not believe Fulton will expand beyond jury selection and have witnesses appear virtually. Virtual jury selection has been a positive experience for both jurors and attorneys. On the other hand, most virtual trial experiences have been negative, with external forces bearing on jurors.

How soon will small claims and warrant hearings be in person primarily?

Judge Kirk: I believe we will continue to have a hybrid system for so long as the numbers for COVID-19 dictate that they have a hybrid option available. Hopefully in early 2022 it will be possible to start holding court primarily in person.

What are your biases as a judge, and how do you address them?

Judge Drake: My personal creed when becoming a judge was to refrain from using irrelevant facts or issues to assess a person's credibility. If someone does something extremely discourteous, I try to take a moment to make a mental transition, so I am not holding a bias against someone for something that is not relevant to the case

at hand.

Judge Yokom: I learned from Judge Key in South Georgia, who was always a believer in an empathetic courtroom. If someone entered my courtroom and is angry, disrespectful, or rude, I try to remember they may have had a bad experience before coming into the courtroom.

Judge Brasher: I work hard to renew my sense of empathy every time I go onto the bench. The time spent doing criminal and family law has helped me have more empathy. Judges are people who come into a judgeship with their own experiences and backgrounds. The practice of law brings each lawyer a larger variety of experiences, and the bench brings and even broader variety.

What is the best way to learn the customs or non-written rules of your courtroom?

Judge Barwick: All judges have webpages that may be accessed via fultoncourt.org. Many judges have links to their policies and guidelines, which are very helpful.

Judge Newkirk: A great way to learn about the courtroom is to be friendly with the judge's staff. Staff and fellow litigators are the best source of behind-the-scenes information about the judges.

Judge Kirk: I encourage everyone to look at the magistrate court website for information. Judicial assistants and other staff are also extremely helpful. The best way to get a feel for the judge that you will face is to come down the courtroom to watch and observe.

Judge Johnson: Newer judges come into office with a primarily virtual platform, so in-person proceedings are still new to them, yet new judges welcome feedback from both lawyers and judges.

Any suggestions on what is best to do if something has been pending with your

office a for a long time without a decision?

Judge Bessen: Some judges are more current on their pending matters, others are not. In magistrate court, it is sometimes hard to catch up because they are so busy and do not have the same staff as superior or state court judges. Most of the time they know when something is pending in a

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case, but there are times when something slips through the cracks. You are never at fault to contact the staff attorney or judicial assistant and ask about your pending motion. Everyone should be polite and careful because this can be a touchy and delicate subject.

Judge Newkirk: The chief judge is the next go-to person after a substantial period. If you have not gotten a response from a judge's office for a substantial period, the chief judge would be your next step. Always be cognizant that judges do not get an email about every motion that has been filed.

Judge Brasher: Cases that do not get timely responded to fall into two categories: (1) the case has been overlooked or (2) the case has been neglected. Make sure to contact the staff attorney and ask if the judge has everything he or she needs. Otherwise, the options would be to file a JQC complaint or a mandamus action against the judge, neither of which will win friends or influence enemies. These are both very blunt instruments.

Judge Drake: As it relates to garnishments in Fulton Magistrate court, when a motion is filed, the motion will go directly to the presiding judge, who will then send it out to the assigned judge. If it is not coded as a Motion when filed on Odyssey, it will not go to a judge for consideration. Always file a proposed order rather than emailing it to staff. You could send a heads up regarding proposed orders to customerservice.magistrate@fultoncountyga.gov.

Judge Kirk: Currently in magistrate court, there are two staff attorneys for 30 judges. When cases are filed, they go into a queue. It is very possible that the item you are attempting to track has gone elsewhere. Emailing magistrate.jarequest@fultoncountyga.gov is the best way to track down what is happening.

How does the court learn about motions and other pleadings that have been filed?

Judge Brasher: In my division, the staff attorney walks through the docket of each case every two or three weeks to see what has been filed. It is not unusual for a judge to have 400-800 cases between criminal and civil. There is no mechanism to notify them when something is filed that is helpful. The best way is for attorneys to send courtesy copies to the judge's office if needed.

What was your path to becoming a judge, and what are dos and don'ts for becoming a judge?

Judge Ward: If you would like to serve as a judge, get as much experience as possible. Know where you want to go and what you need to do to get there. Speak to other people who are where you want to be.

Judge Newkirk: Always make sure you work hard and have a reputation for doing so. You must interview well, go through the process of getting through the committee, and get your foot in the door. Sometimes that is through someone that you know.

Judge Bessen: The reality is that you can be qualified, but have no helpful connection, and never reach your goal of being a judge. It should not be this way, but it is an important component to remember.

Judge Ward: Keep your goal in mind. Recognize your visibility. Get involved in a lot of bar associations and become an active and contributing member. Your reputation is all you have in this business. If it is in your heart to serve others, continue to follow your dreams.

Judge Johnson: To be appointed, you must impress a handful of the right people. To be elected, impress a large group of people. If you are not in a position to be appointed, take your message to the people. This will be your key to success.

Judge Yokom: Relationships are very important for becoming a judge. The way you treat people will come back around and haunt or help you.

It would be great if there was a centralized person to contact to get a hearing on an unindicted case. For example, a motion to modify a bond. We file motions and they go into oblivion.

Judge Brasher: Contact the court administrator's office, Judge Brasher's office or Judge Kirk's office, and someone will find a place for the case to be heard.

Judge Kirk: If it is unindicted, Lynette Ross from the non-complex cases unit is the best person from superior court to contact.

Judge Newkirk: Fulton County DA Fani Willis is doing a great job getting cases moving.

Is there emphasis in the court now to try to utilize special masters and arbitration because there is such a backlog?

Judge Brasher: When we talk about backlog, there are two components to it. First, there are cases that existed when

COVID-19 started that have been delayed because of the statewide judicial emergency. Second, there are the unindicted criminal cases. Then came Project ORCA. Fulton County has invested \$75 million of the ARPA funds in the constituent agencies within the court system to help expand the process. The purpose is to build out additional capacity – criminal, civil and family – using additional staff, public defenders, prosecutors, sheriff's deputies, court administration staff, litigation managers, staff attorneys and senior judges. Virtual voir dire helps the process to move along. There is a focus on trying to handle cases through alternate dispute resolution. Special masters are difficult because they are expensive, and the Uniform Superior Court Rules limit the power of special masters.

Judge Bessen: In state court, they do have a backlog of misdemeanors, but not as many cases as Superior Court. Once misdemeanor criminal cases are on calendars, they expect them to resolve quickly. The misdemeanor cases often do not need to be tried like felony cases. However, there is a backlog, or cases that will likely require trials like run-of-the-mill car accident cases, medical malpractice cases, any other large cases.

Thank you, panelists, for your valuable insight!

The series will occur monthly and will feature judges from a different county.