

2014

Business Court

2014 Annual Report



Governing Rules

On June 3, 2005, the Supreme Court of Georgia promulgated Atlanta Judicial Circuit Rule 1004 governing the procedures of the Business Court, as amended on June 6, 2007, May 6, 2009, September 1, 2010, and October 11, 2012. The most recent amendment allows the Business Court the discretion to raise the transfer fee, if needed, subject to a maximum amount of \$2,500. This rule change gives the Court the flexibility to

respond quickly in the face of budget cuts that could threaten the existence of the program.



Purpose

Business Court provides just, accurate, timely, and efficient resolution of complex commercial and business cases, in addition to retaining legal business in Georgia and developing a robust body of business law in Georgia.

Almost 600 businesses have chosen



Business Court to resolve their cases because of the expert judicial attention given to complicated

business cases by experienced judges with specialized training in business law subjects. Litigants benefit from reduced resolution time through increased case management components, including:

- Comprehensive scheduling orders addressing all aspects of a case, including electronic discovery,
- Responsiveness to discovery disputes,
- Prompt scheduling of oral arguments and written rulings on all substantive motions, and
- Mediation.

Cases are not scheduled behind a general docket of criminal and civil cases.

Business Court Judges

Three Senior Judges—Judge Long, Judge Bonner, and Judge Westmoreland—and one Active Judge—Judge Goger—serve the Business Court and receive case assignments on a rotating basis. The Chief Judge appoints the Business Court Bench for up to a two year term. With support staff, these Judges have



the experience and time necessary to administer complex civil cases. Senior Judges are readily available to address any discovery

disputes or other emergencies that may arise during the course of a case. While the Active Judge still maintains a general docket, he devotes blocks of time to the exclusive



**Senior Judge
Alice Bonner**



**Senior Judge
Elizabeth Long**

administration of Business Court cases.

A panel of six Active Judges is designated to oversee the operations of the Business Court and to vet the eligibility of cases seeking transfer to Business Court by assessing the procedural and substantive complexity presented in the cases. Currently, the Business Court Committee is comprised of Chief Judge Tusan, Judge Goger (Chief Business Case Division Judge), Judge Shoob (Vice-Chair of the Business Court

Committee), Judge Markle, Judge Baxter, and Judge Ellerbe. Upon a majority vote of the

Business Court Committee, cases can transfer to Business Court for assignment to a Business Court Judge.

The Business Case Division Judges and the staff attorney attend a series of monthly lectures coordinated with the assistance of the State Bar of Georgia. The lectures cover topics such as fiduciary duties, capitalization issues, corporate governance, derivative actions, mergers and acquisitions, among other business law topics.



**Senior Judge
Melvin
Westmoreland**

The Business Court utilizes early case management conferences (within 30 days of transfer), mediation, and ready availability to address discovery issues as they arise. Together, these features comprise a program that is dedicated

to the efficient, just, and timely resolution of complex commercial and business cases with an emphasis on providing superior service to litigants throughout the process.

Business Court Impact Report

One of the primary goals of the Business Court is to more efficiently administer complex civil cases. Court delays not only increase costs for all litigants, but can negatively impact Georgia's economy.¹ Georgia businesses that cannot promptly

resolve their legal disputes may forego potential business opportunities or hiring as a result of the uncertainty stemming from ongoing litigation. When the impact of court delays is quantified in economic terms, the Business Court's efforts take on critical significance.

To ensure that the Business Court is meeting its stated goals, Business Court personnel gathered case data from a representative

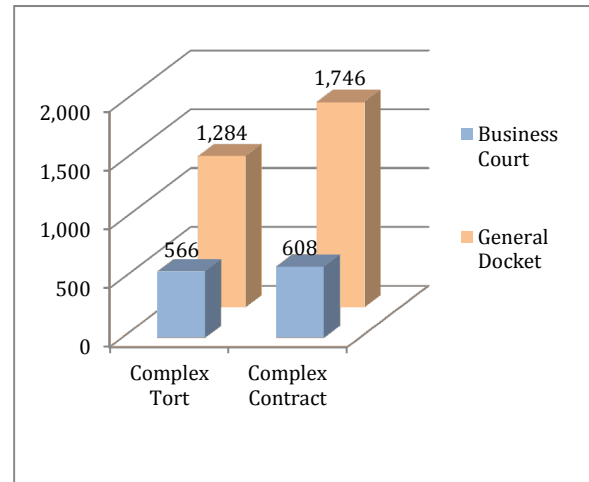
¹ The Washington Economics Group, *The Economic Impacts on the Georgia Economy of Delays in Georgia's State Courts Due to Recent Reductions in Funding for the Judicial System* (updated January 24, 2011).

sample of civil cases pending between 2005 to 2012 to measure the Business Court's efficiency in comparison to the regular docket. The report measured both the amount of time a case was pending, as well as a case's complexity by highlighting the number of docket entries created in each case.

As can be seen from the chart to the right, the case disposition statistics show that the Business Court is achieving great success in moving complex civil cases. On average, the Business Court is able to administer a complex contract case in **608 days**, compared to an estimated **1,746 days** on the general docket—a **65% faster disposition time**. With respect to complex tort cases, the Business Court is able to move cases through resolution in **566 days** on average, compared to an estimated **1,284 days** on the general docket—a **56% faster disposition time**.

This analysis will be duplicated in 2015 to ensure that the Business Court continues to promptly resolve cases.

Disposition of Complex Civil Cases in Days



2014 Business Court Highlights

Business Court Expansion Projects

In 2014, the Business Court supported an amendment to its Rule proposed by the Atlanta International Arbitration Society to establish the Business Court as the designated court for international arbitration issues, similar to initiatives in Miami and New York. The amendment unanimously passed in a vote by the State Bar of Georgia Board of Governors at its January 2015 meeting and is now pending approval by the Supreme Court of Georgia. In 2015, the Business Court will assist the State Bar's Business Court Committee and other interested stakeholders in developing a proposal to expand our model to other Georgia counties and to State Court.

Court-Wide Programs

Area attorneys led seminars hosted by the Business Court for the benefit of the Superior Court judges and staff attorneys, covering a variety of topics such as new developments in social media discovery, evidence, trade secrets, and business law.

Community Impact: Local Law Schools

The Business Court has also been active with local law schools, hosting externs from Emory University, Georgia State University, and University Of Georgia.

Business Court Case Activity

Business Court Case Eligibility

Cases that implicate the Georgia Securities Act of 1973, UCC, Georgia Business Corporation Code, Uniform Partnership Act, Uniform Limited Partnership Act, Georgia Revised Uniform Limited Partnership Act, or Georgia Limited Liability Company Act are eligible to transfer to the Business Court. Additionally, any other action in which the amount in controversy exceeds \$1 million and warrants the attention of the Business Court, including large contract and business tort cases and other complex commercial litigation may also be considered.

Cases involving personal injury, wrongful death, employment discrimination, or

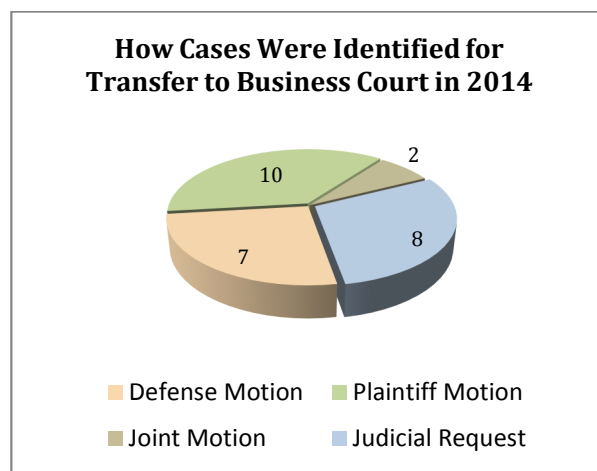
consumer claims in which each individual's claims are in the aggregate less than \$1 million are typically not eligible for transfer to Business Court. However, exclusions may be waived with consent of all parties.

In 2014, approximately 35% of the Business Court cases involved contract disputes and 39% alleged tortious business practices such as mismanagement or misappropriation. The remaining cases included disputes regarding management of trusts (11%), shareholder derivative actions (7%), disputes as to business ownership interests (6%), and violations of securities laws (2%).

Cases Transferred to Business Court

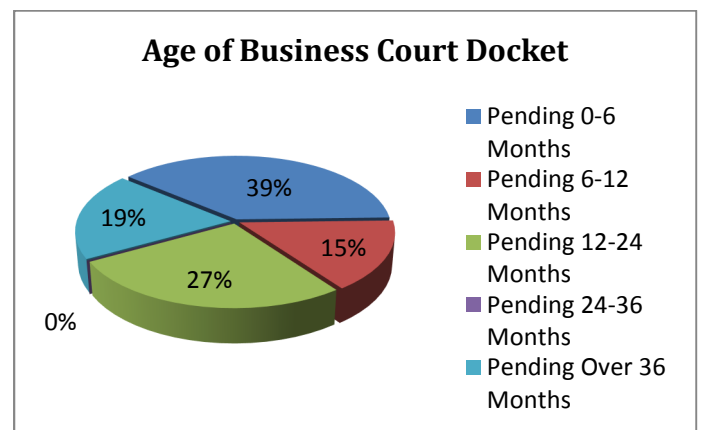
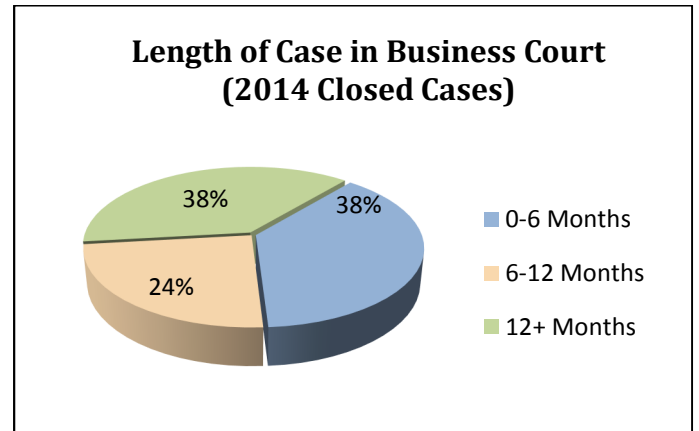
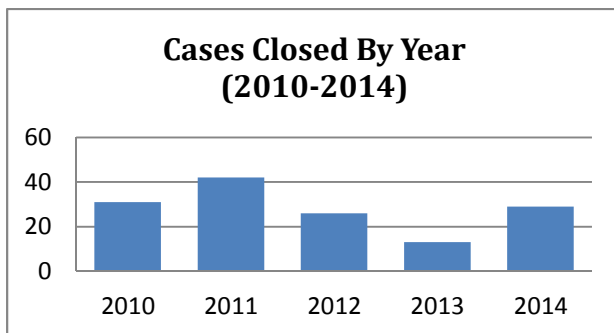
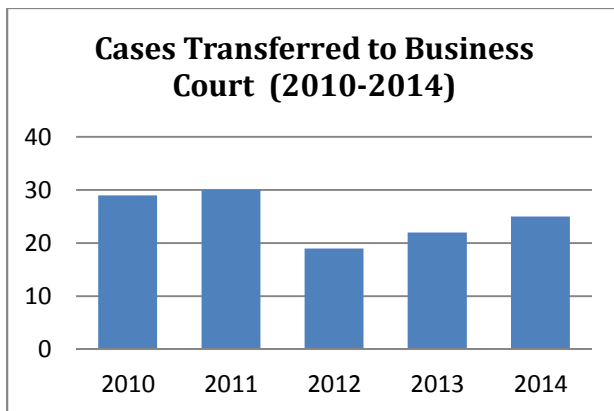
Cases are identified for transfer to Business Court upon motion of one or more parties or by judicial request. The total number of transfers to Business Court since the inception of the program is 202.

In 2014, the primary method of identification for cases transferred to Business Court was by party request. In contrast, the primary method of identification in 2013 was by judicial request. Two cases were denied transfer to Business Court in 2014.



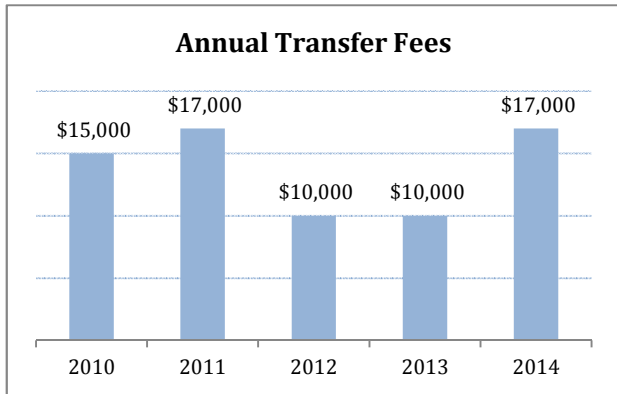
Caseload Activity

As shown below, in 2014 the Business Court added 25 new cases. Since its inception, the Business Court has considered 268 cases for transfer and has accepted a total of 202 cases. The Business Court has handled a total of 170 cases through disposition since 2005.



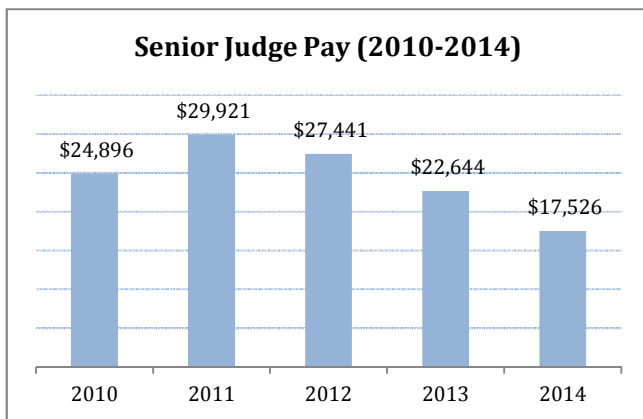
All 5 cases pending for more than 3 years are stayed: 3 pending appeals, 1 pending finalized settlement documents, and 1 pending the outcome of a related federal tax case. Of the 29 cases closed in 2014, 62% of the matters were disposed of within 12 months of transfer to Business Court.

Collection of Transfer Fees

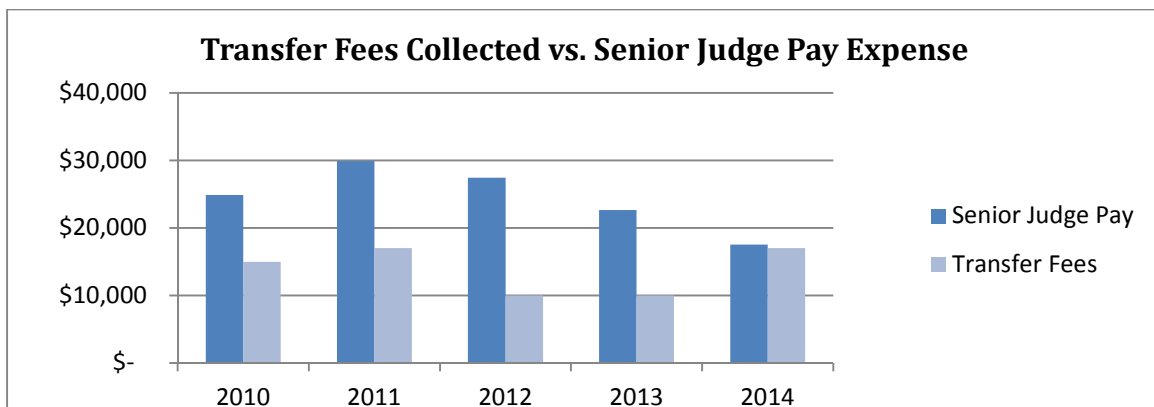


Transfer fees are assessed against the moving party or parties once a case is accepted for transfer to Business Court. Cases accepted following a judicial request to transfer are not assessed a transfer fee. The transfer fee funds are used for Business Court operations and Senior Judge funding.

Senior Judge Expense



Senior Judge pay reached a 7-year low in 2014. Additionally, the transfer fees collected in 2014 kept pace with senior judge pay expense for the first time since the implementation of the program. Senior Judge usage is funded through general state or county senior judge allocations and the collection of transfer fees.



For more information about the Business Court, please contact Jody Rhodes at 404-613-3690 or jody.rhodes@fultoncountyga.gov or J.T. Gallagher at 404-612-4570 or john.gallagher@fultoncountyga.gov.