



For the Record

By

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What are duties of Superior Court Clerks?

Many years ago at the conclusion of the longest criminal jury trial in Liberty County's history, I heard an attorney's son who sat through several days of presentation of evidence during the trial tell his father that, of all the jobs of court officials involved, he wanted to be the clerk of superior court.

"Why?" the attorney asked him.

"He didn't have much to do during the trial," the son replied.

"Hmm," his father laughed while looking over at me. "Son, he did all the work that made the trial possible, if you knew exactly what the clerk does, it would be *last job* you'd want. It's probably one of the hardest and probably most important jobs anyone could ever have."

Common sense dictates that, because of the intricate duties and responsibilities conferred upon the clerk by law, uniform rules of the court, local court rules, and standing orders of the courts, as well as appellate court decisions, the person elected by citizens of a county to serve them as clerk of superior court should be more than minimally qualified for the job. Although not required by law, the clerk in a county with the workload and population the size of Liberty County's should be formally educated and aptly experienced in business administration, accounting, court management, and information systems development and management. A person not uniquely and aptly qualified, who does not love to work and work hard, and who is achievement-oriented will have a difficult time surviving or achieving success as clerk because of the intricacies of the job, complex legal decisions he or she must regularly make requiring specialized and often recondite knowledge, multifarious inter and intra-personal working relationships with a seemingly endless array of court and government officials and agencies, and other rigorous demands placed upon the office and him or her as an elected, county constitutional officer.

The clerk is responsible for everything in the office, including all clerical, accounting, and administrative duties required for every court he serves to function. (I serve as clerk and court administrator of of superior, state, juvenile and magistrate as a means for saving local tax dollars by centralizing clerical and administrative duties) The clerk is responsible for filing, recording, and archiving all court documents, pleadings, orders, and judgments for the respective courts he serves and all land records of the county (i.e., deeds, liens, plats, and other documents affecting ownership and lien interests on real and personal property). Every clerical act performed by the clerk and clerk's office staff must be

done with absolute precision. Errors cannot occur because, when they do, they may affect due process or ownership or interest rights of persons relying upon such services.

The clerk is chief executive officer of the clerk's office. Deputies of the office serve at the clerk's pleasure; however, once employed, they may—and are required to—perform any act that the clerk is authorized by law to perform other than appointment of deputy clerks. He or she is legally responsible for every document submitted for filing, every penny paid to the office, and every action and inaction of deputy clerks employed by him. He can be sued for his or his deputies' actions, inactions, or mistakes. If, for example, the clerk or a deputy clerk incorrectly files or mis-indexes a court document or land record (deed, lien, or plat), the affected party can assert a claim for damages against the clerk if the alleged error impedes the party's rights to due process or adversely affects his or her ownership rights or security interest in or real or personal property. The clerk is legally liable in both his official and individual capacity, meaning that, upon being sued for damages and the party suing him or her prevailing, the clerk can be personally liable for the amount of the judgment against him or her.

The clerk is the chief accounting officer for the courts, with one of his primary and most important duties being to receipt, properly account for, and pay out all monies received by him, including court fees, criminal fines and mandated surcharges and assessments and sums paid into the registry of the court and kept securely for the future benefit of parties in litigation. On an average, the Clerk's Office collects, properly accounts for, and pays out approximately \$5 million annually, with most of the funds received paid out by the clerk to more than 27 state and local beneficiary agencies of government.

In court, the clerk is the chief information officer, serving as custodian of official court records, keeping minutes of proceedings, receiving and processing all orders and pleadings, administering oaths, and providing other essential services to the court, as required by law. In his office, the clerk also serves as the chief information and information technology officer, ensuring the office's compliance with provisions of the state's Open Records Act that mandates unfettered access to all records of the state and local governments and providing access to and copies of court and land records which are not exempt from disclosure by law.

The clerk is the chief jury management officer for superior and state courts, the two courts that he serves that are legally authorized to conduct jury trials. His primary jury management duties are to ensure that the county's jury lists are properly maintained so as to ensure the lists' integrity and to safeguard them from tampering and, when jurors are needed for the trial of any case(s), to summon and to ensure that a requisite number of eligible citizens of the county are present for jury selection. County jury lists are now created by the Council of Superior Court Clerks of Georgia from the state's lists of persons having a Georgia driver's license and eligible voters. However, the clerk is official custodian of local jury lists.

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