

**Proposed Amendment to Rule 41- DRAFT FINAL**  
**Rule 41. MOTIONS FOR NEW TRIAL**

**Rule 41.1. Time for Hearing**

Counsel are reminded of their general ethical obligation to make reasonable efforts to expedite litigation consistent with the interests of their clients.

~~In order to reduce delay between the conclusion of the trial and the filing of the notice of appeal, the trial court may hear motions for new trial immediately after filing and prior to the preparation of the transcript of proceedings. In any event, t~~The motion for new trial shall be heard and decided as promptly as possible.

When the defendant's presence is required by law, counsel for the defendant shall procure the defendant for the hearing on the motion for new trial unless the defendant waives his presence in writing. A ruling on the motion shall be rendered within the time period required by law upon the record on the motion being complete and the transcript and post-hearing motions or other matters having been submitted.

**Rule 41.2. Status Conference and Transcript Preparation**

In criminal cases, the transcript shall be prepared as promptly as possible.

The court shall schedule a status conference regarding the motion for new trial not later than 120 days after sentencing. Counsel of record for both the state and the defendant shall be present at any conference or hearing. At the conference the court shall confirm that the defendant has appellate counsel and that the transcript has been ordered. The court shall ensure the production of the transcript.

If the transcript has not been filed by the court reporter within 120 days of the date of sentencing, the court shall issue a show cause notice to the official court reporter to provide reasons for the delay and to impose such other conditions as required by the court.

The court shall schedule status conferences regarding the motion for new trial no less than every 180 days after the first conference until the motion for new trial is heard.

Any conference required by this section shall be on the record. At the discretion of the court, the conference may be conducted telephonically or electronically.

**Rule 41.3. Transcript Costs**

Except where leave to proceed in forma pauperis has been granted, an attorney who files a motion for new trial, or a notice of appeal which specifies that the transcript of evidence or hearing shall be included in the record, shall be personally responsible for compensating the court reporter for

the cost of transcription. The filing of such motion or notice shall constitute a certificate by the attorney that the transcript has been ordered from the court reporter. The filing of such motion or notice prior to ordering the transcript from the reporter shall subject the attorney to disciplinary action by the court.

**Rule 41.4 Transmission of the Record**

Upon filing of a notice of appeal, the Clerk shall compile and transmit the record in accordance with the requirement of the appropriate appellate court as required by O.C.G.A. § 5-6-43. Failure to do so within 60 days of the deadlines imposed by O.C.G.A. § 5-6-43 may subject the Clerk to a show cause hearing before the sentencing court. The court may impose sanctions for contempt if the delay is not justified or excused by statutory or decisional law.