The United States District Court for the Northern District of Georgia

AN ABBREVIATED HISTORY

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The U.S. District Court for the Northern District of Georgia convened for the first time on March 12, 1849. As with all U.S. district courts, the Northern District of Georgia’s lineage begins with the Judiciary Act of 1789, which organized the state of Georgia as a single judicial district with a single district judge.

The day the Judiciary Act was signed into law, Sept. 24, 1789, President George Washington nominated Nathaniel Pendleton as the first U.S. district judge for the District of Georgia. At that time, the majority of Georgia’s population lived along the coast, primarily in Savannah, with Augusta and several other settlements up the Savannah River. Terms of the circuit and district courts were alternately held in Augusta and Savannah.

The first session of the U.S. District Court for the District of Georgia was opened by Judge Pendleton in Savannah on Nov. 13, 1789.

A majority of the pre-Civil War circuit court cases involved simple issues concerning commercial accounts. A frequent plaintiff before the court was Eli Whitney, inventor of the cotton gin. Whitney brought 27 actions before the circuit court to defend his patent against infringement.

In the early decades of the district court, there were not many federal criminal cases. Federal criminal jurisdiction was limited. Theft from the mails, forgery of notes issued by the Bank of the United States, and crimes committed on American vessels on the high seas were among the crimes triable in federal court.

In the first half of the 19th century, through the removal of the Creek and Cherokee Indian tribes and eight land lotteries, three quarters of the state’s interior was settled. Adding to the population growth in the northern part of the state was the 1829 discovery of gold near Dahlonega and the development of railroad lines, which served as a catalyst for the settlement of cities and towns in the interior.

This significant growth in the population of North Georgia was the major factor behind the Georgia General Assembly’s adoption of a resolution in 1845 asking for the state to be divided into two federal judicial districts. On Aug. 11, 1848, Congress responded by creating the Northern District of Georgia, which would hold its sessions in Marietta, and the Southern District, which would continue to sit in Savannah.

In those days, unlike many of the federal district courts, the Northern District of Georgia was given complete federal jurisdiction and was not part of the circuit system. As a result, decisions from the Northern District went directly to the U.S. Supreme Court when the amount in controversy exceeded $2,000, whereas decisions in the Southern District went first to the circuit court when the amount exceeded $500.

When a new engineer took over the construction of the Western & Atlantic Railroad to Chattanooga, he moved the base of operations from Marietta to a small Georgia settlement on the Chattahoochee River south of Marietta. Originally an Indian village named Standing Peachtree, the settlement came to be called Terminus because it was the end of the railroad line. Its name was later changed to Marietta, in honor of the daughter of the state’s former governor. Some of the town’s residents and railroad workers objected to the feminine name, so it was changed again, this time to Atlanta. In just a few years, Atlanta outgrew Marietta and eventually became the headquarters of the federal court for Northern Georgia.

Following Lincoln’s election, Georgia and other Southern states seceded. The Northern District of Georgia’s final session before the Civil War was in September 1860 in Marietta.

Following the war, on June 17, 1865, President Andrew Johnson issued a proclamation establishing a provisional government in Georgia. On July 10, 1865, President Johnson gave a recess appointment to John Erskine to fill the vacant district judgeship for the Northern and Southern Districts of Georgia. On Dec. 20 of that year, he formally nominated Erskine for the position, and Erskine was confirmed by the Senate the following month. He was the first federal judge in Georgia to live outside Savannah because he continued his residence in Atlanta as his official duty station during his judicial service.

Between Judge Erskine’s appointment in 1865 and his first session of court in Atlanta in 1866, Congress enacted a statute moving the Northern District’s place of holding court from Marietta to Atlanta.

For 18 years, Judge Erskine traveled from his home in Atlanta to regularly hold four court terms for the Southern District in Savannah (February, May, August, and November), as well as terms for the circuit court. All of this was in addition to his holding regular terms of court in the Northern District.

Atlanta’s population quadrupled in the 20 years between 1860 and 1880. In 1882, Congress authorized a separate judge for each of Georgia’s two federal judicial districts. The authorizing statute provided that the existing judgeship held by Judge Erskine would be assigned to the Southern District, and the new position would be in the Northern District. Judge Henry McCay has the distinction of being the first federal judge appointed exclusively to the Northern District of Georgia.

Judge McCay received his Bachelor of Arts from Princeton University and his legal education reading law in the office of Chief Justice Joseph Henry Lumpkin of the Georgia Supreme Court.

On March 25, 1883, Judge McCay admitted a new member to the Northern District Bar. Thirty years later the new lawyer, Thomas Woodrow Wilson, was elected the nation’s 28th president and appointed one of Judge McCay’s successor judges to the Northern District bench.

Beginning in 1891, consistent with the effort to make federal courts more accessible, Congress authorized the Northern District to hold court in locations outside Atlanta. In 1900, Congress created the Northwestern Division of the Northern District of Georgia in Rome as an additional place of holding court. In 1926 as a part of a
reorganization of Georgia’s judicial districts, Congress established the Gainesville Division of the Northern District. Sessions of court were conducted in the Hall County Courthouse until 1936 when a new federal courthouse was added to the 1910 post office building in Gainesville. In 1935, Congress created the Newnan Division of the Northern District. Two terms of court were held each year with the sessions conducted in the Coweta County Courthouse. Upon completion of a new federal building/post office and courthouse in Newnan in 1968, a permanently staffed clerk’s office and facilities for a resident judge were provided in the new building.

Illegal liquor cases dominated the Northern District’s criminal docket in the early 1900s, especially after the passage of the 18th Amendment and the Volstead Act. In those difficult economic times, many Georgia farmers discovered that it was much more profitable to sell their corn in a liquid form in glass jugs than its conventional form.

On May 28, 1926, Congress realigned the boundaries of Georgia’s two existing federal judicial districts, the Northern and Southern districts, and established a third judicial district, the Middle District, with its headquarters at Macon. Creation of the new district came as a compromise solution to a long-standing request that a second judge be authorized in the Northern District whose docket had become overloaded by the end of World War I.

The Middle District today has 70 counties and is the largest of the three in geographic area (24,717 square miles), followed by the Southern District’s forty three counties (18,933 square miles), and the Northern District’s 46 counties (14,255 square miles). Notwithstanding the respective sizes of the three districts in geographical area, today’s population figures reflect the Northern District’s 6,019,701 residents followed by the Middle District’s 1,933,687 residents, and the Southern District’s 1,410,553 residents.

The court’s caseload continued to increase during the postwar period. In 1940 Congress created a temporary second judgeship to meet the district’s burgeoning caseload; the judgeship was made permanent in 1949.

Beginning in the late 1940s and early 1950s, many more cases involved individual rights and liberties. Most of these were civil cases, although some were criminal prosecutions brought by the U.S. attorney involving deprivation of civil rights. The continued growth of the district’s civil and criminal caseload throughout the 1950s caused Congress on May 19, 1961, to authorize a third judgeship for the Northern District.

Atlanta’s growth was steady from the late 1940s, but the city and its suburbs exploded with people, commerce, and activity in the late 1960s and 1970s. Much of Atlanta’s growth can be traced to events in the 1920s through 1940s. William Hartsfield and Asa Candler Jr. lobbied for the city to be made a stop on the developing federal airmail routes from Miami to New York, and the city acquired Candler Field in 1926. In these actions, one finds the roots of today’s Hartsfield–Jackson International Airport, the busiest passenger airport in the world. Hartsfield became the city’s mayor and its chief promoter. Many events helped shape the city’s development—the 1939 movie premiere in Atlanta of “Gone With the Wind,” based on Margaret Mitchell’s famous novel; the location in the Atlanta area of a number of military bases and the city’s becoming the military supply center for the eight Southeastern states; the construction of the Bell Bomber plant in Marietta, which at its peak employed 30,000 people; Ford’s and General Motors’ post war construction of large automobile assembly plants in the city; the city’s position as a major rail center with over 200 passenger and freight trains passing through the city daily; and the construction of the federal interstate highway system, which made Atlanta the crossroads of three interstate highways—I-75, I-85, and I-20. All of these factors contributed to the development of Atlanta and its suburbs.

The court changed most significantly in the decade of the 1960s. The addition of the third judgeship was a major benchmark in the court’s history. It was an era of virtually continuous institutional change. The Northern District court that emerged from that decade was vastly different than the single-judge court of just 20 years before. The creation of the office of chief judge in 1948 recognized that courts with more than one judge required an internal administrative capacity as well as an external capacity to deal with other courts, judicial councils, the Administrative Office of the U.S. Courts, and other outside agencies.

In June 1970, Congress passed the Omnibus Judgeship Act of 1970 authorizing more federal judgeships. Included in the bill were three additional district judgeships for the Northern District.

In addition to the increase in workload, the types of cases comprising the court’s criminal docket had begun to change. In the mid 1960s, recreational drug use became popular among young, middle-class Americans. In 1970, Congress passed stronger drug enforcement laws, and in 1971, President Richard Nixon declared drug abuse to be “public enemy No. 1 in the United States.”

Atlanta and North Georgia became a drug trafficking hub by the mid 1970s, much for the same reasons that the area’s growth began to expand in the 1960s—its geographic location in the Southeast and transportation networks, including three interstate highways. An additional factor was the rural nature of Georgia outside metropolitan Atlanta. Airports and landing strips existed where small, private planes ferrying drugs from South America could land undetected. Many Georgia moonshiners changed their business models from manufacturing and transporting illicit liquor to the much more highly profitable trafficking of drugs.

An important part of the Northern District of Georgia’s ability to deal with a rapidly increasing and changing caseload has been its U.S. magistrate judges. These judicial officers have been known by different titles throughout history of the federal judiciary: U.S. commissioner 1793–1968, U.S. magistrate 1968–1990, and, since 1990, U.S. magistrate judge. In 1896, Congress formally established the position of U.S. commissioner, to be appointed by the judges of the district rather than the circuit court. In the late 19th and early 20th century, because of the difficulties of travel, there were as many as 13 commissioners in the district. As roads improved, fewer commissioners were appointed.

Commissioners were appointed principally to issue warrants and to take bail in criminal cases, especially in the divisional court sites and in other cities and towns throughout the districts. The modern day magistrate judge position began with the 1968 enactment of the Federal Magistrate Act. After a transition period during which the current United States commissioners continued in office, the first magistrates in the Northern District of Georgia were appointed on April 29, 1972. In recent years, more and more parties are consenting to trial by Northern District magistrate judges as parties are desirous of their cases being heard quicker.

Today, there are nine full time U.S. magistrate judges in the district; seven sit in Atlanta, one in Rome, and one in Gainesville.

Also critical in support of the court is its probation office. The U.S.
he has quietly imparted the power of goodwill and civility. We in the Northern District have been privileged to serve with him.”

The many contributions made by the Northern District’s senior judges over the last 20 years cannot be overemphasized. Most of the senior judges have carried as much as 80 percent of the caseload of an active judge, and several have served as senior judges for over 20 years. Their work has allowed the court to keep pace with its significant workload.

Atlanta’s hosting of the 1996 Summer Centennial Olympic Games was a major event in Atlanta’s history. It spotlighted and helped transform Atlanta into an international city.

The Summer Olympics proceeded largely without any major security issues, and nearly all of the related federal court cases were routine cases, having to do with subjects such as copyright infringement actions against street vendors. That calm was broken in the early morning hours of Saturday, July 27, 1996, however, when a bomb exploded in Centennial Olympic Park with 60,000 people present. Over the next year and a half, two abortion clinics, one in Birmingham and one in Atlanta, and a gay nightclub in Atlanta would fall victim to similar bombings. After one of the longest manhunts in U.S. law enforcement history, the person responsible for the bombings, Eric Robert Rudolph, was arrested May 31, 2003.

On the afternoon of Aug. 22, 2005, in a Northern District courtroom, less than a half mile from Centennial Olympic Park, Rudolph pled guilty to the three Atlanta bombings and was sentenced by Judge Charles A. Pannell Jr. to multiple life sentences without the possibility of parole.

The court’s criminal caseload and, in particular, its drug cases have substantially over the years since 1927, when Officer Richard A. Chappell, its first probation officer, was appointed to serve the judges in all three Georgia districts. By 1930, the Northern District was authorized to have its own probation officer, and Officer Chappell filled that position. Over the years the complement of probation officers grew with the criminal caseload. By the mid 1970s, the Northern District probation office had 31 sworn officers and 13 support personnel.

The responsibilities of the probation office have also significantly expanded. From Officer Chappell’s single cubbyhole in the Atlanta courthouse, the probation office has grown to include offices in each of the court’s three divisional sites, Rome, Gainesville, and Newnan. This decentralization would eventually include satellite probation offices in Marietta, Tucker, and Morrow. Probation staff also monitor probationers and those on release by electronic ankle bracelets and programs designed to ensure that they remain drug-free. The number of officers and staff of the Northern District probation office also expanded to meet these additional responsibilities and today has 76 sworn officers and 26 support staff.

In the summer of 1978, Congress passed an omnibus judgeship bill adding 152 new federal judges nationally, including five new positions for the Northern District of Georgia. Overnight, the Northern District bench increased from six to 11 judgeships.

Among the new additions to the court’s bench was the court’s first female judge, Hon. Orinda D. Evans, who was appointed to the Northern District. Judge Evans also has the distinction of being the youngest judge ever appointed to the court.

Judge Evans’ decision in Joiner v. General Electric Co., in which she addressed the admission of expert testimony, was reversed by the Eleventh Circuit only to be reinstated by the Supreme Court. The Supreme Court’s opinion is the middle case in the so called “Daubert trilogy,” the three cases that set forth the legal standards for the admission of expert testimony in federal court.

Also among the court’s newest judges was Judge Horace T. Ward, the court’s first African American judge. Judge Ward was confirmed by the Senate on Dec. 5, 1979, and sworn in on Dec. 27, 1979. A native of LaGrange, Ga., he received his undergraduate degree from Morehouse College, his master’s degree from Atlanta University, and his law degree from Northwestern University. Judge Ward was the second African American to be elected to the Georgia State Senate and the first African American to become a superior court judge in Georgia when he was appointed to the Superior Court of Fulton County. He also served on the State Court of Fulton County.

Judge Ward was a trailblazer in the civil rights movement, beginning in 1950 when he applied for admission to the University of Georgia Law School and was rejected because of his race. He attended law school at Northwestern University in Chicago instead. He returned to Georgia following graduation where, in 1959, he was a member of a team of renowned civil rights lawyers who helped desegregate the University of Georgia.

The judge took senior status on Dec. 31, 1993, and retired from the bench on Sept. 1, 2012. On the occasion of his retirement, Chief Judge Julie Carnes said of Judge Ward: “Having been treated with hostility by many lawyers and judges as he was trying to make his way in the world, he could have become bitter and responded in kind once he enjoyed power. He never did so. He treated all with whom he came into contact—litigants, lawyers, and colleagues—with kindness, charity, and patience. Through his graciousness and decency,
continue to require much of its resources. Nearly a third of all federal criminal prosecutions in Northern Georgia are drug related.

Apart from drug cases, today’s federal criminal caseload is reflective of the changes in our society. Typical cases include violent racketeering, carjacking, securities, Social Security and health care fraud, money laundering, bribery, conspiracy to defraud the U.S. government, and offenses connected with the country’s increasing dependence on computers and the internet. In recent years, there have been a number of convictions of individuals for various cybercrimes, including the solicitation of minors for illicit activity and for pornography. The U.S. attorney has used federal firearms statutes, such as felons in possession of a firearm, to prosecute violent criminals.

The cases that comprise the court’s civil caseload are likewise indicative of Atlanta’s role as one of the nation’s major commercial centers. There are many habeas corpus filings and a large number of civil rights cases. Many cases are brought in the Northern District under the diversity jurisdiction statute. A sizeable number of the court’s civil cases arise because the United States is a party to the litigation. Environmental litigation has also increased, as well as intellectual property cases—patent, trademark, and copyright. In 2004, the court adopted special local rules governing the procedures applicable to patent cases. These rules provide more certainty on procedural issues that arise in patent cases and set a schedule for their handling. Only a handful of federal district courts nationally have adopted local rules for patent cases, making the Northern District a preferred forum for patent litigation.

Epilogue

Two hundred and twenty-eight years have elapsed since Congress enacted the Judiciary Act of 1789, and it’s been 169 years since the first session of the Northern District in Marietta. From its creation in 1848 to the present, 35 men and seven women have served as district judges in the Northern District of Georgia. Those 42 judges have been appointed by 17 different U.S. presidents.

The oath that Georgia’s first judge, Nathaniel Pendleton, took when becoming a judge in 1789 is the same one taken in 2014 by the court’s most recent appointees, Judges Leigh Martin May, Mark H. Cohen, and Eleanor L. Ross, when they swore to “administer justice without respect to persons, and do equal right to the poor and to the rich.” In so many other respects though, the changes in the Northern District since that time have been profound.

The Northern District of Georgia has been a constant feature in the lives of Atlantans and North Georgians since its formation. Its landmark opinions—including those entered in the civil rights cases of the 1950s and ’60s and those with major effects on international commerce—have struck the appropriate balance between continuity and change necessary to keep pace with North Georgia’s evolution. Simply put, the Northern District of Georgia plays a vital part in the lives of its citizens.

\* Luther D. Thomas retired in 2006 as the longest-serving of the Northern District of Georgia’s 14 clerks of court. Beginning his career as an elected clerk of a state trial court in Kentucky, he then served over 29 years with the federal judiciary, including service as a bankruptcy court clerk in Kentucky, special assignments as acting clerk of two federal courts in Florida, as well as traveling overseas to provide assistance to five judiciaries, including Iraq, in 2003. © 2017 James Hatten (as Clerk of Court, Northern District of Georgia). All rights reserved.

Endnotes

1Record Group 21, Minute Book, N.D. Ga., Book 1 (1849-1861), National Archives, Morrow, GA.
3Denson Olmstead, Memoir of Eli Whitney 26 32 (1846).
4Resolution of Dec. 29, 1845, Georgia Legislature 205.
7Act of Apr. 5, 1882, 22 Stat. 47.
10Statistics provided by clerk’s offices for Northern, Middle, and Southern Districts of Georgia.
12Frederick Allen, Atlanta Rising: The Invention of an International City (1996).
14Atlanta and Drugs: What You May Not Know About the Drug Activity Here, Examiner (Jan. 18, 2011).
22Gayle White, On the Bench: Judge Orinda Evans, Atlanta Const. (Aug. 18, 1981), 1 B.
25Robert A. Pratt, We Shall Not Be Moved: The Desegregation of the University of Georgia 70-74 (2002).
27Allen, Atlanta Rising.
29Shaila Dewan, Olympics Bomber Apologizes and is Sentenced to Life Terms, N.Y. Times (Aug. 23, 2005), A 1.
3128 U.S.C § 453.