

Senate Bill 346

By: Senators Harp of the 16th, Kemp of the 3rd and Meyer von Bremen of the 12th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the
 2 Civil Practice Act, so as change certain pretrial procedures; to amend Code Section 9-11-4
 3 of the Official Code of Georgia Annotated, relating to service of process in civil actions, so
 4 as to conform to the language of Federal Rule of Civil Procedure 4(f) regarding the methods
 5 of service of process in other countries in conformity with the Convention Relative to the
 6 Notification or Service Abroad of Judicial and Extrajudicial Documents; to authorize
 7 international service of process by mail when not prohibited by the government of a foreign
 8 country; to provide that after entry of an order governing a civil trial, the court in its
 9 discretion may allow additional expert witnesses to be called to testify; to provide for related
 10 matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Chapter 11 of Title 9 of the Official Code of Georgia Annotated, relating to the Civil Practice
 14 Act, is amended in Code Section 9-11-4, relating to service of process in civil actions, by
 15 inserting immediately after paragraph (2) of subsection (f) a new paragraph (3) to read as
 16 follows:

17 "(3) SERVICE UPON PERSONS IN A FOREIGN COUNTRY. Unless otherwise provided by law,
 18 service upon a person from whom a waiver has not been obtained and filed, other than
 19 an infant or an incompetent person, may be effected in a place not within the United
 20 States:

21 (A) By any internationally agreed means reasonably calculated to give notice, such as
 22 those means authorized by the Hague Convention on the Service Abroad of Judicial and
 23 Extrajudicial Documents;

24 (B) If there is no internationally agreed means of service or the applicable international
 25 agreement allows other means of service, provided that service is reasonably calculated
 26 to give notice:

- 1 (i) In the manner prescribed by the law of the foreign country for service in that
 2 country in an action in any of its courts of general jurisdiction;
- 3 (ii) As directed by the foreign authority in response to a letter rogatory or letter of
 4 request; or
- 5 (iii) Unless prohibited by the law of the foreign country, by:
- 6 (I) Delivery to the person of a copy of the summons and the complaint; or
 7 (II) Any form of mail requiring a signed receipt, to be addressed and dispatched by
 8 the clerk of the court to the party to be served; or
- 9 (C) By other means not prohibited by international agreement as may be directed by
 10 the court."

11 SECTION 1.1

12 Said chapter is further amended in Code Section 9-11-16, relating to pretrial procedure,
 13 formulating issues, the pretrial order, and the pretrial calendar, by striking in its entirety
 14 subsection (b) and inserting in lieu thereof the following:

15 "(b) The court shall make an order which recites the action taken at the conference and the
 16 agreements made by the parties as to any of the matters considered and which limits the
 17 issues for trial to those not disposed of by admissions or agreements of counsel. The order,
 18 when entered, controls the subsequent course of the action unless modified at the trial to
 19 prevent manifest injustice. After entry of the pretrial order, it shall be within the discretion
 20 of the court to permit or disallow the presentation of testimony from any expert witness
 21 whose name is not contained in the pretrial order; provided, however, that if the additional
 22 expert witness is permitted to testify, any opposing party shall be permitted reasonable time
 23 to take the deposition of the additional expert witness. The court, in its discretion, may
 24 establish by rule a pretrial calendar on which actions may be placed for consideration as
 25 provided in subsection (a) of this Code section and may either confine the calendar to jury
 26 actions or to nonjury actions or extend it to all actions."

27 SECTION 2.

28 All laws and parts of laws in conflict with this Act are repealed.