



2025 Magistrate Court Clerks' Annual Training

June 19-20, 2025
Sea Palms Resort, St. Simons Island, GA

** Registration opens at 7am

Thursday, June 19th, 2025		
Time	Topic	Speaker
7:00 – 8:00 am	REGISTRATION & BREAKFAST	
8:00 – 8:50 am	Civil Overview	Hon. Jennifer Lewis
9:00 – 10:50 am	Abandoned Motor Vehicles/Vessels/Mechanic Liens	Hon. Michael Barker
11– 11:50	Court Services	Sgt. Tiffany Alliston
11:50 -Noon	BUSINESS MEETING	
Noon – 1pm	LUNCH	
1:00 – 1:50 pm	Service Papers & Time Limits	Hon. Carla Brown & Ms. Jackie Norman
2:00 – 2:50 pm	Open Defaults/I have a judgment now what/where does the money go?/New FiFa 1292	Hon. Megan Kinsey
3:00 -3:50 pm	Case Load Reports	Andres Bosque, Lead Data Analyst, AOC
4:00 – 5:00 pm	Pre-Warrants/Good Behaviors/Family Violence	Hon. Heather Culpepper
Friday, June 20th, 2025		
Time	Topic	Speaker
7:00 – 8:00 am	BREAKFAST	
8:00 – 9:00 am	Clerk Ethics	Hon. Rick Waters
9:10 – 10:00 am	Squatters Law/Evictions/A-Z Steps	Hon. Brendan Murphy
10:10 – 11 am	New Legislation Update/ New Notary Law	Hon. Brendan Murphy
11:10 – Noon	Questions & Answers	Moderator: Hon. Carla Brown

Certificates will be given out at the conclusion of the training on Friday by your training council.

Magistrate Court Clerks

Table of Contents

➤	What you need to know.....	Pg.	3
➤	ICJE Board of Trustees	Pg.	5
➤	ICJE Staff Points of Contact	Pg.	6
➤	Attendance Form	Pg.	7
➤	Evaluation QR Code	Pg.	9
➤	Civil Overview	Pg.	11
➤	Abandoned Motor Vehicles/Vessels/Mechanic Liens	Pg.	27
➤	Court Services	Pg.	79
➤	Service Papers & Time Limits	Pg.	87
➤	Open Defaults/Now What/Money/New FiFa 1292	Pg.	103
➤	Case Load Reports	Pg.	119
➤	Pre-Warrants/Good Behaviors/Family Violence	Pg.	127
➤	Clerk Ethics	Pg.	141
➤	Squatters Law/Evictions/A-Z Steps	Pg.	173
➤	New Legislative Update/New Notary Law	Pg.	193
➤	Questions & Answer	Pg.	199
➤	ICJE Policy Update	Pg.	204



<p>Welcome to St. Simons</p> 	<ul style="list-style-type: none"> ❖ If you are new to the area or are looking for restaurants to try, visit: https://www.goldenisles.com/islands-towns/st-simons-island/ 		
<p>Internet Access</p> 	 <ol style="list-style-type: none"> 1. Check at the registration desk for WiFi access 		
<p>Access to New / Updated Handouts</p> 	<p>Any New or Updated Handouts provided by instructors will be made available to you via ICJE's OneDrive. Scan the QR code on the right to access all course materials.</p> <p><i>Password:</i> 2025Magclerk</p>		
<p>Questions for the Q & A Session</p> 	<ul style="list-style-type: none"> ❖ The Q & A panel session will be: Friday, June 20th 11:10am - Noon. 		<ul style="list-style-type: none"> ❖ Scan the QR code on the left to submit any questions you would like discussed.
<p>Continuing Education Form</p> 	 <p>SUBMIT: Complete your CJE Attendance Form on page 7 & submit it to ICJE before leaving Sea Palms.</p>		
<p>Certificate of Annual Training</p> 	 <p>Your Certificates will be distributed at the conclusion of the training on Friday at Noon.</p>		
<p>Conference Evaluation</p> 	<ul style="list-style-type: none"> ❖ Closes: Friday, July 11th, 2025 at 5:00 PM ❖ https://forms.office.com/r/CiVHpvetm to complete the conference survey or scan the QR code on page 9 in your book. ❖ Each attendee may only submit the evaluation once. All responses will be recorded anonymously. Your comments are greatly appreciated! 		
<p>2026 Save-the-Dates</p> 	<ul style="list-style-type: none"> ❖ The annual ICJE Magistrate Court Clerks for 2026 will be held at The UGA Center for Continuing Education located in Athens, GA, June 4-5, 2026 		

ICJE BOARD OF TRUSTEES



INSTITUTE OF
**CONTINUING JUDICIAL
 EDUCATION**
 OF GEORGIA

The following are the members of ICJE's Board of Trustees. Please note that your Magistrate Court Representative is:

Judge Megan Kinsey
 Magistrate Court Judge – Butts County

<p>Judge Megan Kinsey <i>Chair</i> Magistrate Court Judge Butts County</p>	<p>Judge Matthew McCord <i>Vice Chair</i> Municipal Court Judge Stockbridge</p>
<p>Kyemeshia T. Gibson <i>Secretary/Treasurer</i> Superior Court Clerk Meriwether County</p>	<p>Judge William "Bill" Bartles <i>Immediate Past Chair</i> Retired Juvenile Court Judge</p>
<p>Justice Verda M. Colvin Supreme Court of Georgia Atlanta</p>	<p>Judge Elizabeth Gobeil Court of Appeals Atlanta</p>
<p>Cynthia H. Clanton AOC Director Atlanta</p>	<p>Brad Marsh State Bar of Georgia Atlanta</p>
<p>Judge Alison T. Bursleson Superior Court Judge Ocmulgee Judicial Circuit</p>	<p>Judge A. Gregory Poole Superior Court Judge Cobb Judicial Circuit</p>
<p>Judge Warner L. Kennon, Sr. Juvenile Court Judge Muscogee County</p>	<p>Judge Christy J. Anderson Probate Court Judge Walker County</p>
<p>Judge Matthew McCord Municipal Court Judge Stockbridge</p>	<p>Dean Usha R. Rodrigues The University of Georgia School of Law Athens</p>
<p>Dean Martin Ellin Atlanta's John Marshall Law School Atlanta</p>	<p>Dean Richard D. Freer Emory University School of Law Atlanta</p>
<p>Interim Dean Courtney Anderson Georgia State University College of Law Atlanta</p>	<p>Dean Karen J. Sneddon Mercer University School of Law Macon</p>

2025 ICJE STAFF TO MAGISTRATE COURT CLERKS:

Lynne Moore Nelson, Executive Director: 706-542-1124; lynnemoore.nelson@uga.edu

Susan Blount, Event Coordinator: 706-542-1129; susan.blount@uga.edu

Thomas Erwin, Event Planner: 706-542-1150; terwin21@uga.edu

ICJE POINTS OF CONTACT

CONSTITUENT GROUPS	ICJE TEAM MEMBERS	OFFICE PHONE NO.	EMAIL ADDRESS
Superior Court Judges Superior Court Clerks Magistrate Court Judges Magistrate Court Clerks Multi-Class Synchronous & Asynchronous USCR 43.6	Susan Blount Event Coordinator & Thomas Erwin Event Planner	706-542-1129 706-542-1150	susan.blount@uga.edu terwin21@uga.edu
State Court Judges Probate Court Judges (Non-Traffic) Probate Court Judges (Traffic) Probate Court Clerks Accountability Court Judges International Groups	Laura Kathryne Hogan Event Coordinator & Casey Semple Event Planner Virginia Kerrigan Event Planner	706-542-1126 706-542-1128	lk Hogan@uga.edu csemple@uga.edu virginia.kerrigan@uga.edu
Juvenile Court Judges Juvenile Court Clerks Municipal Court Judges Municipal Court Clerks Judicial Staff Attorneys	Annelle Berry Event Coordinator & Ashley Peace Event Planner	706-542-1164 706-542-1158	awberry@uga.edu ashley.peace@uga.edu
Office Manager / Financials	Emily Rashidi Business Operations Manager	706-542-1160	emily.rashidi@uga.edu
ICJE Executive Director	Lynne Moore Nelson, Esq.	706-542-1124	lynnemoore.nelson@uga.edu



Attendance Form

Please return this form to ICJE no later than **Friday, July 11th, 2024**

Ways to turn in your form: 1) Onsite to ICJE staff OR 2) Via Mail: 1150 S. Milledge Ave, Athens GA 30602 OR
3) Via Fax 706-369-5840 OR 4) Via Email to Mr. Thomas Erwin at terwin21@uga.edu

Name: _____ Phone: _____

Email: _____ County: _____

Thursday, June 19th, 2025		
Topic/Session	CJE Hours Available	Hours Claimed
Civil Overview	1 Hr.	
Abandoned Motor Vehicles/Vessels/Mechanic Liens	2 Hr.	
Court Services	1 Hr.	
Service Papers & Time Limits	1 Hr.	
Open Defaults/ I have a judgement now what/Where does the money go?/New FiFa 12952	1 Hr.	
Case Load Reports	1 Hr.	
Pre-Warrants/Good Behaviors/Family Violence	1 Hr.	
Friday, June 20th, 2025		
Clerk Ethics	1 Hr.	
Squatters Law/Evictions/A-Z Steps	1 Hr.	
New Legislation Update/New Notary Law	1 Hr.	
Questions & Answers	1 Hr.	

TOTAL CJE HOURS CLAIMED FOR THE TRAINING (Maximum allowed 12 hours offered): _____

I certify that the above statements are accurate and represent my true attendance at the seminar.

Signature **Date**

ICJE STAFF USE ONLY: Spreadsheet _____ **EA** _____

Page left intentionally blank.

2025 Magistrate Court Clerks' - Annual Training
The Sea Palms Resort, St. Simon Island, GA
June 19-20, 2025

ONLINE SURVEY LINK

You may use this QR Code to access and submit the Online Conference Evaluation.



- OR -

You may use this link below to access and submit the Online Conference Evaluation: <https://forms.office.com/r/CiVHpvetm>

Your Feedback is greatly appreciated!

EVALUATION INSTRUCTIONS:

Each attendee may only submit this evaluation once.

All responses will be recorded anonymously.

Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Civil Overview

Hon. Jennifer Lewis

Judge Jennifer Lewis - Bio

Judge Jennifer Lewis completed her undergraduate degrees at the University of Georgia in 1998 majoring in Criminal Justice and Sociology. After graduating from UGA, she began working for the Camden County court system in 1998 when she was hired to serve as a part-time file clerk in the Magistrate Court.

She worked her way through the various positions within the Magistrate Court office and began attending Florida Coastal School of Law in 2002 through their part-time evening program while serving as the Clerk of the Magistrate Court. In 2005, she earned her Juris Doctorate from Florida Coastal School of Law and she is licensed to practice law in the state of Georgia.

Judge Lewis served Camden County from 2005-2008 as an appointed full-time Magistrate Judge and was elected and has served as the Chief Magistrate of Camden County since January 1, 2009.

Judge Lewis and her husband Brian and three boys, Jacob, Joshua and Jackson, reside in Kingsland, Georgia with their sweet puppy Humphrey.

Fun fact: Judge Lewis is a military brat and was born in Hawaii.

CIVIL OVERVIEW

JUDGE JENNIFER LEWIS
CHIEF MAGISTRATE JUDGE OF CAMDEN COUNTY



TYPES OF CIVIL CASES FILED IN MAGISTRATE COURT

STATEMENT OF CLAIM

DISPOSSESSORY

PERSONAL PROPERTY FORECLOSURES

GARNISHMENTS



JURISDICTION AND VENUE

Jurisdiction refers to a court's authority to hear a case, while venue is the specific location where the case is heard. Jurisdiction determines whether a court has the power to decide a case, while venue determines the particular courthouse where the case will be tried.



STATEMENT OF CLAIM

A statement of claim is a small claims civil lawsuit. It provides the court and the defendant with the specific reason for the lawsuit, including the amount of damages sought and the basis of the claim.

We commonly see them filed for breach of contract, personal injury/car accidents and neighbor disputes.



JURISDICTION & VENUE

- Jurisdiction: The amount demanded is \$15,000.00 or less and the Superior Court is not given exclusive jurisdiction (divorce, land title, injunction).
- Venue: Typically filed in the county where the defendant resides. If your court lacks venue, the remedy is to transfer the case to the proper court.



WHAT YOU NEED TO FILE THE CASE

- Name and mailing address of the plaintiff
- Name and physical address of the defendant
- Brief explanation of the reason for filing
- Amount of damages sought
- Filing fee



PROCESS AFTER FILING

- Prepare service page and send to sheriff, constable or process server for service on defendant
- After service, the defendant has 30 days to file an answer and an additional 15 days to open default
- If answer is filed, schedule the case for trial
- If answer is not filed, plaintiff can file a motion for default judgment to be reviewed by the judge



DISPOSSESSORY

A dispossessory is a legal process by which a landlord can evict a tenant from their property when a tenant fails to pay rent, violates the lease agreement, or holds over after the lease term expires.



JURISDICTION & VENUE

- Jurisdiction: No limitation as to the amount in issue – can exceed \$15,000.00.
- Venue: Filed in the county where the property is located. If your court lacks venue, the remedy is to transfer the case to the proper court.



WHAT YOU NEED TO FILE THE CASE

- Name and mailing address of the plaintiff
- Name and physical address of the defendant
- Basis for the eviction
- Amount of damages sought (past due rent, late fees, other damages)
- Filing fee



PROCESS AFTER FILING

- Prepare service page and send to sheriff, constable or process server for service on defendant
- After service, the defendant has 7 days to file an answer
- If answer is filed, schedule the case for trial
- If answer is not filed, plaintiff can file a motion for default judgment / writ of possession to be reviewed by the judge



PERSONAL PROPERTY FORECLOSURES

A personal property foreclosure is a legal action that allows a secured party, like a lender, to regain possession of tangible, transportable property that secured a debt. This can include items like vehicles, appliances, or furniture.



JURISDICTION & VENUE

- Jurisdiction: Property value can not exceed \$15,000.00.
- Venue: Filed in the county where the property is located or where the debtor may reside. If your court lacks venue, the remedy is to transfer the case to the proper court.



WHAT YOU NEED TO FILE THE CASE

- Name and mailing address of the plaintiff
- Name and physical address of the defendant or where the property is located
- Brief explanation of the reason for filing / items that are being sought
- Amount of damages sought
- Filing fee



PROCESS AFTER FILING

- Prepare service page and send to sheriff, constable or process server for service on defendant
- After service, the defendant has 7 days to file an answer and an additional 7 days to open default
- If answer is filed, schedule the case for trial
- If answer is not filed, plaintiff can file a motion for default judgment / writ of possession to be reviewed by the judge



GARNISHMENTS

A garnishment is a legal process where a creditor can take money or property from a third party by court order to withhold a portion of wages (wage garnishment) or to seize funds from a bank account (bank account garnishment) to satisfy a judgment.



JURISDICTION & VENUE

- Jurisdiction: The valid judgment is for an amount no greater than \$15,000.00.
- Venue: Filed in the county where the garnishee (or its agent) is located.



WHAT YOU NEED TO FILE THE CASE

- Name and mailing address of the plaintiff
- Name and mailing address of the defendant
- Name and physical address of the garnishee
- Copy of the judgment / FiFa
- Amount of damages sought
- Filing fee



PROCESS AFTER FILING

- Prepare service page and send to sheriff, constable or process server for service on garnishee
- After service, the garnishee must file an answer
 - Continuing garnishment: Not sooner than 30 days and not later than 45 days after service of the summons. The money or other property subject to garnishment shall be sent to or delivered to the court concurrently with the garnishee's answer.
 - Financial garnishment: Not sooner than 5 days and not later than 15 days after service of the summons. The money shall be sent to or delivered to the court concurrently with the garnishee's answer.



WHAT IF AN ANSWER IS NOT FILED?

- Garnishee becomes automatically in default after failing to file an answer within 45 days on a continuing garnishment and 15 days on a financial institution.
- Opening Default - The default may be opened as a matter of right upon payment of costs within 15 days. If the case is still in default after the expiration of the 15 days, judgment by default may be entered at any time thereafter against garnishee for the amount claimed to be due on the judgment obtained against the Defendant.



NOTICE TO DEFENDANT

- Plaintiff must serve notice on the defendant after the filing of the affidavit of garnishment, not more than three business days after service of the summons on garnishee
- Must serve all four documents: 1) affidavit of garnishment; 2) summons of garnishment; 3) Notice to Defendant of Right Against Garnishment of Money, Including Wages, and Other Property; and 4) Defendant's Claim Form



NOTICE TO DEFENDANT

- Notice to Defendant can be mailed to Defendant's last known address by regular mail and registered/certified mail/statutory overnight delivery
- Notice to Defendant can be personally served on Defendant
- When Defendant cannot be found: If a Defendant resides out of state, has departed this state, or after due diligence cannot be found within this state, or has concealed his or her place of residence from the Plaintiff, the plaintiff can: state so under oath, mail a copy of all four service documents to the address where Defendant accepted service in the action resulting in the judgment OR the address identified in any pleading by Defendant in the original action OR address where Defendant was served on the return of service in the action resulting in the judgment. Plaintiff must file a certificate of such mailing with the clerk



DISTRIBUTION OF MONEY HELD IN REGISTRY

There may be no payout until 10 days after one method of notice on the Defendant AND twenty days from garnishee answer with money and no claims or traverses being filed or prior to the twenty-first day if all claims and traverses have been adjudicated.



WHAT IF A DEFENDANTS CLAIM IS FILED?

The court **shall** order a hearing within ten days (as a matter of right to the Defendant) and no further summons of garnishment be issued or any funds or property disbursed.



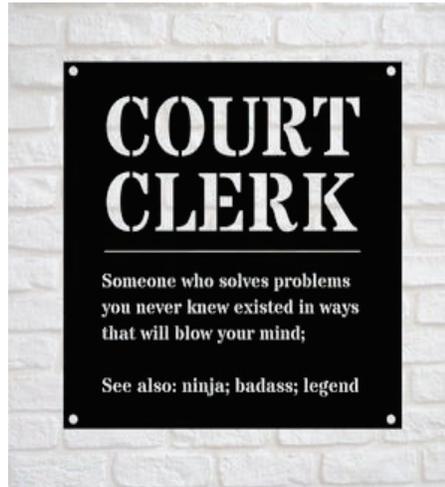
CONTACT INFO:

Judge Jennifer Lewis

Chief Magistrate Judge of Camden County

Phone: 912-5765658

Email: jlewis@camdencountyga.gov



Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Abandoned Motor Vehicles/Vessels/ Mechanic Liens

Hon. Michael Barker

Hon. Michael Barker:

Judge Barker is a lifelong resident of Savannah, and has served the Chatham County Magistrate Court since December 1, 2003.

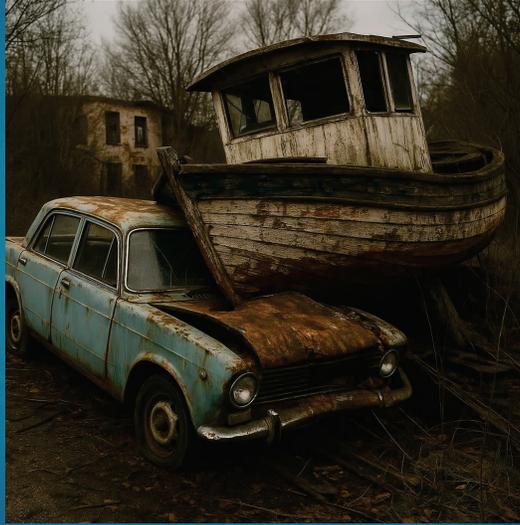
He has two lifetime goals approaching over the horizon:

- Becoming an empty nester
- Retirement!

Fun Fact:

I've been trying to reach all of you about your car's extended warranty.

Left Behind



SENIOR JUDGE MICHAEL BARKER, HAVE ROBE WILL TRAVEL
MBARKER@CHATHAMCOUNTY.ORG

What is a lien?

A lien is a legal claim to secure a debt and may encumber real or personal property.

“[L]ien statutes, being in derogation of the common law, are to be **strictly construed against the lien claimant**, and that **strict compliance** is required in order to enforce them.”

Purser Truck Sales, Inc. v. Horton, 276 Ga. App. 17, 18 (2005) (emphasis added).



Mechanics' Liens



OCGA § 40-3-54

NOT OCGA § 44-14-360 et seq.



What allows the assertion of a lien?

Work performed on vehicle

Materials furnished in repairing or servicing vehicle

Both work done and materials furnished

NOT STORAGE OR ESTIMATES

How is a lien perfected?

TS-57A (Rev. 7/9/2008)

Motor Vehicle Certificate of Title Lien Notice

Instructions: All copies on this form must be completed and forwarded (registered only, return receipt requested) or delivered in person to the person holding the certificate of title. The lien claimant must retain the "original" mail, return receipt and a copy of this notice. To ensure a return receipt, the owner is advised to file, a copy of this notice must be forwarded to the owner. If the lien claimant personally makes delivery, a receipt must be obtained from the person holding the certificate of title. This form must be typed, printed legibly by hand or electronically completed and printed from the above form's website (www.dor.ga.gov) by the signatory and be transmitted. **Important:** Any alteration or correction voids the form.

Title: Full Legal Name of Person Holding Title _____ Part (Electronic Lien Title) Participant Yes No
 Street Address _____ Department No. (Optional) _____
 City, State and Zip Code _____

Check Appropriate Box Below Indicating Type of Lien

Mechanic's Lien
 Child Support Lien
 For child support liens only, enter the obligator's social security number here: _____ (Circle the last four digits of SSN)

Judgment Lien - For judgment liens only, a certified copy of the E.F.C., and the following information is required:
 Case Name _____ Case Number _____ Court Where Filed (Optional) _____

In compliance with §19-11-3 (child support lien) or §40-2-53 (judgment lien or mechanic's lien) of O.C.G.A., you are hereby notified that:

If the Claimant's Full Legal Name _____ Part (Electronic Lien Title) Participant Yes No
 Street Address _____ Department No. (Optional) _____
 City, State and Zip Code _____

gives notice that their lien is right to have the following lien as described on the attached title application reflected on a Georgia Certificate of Title for the following described vehicle:

Year-Make _____ VIN: 5-NM- _____ Title/Plate Number _____

Requirements of Person Holding Title:
Notes: If you are an E.L.T. (Electronic Lien Title) Participant the certificate of title is in electronic form; a title is not required to be submitted. The signatory of the authorized representative as shown above is acknowledgment of this request.

- Hold this notice of lien, attachments and this title fee (see page 110). If you are registering the lien in person or if you are a 10% lien holder in an electronic lien notice, you can file this attached title application with the title fee (if required) and other attached documents, if any, along with the certificate of title for your car title vehicle to: Department of Revenue/Motor Vehicle Division, PO Box 740368, ATLANTA, GA 30374-0368. If the lien is satisfied within a 30-day (30) period of time, the application, notice, title fee (if required) must be returned to you free of charge. A title fee is not required on a child support lien.
- If you do not give possession of the certificate of title described herein or if you cannot comply with this notice, check the following and return this notice (if applicable) and the documents to the lien claimant at the address shown above. You must include an explanation as to why you do not have the lien or cannot comply. A title fee is not required to record a child support lien.
- The owner or person holding the certificate of title may contest the claimed lien by checking the following box . Signatures below who contest the lien shall constitute notice. If the owner contests the claim online, this notice must be forwarded to the person holding the certificate of title and a copy of the form must be forwarded to: Department of Revenue/Motor Vehicle Division, PO Box 740362, ATLANTA, GA 30374-0362.

Printer Name and Signature of Person Holding Title _____
 Printed Name and Signature of Participant _____

Important: Any person who willfully and knowingly fails to file notice advising the title of a vehicle other than as provided in §40-2-53 or §19-11-3 of the O.C.G.A. after having received notice as provided in this notice is guilty of a misdemeanor.





The mechanic can keep the car.



What notice of this right must be given to the vehicle owner?

None.

Priority of lien?

Such special lien shall be superior to all liens except for taxes and such other liens and security interests of which the mechanic had **actual or constructive notice** before the work was done or material furnished.

What can a car owner do to speed up the process?

Owner of vehicle can contest the validity of the charges by sending a written demand upon the lienholder.

Lienholder Response

Must institute foreclosure proceedings or an Abandoned Motor Vehicle claim within 30 days of receipt, or the lien is forfeited.

Meaning...

...if they don't file in the allotted time, they gotta give the car back. Mechanic can still sue for breach of contract.

How does a mechanic foreclose on the lien?

Make an affidavit showing all the facts necessary to constitute a lien under this Code section and the amount claimed to be due.

What information does a mechanic need for this affidavit?

Date vehicle was retained

Amount due for work and/or materials

Names and addresses of all owners and lienholders

Clerk's Duties

Upon such affidavit being filed, the clerk or a judge of the court shall serve notice upon the owner, the recorded lienholders and security interest holders, and the lessee.

Content of Notice

The right to a hearing to determine if reasonable cause exists to believe that a valid debt exists

Such hearing must be petitioned for within five days after receipt of the notice

If no petition for such hearing is filed within the time allowed, the lien will conclusively be deemed a valid one and foreclosure thereof allowed.

Service of Notice

Certified mail, return receipt requested

Time to request a hearing starts from **RECEIPT** of notice, so return receipt is necessary

You'll probably get the request for the hearing before you get the green card



No answer/request for a hearing?

The lien is conclusively deemed a valid one, and foreclosure is allowed.



What if a hearing is requested?

Brace yourself for the insanity.



Schedule and conduct a “probable cause” hearing within 10 days

If mechanic wins – they can keep car...for now

Owner can post bond in the amount of the repair bill + costs and get the car back



Within five days of the probable cause hearing, a defendant must petition the court for a full hearing on the validity of the debt if a further determination of the validity of the debt is desired.

If such a petition is filed, the court shall set a full hearing thereon within 30 days of the filing of the petition.

If no such petition is filed, the lien on the amount determined reasonably due shall be conclusively deemed a valid one and foreclosure thereof allowed.



If the court finds the actions of the mechanic in retaining or seeking possession of the vehicle were not taken in good faith, the court, in its discretion, may award damages to the owner, the lessee, or any person deprived of the rightful use of the vehicle due to the deprivation of the use of the vehicle.



Statute of Limitations

Foreclosure process must be commenced 1 year from recording or retention.

Questions?

ABANDONED MOTOR VEHICLES



Four Types of Liens (really only 2)

- (A) A towing company/storage facility that removes a vehicle from public property at the request of a peace officer;
- (B) A towing company/storage facility that removes a vehicle from private property at the request of a property owner;
- (C) A repair facility which has been in possession of a motor vehicle for at least 15 days without communication from an owner or insurance company, or payments of amounts owed; and
- (D) A salvage dealer which has been in possession of a motor vehicle for at least 15 days without communication from an owner or insurance company.

First Duty (Public Towing)

Within 3 days of removal, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-15 (d).

First Duty (Private Towing)

- (1) Within 3 days of removal, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (a) (1).
- (2) Within 1 day of requesting owner/lienholder info, the company must submit information to law enforcement for stolen vehicle search. OCGA § 40-11-16 (a)(2). Failure of the peace officer to perform the stolen vehicle search will not limit any remedies available to the towing company. OCGA § 40-11-16 (a)(3).

First Duty (Repair Facility)

After 15 days, but no later than 180 days, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (b)(1).

First Duty (Salvage Dealer)

After 15 days, but no later than 60 days, the company must request owner/lienholder information from department, due back no later than 5 days from when the request was received. OCGA § 40-11-16 (b).



Towing – Public and Private Owners are Known

Notification letter must be sent to all owners via (a) certified mail or (b) hand delivery with acknowledgement by signature and copy of recipient's driver's license within 15 calendar days of removal. OCGA § 40-11-19 (a)(1).

Repair Facilities and Salvage Dealers Owners are Known

REPAIR FACILITIES: After 15 days, but no later than 180 days, notification letter sent to all owners via certified mail. OCGA § 40-11-19 (b)(1).

SALVAGE DEALERS: After 15 days, but no later than 60 days, notification letter sent to all owners via certified mail. OCGA §§ 40-11-19 (c)(1).

Owners are Unknown

If owners are unknown, or department does not send information in a timely manner, company shall advertise once a week for two weeks in newspaper of general circulation or legal organ where vehicle was obtained. The advertisement must be placed within 60 days of removal/failure to pay (for repair facilities)/last communication (for salvage dealers). OCGA § 40-11-19 (a)(2), (b)(2), (c)(2).

If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19 (a)(1), (b)(1) or (c)(1) within 10 days of obtaining the information. OCGA § 40-11-19 (a)(3), (b)(3), (c)(3).

Special Rule -- Repair Facilities

IF A REPAIR FACILITY RECEIVES A DEMAND PURSUANT TO OCGA § 40-3-54 (b), THE REPAIR FACILITY HAS 30 DAYS TO INSTITUTE FORECLOSURE PROCEEDINGS (AS EITHER AN ABANDONED MOTOR VEHICLE OR A MECHANIC'S LIEN). FAILURE TO DO SO FORFEITS THE LIEN. THIS DEMAND WAIVES ALL FIRST NOTICE REQUIREMENTS. OCGA § 40-10-19 (f).

Disclaimers

If an owner executes a Disclaimer of Motor Vehicle Ownership Interest, the owner waives all future notices as required by the Act, including service of the Petition. OCGA § 40-11-19.5.

The Disclaimer does not waive the owner's right to claim any surplus that might exist after the auction. Disposition of the surplus is governed by OCGA § 44-12-211.1.



Filing Fee



Petition Contents/Attachments

- A. Sworn/verified foreclosure petition
- B. Authority to tow vehicle and schedule of rates with local governing authority (public property towing only)
- C. Stolen vehicle search request (private property towing only)
- D. Owner information obtained from department or agency
- E. Evidence of compliance with first notice requirements/Disclaimer
- F. Itemized amounts sought

Service of Petition

The company must serve known owners via certified mail or statutory overnight delivery, return receipt requested, with a copy of the claim and the answer form. OCGA § 40-11-19.1 (b)(1).

Electronic proof of delivery shall be accepted. Refusal of certified mail is tantamount to delivery. OCGA § 40-11-19.1 (b)(2).

Service – Unknown/Unserved Owners

If the notice under OCGA § 40-11-19 was satisfied by advertisement, or signed proof that the notification letter required by OCGA § 40-11-19.1 (b)(1) has not been returned after ten days of such mailing or is returned as unclaimed, the company has 60 days to place advertisement once a week for two weeks in the newspaper of general circulation or legal organ where action has been filed. OCGA § 40-11-19.1 (b)(2).

If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19.1 (b)(1). OCGA § 40-11-19.1 (b)(3).

Answer to Petition

Owner/lienholder has 10 days to file an answer. If service is accomplished by advertisement, answer must be filed within 10 days of the expiration of the two-week advertisement. OCGA § 40-11-19.1 (c).

The answer must be sworn. OCGA § 40-11-19.1 (b)(1).

Court Action – Answer Filed

The hearing must be held within 10 days of receipt of the answer. OCGA § 40-11-19.1 (c).

Continuances are allowed for good cause. OCGA § 40-11-19.1 (e)(1).

Court Action -- Trial

At the trial, the court shall hear evidence of and determine:

- (1) whether the removal of the vehicle was lawful;
- (2) whether the lien amount is based upon recoverable fees pursuant to OCGA § 40-11-19 (d);
- (3) whether notice to all owners was proper; and
- (4) shall hear any other facts pertinent to the case to reach a decision on foreclosure of the lien.

The court may hear evidence of and make a determination on whether storage fees should accrue after the filing date of the petition. OCGA § 40-11-19.1 (e)(2).

Court Action – No Answer Filed

If no answer is filed pursuant to OCGA § 40-11-19.1 (c), petitioner shall provide proof of service and request judgment in writing.

Unless providently hindered, judgment shall be decided within 15 business days of submission.

If default motion is denied, petitioner may refile petition once within 6 months. OCGA § 40-11-19.1 (d).

Judgment (Part 1)

If the petition is granted, enter a judgment awarding the following amounts (if proven):

(a) Removal (Towing) Fee;

- (i) If towed from private property, the maximum allowable charge for the removal of the motor vehicle as set forth by rule and regulation of the Department of Public Safety for maximum state-wide rate tariffs, unless preempted by applicable federal law, rule, or regulation
- (ii) If towed from public property at the request of a peace officer, the rate specified pursuant to an agreement with a local governing authority, unless preempted by applicable federal law, rule, or regulation

Judgment (Part 2)

(b) Per Diem Storage Fee (calculate per day from date of filing through 25 days after judgment is rendered – OCGA § 40-11-19 (d)(2));

- (i) If towed from private property, the maximum allowable charge for the storage of the motor vehicle as set forth by rule and regulation of the Department of Public Safety for maximum state-wide rate tariffs, unless preempted by applicable federal law, rule, or regulation
- (ii) If towed from public property at the request of a peace officer, the rate specified pursuant to an agreement with a local governing authority, unless preempted by applicable federal law

Judgment (Part 3)

- (c) Repair Fees (if applicable);
- (d) Cost of Obtaining Owner Information;
- (e) Notification/Advertising Costs;
- (f) Prejudgment interest at the rate of 4% per annum from which the OCGA § 40-11-19 notification was received;
- (g) 15% attorney's fees (if filed and pursued by attorney of record);
and
- (h) All costs of court (including certified copy fee).

Judgment (Part 4)

Within 5 days of judgment, the court shall enter an order authorizing sale of the vehicle pursuant to OCGA § 40-11-19.2. OCGA §§ 40-11-19.1 (d), (e)(1).

The court can charge up to \$14 for a certified copy of this order. OCGA § 40-11-19.1 (d), (e)(2).

Clerk's Duties After Sale

None.

Everything else is handled through the Department of Revenue.

Questions?

Abandoned Vessels



Filing Fee



Petition

The person/entity asserting such lien may move to foreclose by making an affidavit to the Magistrate Court showing all facts necessary to constitute such lien and the amount claimed.

The lien may not exceed \$15,000. OCGA § 52-7-73 (b).

Petition (continued)

With the filing of the affidavit, the lien claimant shall give the clerk the address, if known, of the owner, lessor, lessee, security interest holder, and lien holders of the vessel. OCGA § 52-7-74 (4)(A).

Any action to foreclose a lien on an abandoned vessel must be instituted within one (1) year from the time the lien is recorded or asserted by retention. OCGA § 52-7-74 (1).

Duties of Clerk

The clerk shall send notice to each address, informing the recipient:

- (1) Of the right to a hearing to determine if reasonable cause exists to believe that a valid debt exist;
- (2) A hearing must be petitioned for within ten (10) days after receipt of such notice; and
- (3) If no petition is forthcoming within time allowed, the lien will conclusively be deemed valid.

OCGA § 52-7-74 (4)(A).

Duties of Clerk (continued)

Any notice required above shall be by certified, registered, or overnight mail.

If the owner, lessor, lessee, security holder, and/or lienholder are not known, notice is posted at the courthouse.

OCGA § 52-7-74 (4)(B).

Court Action

If a petition for a hearing is filed, the court shall set such hearing within ten (10) days.

If, at the hearing, the court determines that reasonable cause exists of the valid debt, the person/entity asserting the lien shall retain possession of the vessel or the court shall obtain possession of the vessel by court order. The owner-debtor may obtain possession of the vessel by giving bond and security in the amount due, plus costs of the action.

OCGA § 52-7-74 (5).

Court Action (continued)

Within five (5) days of the probable cause hearing, any party defendant must petition the court for a full hearing on the question of the valid debt.

(1) If no such petition is filed, the debt will be conclusively valid, and the foreclosure granted.

(2) If the petition for a full hearing is filed, the court shall set the hearing within fifteen (15) days.

OCGA § 52-7-74 (6).

Court Action (continued)

If, after all hearings, the Court finds the debt valid, the Court shall grant the foreclosure upon and sale of vessel subject to the lien if such debt is not otherwise immediately paid.

If the Court finds that the actions of the person/entity asserting the lien in retaining possession of the vessel were not taken in good faith, the court may award damages to the owner, or any interested party, due to the deprivation of the use of the vessel.

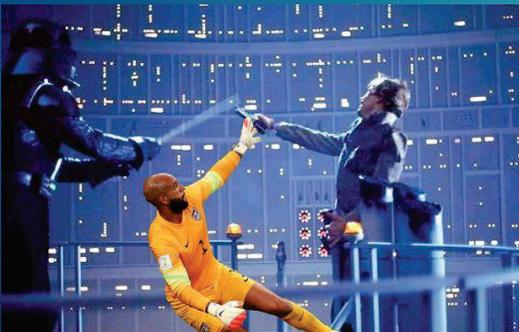
OCGA § 52-7-74 (7), (8).

Default

If no petition for a hearing is filed, the court shall enter an order allowing the lien and authorizing the sale of the vessel.

OCGA § 52-7-74 (9).

Security Interest Holder Save



A third-person holder of a security interest/lien on the vessel shall have the right, in order of priority of such interest, to pay the debt and costs.

If this occurs, that person shall have the right to possession of the vessel, and that person's interest in the vessel shall be increased by the amount paid.

A court order shall be issued to this effect, and no sale of the vessel shall occur. OCGA § 52-7-74 (9)

Clerks' Duties After Sale

After satisfaction of the lien, the person/entity selling such vessel shall turn the remaining proceeds of such sale, if any, over to the clerk of the court.

The clerk of the court shall retain the remaining balance for a period of 12 months; and, if no claim has been filed against such proceeds by the owner of the abandoned vessel or any interested party, then he shall pay such remaining balance as follows:

MAIN RULE: If no peace officer or State employee was involved, the proceeds of the sale shall be paid to the general fund of the county in which the sale was made and into the general fund of the municipality, if any, in which the sale was made.



EXCEPTION 1: If a municipal police officer was involved, the proceeds of the sale shall be paid into the general fund of the municipality.

EXCEPTION 2: If a county or State officer/employee was involved, the proceeds of the sale shall be paid into the general fund of the county in which the sale was made.

OCGA § 52-7-77.



Questions?

mbarker@chathamcounty.org

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff

**MECHANIC'S LIEN
AFFIDAVIT FOR FORECLOSURE**

Vs.

(Motor Vehicle)

(Vehicle Identification Number)

(Tag Number)

Personally appeared _____, who being duly sworn, before the undersigned officer, duly authorized to administer oaths, deposes and states as follows:

The name(s) and address(s) of the last known registered owner(s) and/or all lien holder(s) of the vehicle is/are:

Name **Address** **(Owner, Lien holder, ext)**

Name **Address** **(Owner, Lien holder, ext)**

Name **Address** **(Owner, Lien holder, ext)**

1. The Plaintiff is a mechanic and is employed by or owner of _____.
 2. The owner/debtor is indebted to Plaintiff for work done, or for work done and materials furnished, or for materials furnished in repairing or servicing said vehicle in the amount of \$_____.
 3. The Plaintiff has made demand to said owner for amount claimed due and said owner has refused to pay owner amount due.
- [] Owner/debtor has made written demand contesting the validity of the amount claimed to be due, therefore Plaintiff institutes foreclosure proceedings within ten days where possession has been retained, or within 30 days where possession has been surrendered.
- [] Has asserted a lien on the above stated vehicle by retention of said vehicle for work done, or for work done and materials furnished, or for materials furnished in repairing or servicing said vehicle, (O.C.G.A. 40-3-54) ; Therefore, Plaintiff institutes foreclosure proceedings within one year of retention or by recording lien as provided in (O.C.G.A. 40-3-53).
- [] Has perfected a lien by recording as provided in O.C.G.A. 40-3-53.

Has asserted a lien by surrendering the vehicle, giving credit, and foreclosing the lien claim in the manner provided in O.C.G.A. 40-3-54

WHEREFORE, Plaintiff makes this affidavit for the purpose of foreclosing the lien upon the above described vehicle and prays that execution issue for:

Amount due for work done \$ _____

Amount due for work done and materials furnished \$ _____

Amount due for materials furnished in repairing or servicing \$ _____

Court Costs \$ _____

Total due \$ _____

Sworn to and subscribed before me this _____
day of _____, 20____.

 Plaintiff Agent of Plaintiff

Address

Clerk of Court/Notary Public

Telephone No.: _____

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff

**MECHANIC'S LIEN
NOTICE TO FORCLOSE LIEN**

Vs.

(Motor Vehicle)

(Vehicle Identification Number)

(Tag Number)

TO:

The name(s) and address(s) of the last known registered owner(s) and/or all lien holder(s) of the vehicle is/are:

Name **Address** **(Owner, Lien holder, ext)**

Name **Address** **(Owner, Lien holder, ext)**

Name **Address** **(Owner, Lien holder, ext)**

In accordance with Georgia Law, O.C.G.A. 40-3-54, you are hereby notified that the above stated Plaintiff has filled an affidavit to foreclose the mechanic's lien on the above stated vehicle. You are hereby notified that you have a right to a hearing to determine if reasonable cause exists to believe that a valid debt exists, and that such hearing must be petitioned for within five days after receipt of the notice. If no petition for such hearing is filed within the time allowed, the lien will conclusively be deemed a valid one and foreclosure thereof allowed.

I _____, owner,/ lien holder, do hereby petition this court for a probable cause hearing to show the Court the following:

Owner/Lien holder

Address

Phone #

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff

Vs.

**MECHANIC'S LIEN
ORDER**

(Motor Vehicle)

(Vehicle Identification Number)

(Tag Number)

Notice of affidavit to foreclose lien having been sent to owner, recorded lienholders, security interest holders, or lessee, and no petition for probable cause hearing having been filed;
IT IS HEREBY ORDERED AND AJUDGED, that Plaintiff's lien in this case is deemed a valid one and foreclosure is therefore allowed.

A petition having been filed for a probable cause hearing, and the Court having determined that reasonable cause exists to believe that a valid debt exists;
IT IS HEREBY ORDERED AND AJUDGED, Plaintiff retain possession of vehicle, Court shall obtain possession of the vehicle, owner/debtor may retain possession of the vehicle by giving bond and security in the amount determined to be probably due and the costs of the action, \$_____.

A petition for a full hearing on the validity of the debt having been filed within five days of the probable cause hearing, and a hearing having been held;
IT IS HEREBY ORDERED AND AJUDGED, Plaintiff's lien in this case is deemed a valid one and foreclosure it therefore allowed, and sale of the stated vehicle is authorized, debt has been paid and satisfied, therefore vehicle shall be returned over to _____, the owner, lien holder, security interest holder, or lessee, Actions taken by mechanic in retaining or seeking possession of the vehicle were not taken in good faith, therefore The Court awards _____, the owner, lien holder, security interest holder, or lessee, damages in the amount of \$_____, and possession of said vehicle.

SO ORDERED THIS ____ DAY OF _____, 20__.

Judge _____ County Magistrate Court

PRIVATE TOW – KNOWN OWNER

Tow Date	
Request Owner Info from Department	Within 3 business days of removal
Notify Law Enforcement of Removal	Within 1 day of receiving owner info
Send First Notices	Within 15 calendar days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Authority to tow
- Notification of removal to Law Enforcement
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

PRIVATE TOW – UNKNOWN OWNER

Tow Date	
Request Owner Info from Department	Within 3 days of removal
Notify Law Enforcement of Removal	Within 1 day of receiving owner info
Advertise Two Consecutive Weeks	Within 60 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Authority to tow
- Notification of removal to Law Enforcement
- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

“Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1). If the last day falls on a Saturday, Sunday, or legal holiday, the last day shall fall on the next business day. OCGA § 1-3-1 (d)(3).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

PUBLIC TOW – KNOWN OWNER

Tow Date	
Request Owner Info from Department	Within 3 days of removal
Send First Notices	Within 15 calendar days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Authority to tow
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

PUBLIC TOW – UNKNOWN OWNER

Tow Date	
Request Owner Info	Within 3 days of removal
Advertise Two Consecutive Weeks	Within 60 days of removal
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Authority to tow
- Request for owner/lienholder info
- Response from department (if applicable)
- First notice advertisement
- Petition advertisement
- Request for order

”Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1). If the last day falls on a Saturday, Sunday, or legal holiday, the last day shall fall on the next business day. OCGA § 1-3-1 (d)(3).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

REPAIR FACILITY – KNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 180 days after last communication with owner
Send First Notices	No sooner than 15 days or later than 180 days after last communication with owner
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Repair invoice
- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

REPAIR FACILITY – UNKNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 180 days after last communication with owner
Advertise Two Consecutive Weeks	Within 60 days of Department’s failure to send owner information
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Repair invoice
- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

“Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

The term "communication" includes any form of communication which can be verifiably documented. OCGA § 40-11-16 (b)(1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

IF A REPAIR FACILITY RECEIVES A DEMAND PURSUANT TO OCGA § 40-3-54 (b), THE REPAIR FACILITY HAS 30 DAYS TO INSTITUTE FORECLOSURE PROCEEDINGS (AS EITHER AN ABANDONED MOTOR VEHICLE OR A MECHANIC’S LIEN). FAILURE TO DO SO FORFEITS THE LIEN. THIS DEMAND WAIVES ALL FIRST NOTICE REQUIREMENTS. OCGA § 40-10-19 (f).

SALVAGE FACILITY – KNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 60 days after last communication with owner
Send First Notices	No sooner than 15 days or later than 60 days after last communication with insurance company
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Request for owner/lienholder info
- Response from department
- First notices
- Petition notices and evidence of delivery/refusal
- Request for order/SCRA affidavit

SALVAGE FACILITY – UNKNOWN OWNER

Date of Last Communication with Owner	
Request Driver Info from Department	No sooner than 15 days or later than 60 days after last communication with owner
Advertise Two Consecutive Weeks	Upon Department’s failure to send owner information, within 60 days of the last communication with the insurance company
Petition Filing	No sooner than 10 days but not later than 6 months of compliance with notice requirements

Important Documents

- Request for owner/lienholder info
- Response from department (if applicable)
- Advertisement
- Petition advertisement
- Request for order

“Day’ means a business day unless otherwise stated and shall not include Saturdays, Sundays, and legal holidays recognized by the state.” OCGA § 40-11-13 (1).

The term "communication" includes any form of communication which can be verifiably documented. OCGA § 40-11-16 (b)(1).

If owner becomes known while first advertisement is running, first notices must be sent within 10 days of receiving that information. If owner becomes known while petition advertisement is running, petition notices must be sent.

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address

vs

Vehicle Owner Name, Address

Motor Vehicle Description and VIN

Lien Holders Notified

ORDER ON PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE

The above-referenced petition coming before this Court for [] a motion for judgment pursuant to OCGA § 40-11-19.1 (d) [] a hearing on the merits pursuant to OCGA § 40-11-19.1 (e), and the Court further finding that the petition should be granted,

THIS COURT HEREBY ORDERS that the lien be foreclosed on the above-referenced vehicle for the following amounts:

Removal (Towing) Fee:	\$ _____
Storage	\$ _____
Repair Fees (if applicable)	\$ _____
Cost of Obtaining Owner Information:	\$ _____
Notification/Advertising Costs:	\$ _____
Attorney's Fees (if applicable):	\$ _____
Prejudgment Interest	\$ _____
Court Costs/Certified Copies	\$ _____
<u>TOTAL:</u>	\$ _____

IT IS FURTHER ORDERED that the vehicle shall be sold at public auction to satisfy this lien in accordance with OCGA § 40-11-19.2.

SO ORDERED, this ____ day of _____, 20__.

Magistrate

MAGISTRATE COURT OF _____ COUNTY, GEORGIA

Date Filed _____

Case No: _____

Plaintiff(s) Name, Address
vs

Vehicle Owner Name, Address

Motor Vehicle Description and VIN

Lien Holders Notified

ORDER DENYING PETITION FOR ABANDONED MOTOR VEHICLE LIEN FORECLOSURE

The above-referenced petition coming before this Court for a motion for judgment pursuant to OCGA § 40-11-19.1 (d). After reviewing the record, the Petition is DENIED for the following reason(s):

- No Designation of Business Entity submitted with Petition
- No SCRA Affidavit submitted with Petition
- Information not requested from Department in a timely manner
- Information from Department not provided in file
- No authority to tow provided in file
- No evidence that law enforcement was notified of removal
- Issue with first notice/advertisement
- VIN/Vehicle does not match notice/Petition
- Issue with second notice/advertisement
- Statute of Limitations issue
- Other: _____

SO ORDERED, this ____ day of _____, 20__.

Magistrate

IN THE MAGISTRATE COURT OF ANY COUNTY
STATE OF GEORGIA

ABANDONED VESSEL NOTICE

Date of this Notice: date

To: Name/address of owner

Pursuant to O.C.G.A § 52-7-74 this Court serves notice to you the (owner, lessor, lessee, security interest holds, and lienholder) of the abandoned vessel identified below of your right to a hearing to determine if reasonable cause exists to believe that a valid debt exists. Such hearing must be petitioned for within ten days after receipt of this notice. If no petition for such hearing is filed within the time allowed, the lien will conclusively be deemed a valid one and foreclosure thereof allowed.

You may petition a hearing by contacting this office within 10 days of receipt of this notice to the following address:

Magistrate Court of Any County
123 Main Street
Middleville, GA

In correspondence dated (date of letters) and (date of letters) you were identified by the Georgia Department of Natural Resources and the Georgia Bureau of Investigations as an owner, lessor, lessee, security interest holder, or lien-holder of the below – listed vessel. Pursuant to O.C.G.A. §52-7-71 (f) §52-7-74 (3) (A), you were notified and given opportunity redeem the vehicle.

_____ (Plaintiff), desires to foreclose a lien on the below – listed vessel and has made a demand upon the owner for the payment of the reasonable fees for removal and storage plus the costs of any advertisements, by certified mail. This written demand included an itemized statement of all charges.

On (date), (Plaintiff) filed with this Court, a signed *Abandoned Vessel Affidavit* asserting that a lien existed and moved to foreclose this lien. This affidavit averred that the notice requirements of O.C.G.A §52-7-71 have been complied with, and such affidavit also averred that a demand for payment was made and refused.

Vessel Identification:

Certificate Number: _____

Hull Identification Number: _____

Year _____ Make of vessel: _____

Location of the vessel: _____

Telephone No.: _____

Redemption Fees claimed by _____ :

Towing and/or removal fees:	\$ 0.00
Storage Fees (Daily Rate):	\$ 0.00
Description of other fees:	
Fuel system repair:	\$0.00
Newspaper Ad	\$0.00
Finance Charges:	\$0.00

Total Redemption Fees:	\$0.00
------------------------	--------

If you would like to petition for a hearing to determine if reasonable cause exists to believe that a valid debt exists, you must contact this court within **ten (10) days of receipt of this letter**. If no petition for such hearing is filed within the time allowed, the lien will conclusively be deemed a valid one and foreclosure thereof allowed.

If you need assistance or have questions regarding this request please contact Putnam County Magistrate Court at 706-485-4306.

Respectfully,

Magistrate Judge

Mailed via U.S. Mail *C.M. R.R.R. (number)*

**THIS NOTICE MUST BE SENT VIA CERTIFIED, REGISTERED MAIL,
OR STATUTORY OVERNIGHT DELIVERY.**

IN THE MAGISTRATE COURT OF _____ COUNTY

STATE OF GEORGIA

#

Plaintiff,

v.

Vessel Owner.

Case No.

Abandoned Vessel

JUDGMENT AGAINST ABANDONED VESSEL

In Re: Abandoned Vessel

Certificate No.

Hull Identification No.

Year: Make:

Model:

This matter having been: [] heard in open court, or []
decided on the pleadings, the Court finds that this is not a
case involving a stolen vessel, a vessel stored by a repair
facility, or a vessel being stored by an insurance company.
Whereupon it is hereby,

ORDERED and ADJUDGED, that a valid debt exists against the
above-referenced vessel entitling the Plaintiff to a lien in the

amount of [\$] plus future storage costs of [\$] per day until said vessel is sold. And it is further,

ORDERED, that the Plaintiff is authorized to foreclose upon and satisfy his lien sell by selling said vessel at public auction pursuant to O.C.G.A. § 52-7-75. And it is further,

ORDERED, that the public auction sale of said vessel shall in all respects conform to the provisions of O.C.G.A. § 52-7-75 and the buyer shall take the vessel free and clear of all liens and encumbrances. And it is further,

ORDERED, that the Plaintiff shall give the purchaser of the vessel a certified copy of this Judgment. And if is further,

ORDERED, that within thirty (30) days after such sale, the Plaintiff shall file a return with the Court showing the date and amount of the sale and the amount retained for satisfaction of the lien, and pay over any excess amounts to the Clerk of Court pursuant to O.C.G.A. § 52-7-75(b).

SO ORDERED this ____ day of _____, 20____.

Judge



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Court Services

Sgt. Tiffany Alliston

Sergeant Tiffany J. Alliston: Bio

My name is Tiffany J. Alliston. I am a POST (Peace Officer Standards and Training Council) Certified Peace Officer with the Morgan County Sheriff's Office (15 years in Law Enforcement). I am the Sergeant at the Courthouse, overseeing day-to-day operations. In 2018, I transferred from the Uniform Patrol Division to the Court Services Division.

In June of 2022, I was promoted to the rank of Sergeant at the Morgan County Courthouse. The past 7 years I have continued my education with online training and classroom training, included but not limited to Court Security, Civil Process, Courtroom Demeanor and testimony.

I am also a single mother of two boys, 13 years and 8 years. Between my career and school functions we enjoy riding horses in our spare time and beach trips! My free time, consists between the hours of Midnight and 4 A.M.

Courthouse Security

SERGEANT TIFFANY J. ALLISTON

Morgan County Sheriff's Office
1380 Monticello Road
Madison, GA 30650
706-342-5074
tiffany.alliston@morgancountyga.gov



Sgt. Tiffany J. Alliston

- **I am a POST Certified Peace Officer with Morgan County Sheriff's Office (11 Years with Morgan County – 15 years in total).**
- **The past 7 years, I have been assigned to the Court Services Division.**
- **The last 3 years, I have been the Sergeant over the Courthouse, overseeing day to day operations.**



Main Topics

01

**Court
Security**

02

**Civil
Process**

03

**Security
Awareness**



Court Security

- Whether you're a Judge, Attorney, Court Staff, Bailiff, or Sheriff's Office, **YOUR ROLE** is vital to the smooth functioning of the courthouse.
- **Courthouse Security** is not just about metal detectors or the presence of Law Enforcement. It's about protecting ALL people, the process and the principles.
- Everyday people walk into the courthouse under immense stress: victims seeking justice, families dealing with trauma, defendants fearing the outcome in their case, or individuals seeking revenge.
- "Brian Nichols" who is currently serving a life sentence without parole.
 - Killed 4 people: A Judge, Court Reporter, Sheriff's Deputy, ICE agent, and beat another Sheriff's Deputy into a coma, leaving her in critical condition.
 - This enacted GA Law O.C.G.A 15-16-10 in 2006, of written security plans that must be reviewed and updated every 4 years.



Court Security

5

- **Keep in mind court security is not only securing and planning for your court, but that of any other court held at the courthouse that day and for the entire year.**
- **We require a minimum of 1 deputy in the courtroom at all times court is in session and 1 deputy at the front screening station from the time the doors are unlocked until they are locked.**
- **Perimeter walks outside the building as well as inside and the courtrooms.**
- **We have listed items that are prohibited at the entrance of the courthouse.**
- **Many courthouses were built decades ago and were not built for today's threats.**
- **Understaffing, inside threats, cybersecurity threats, high case profiles.**



Civil Process

6

- **Our office receives approximately 30-40 civil papers a week to attempt service on.**
- **There are only 4 deputies assigned to Court services in Morgan County.**
- **Most civil papers are served incorrectly due to lack of knowledge / training.**
- **Georgia Sheriffs' Association – Civil Process Class – Highly Recommend!**



Civil Process

- **Need a good working relationship with your deputies that serve your papers for you!**
- **Explaining, Teaching, Communication on how to serve certain papers goes a long way.**
- **Your Deputies are more willing to work with you on serving papers, when you have that working relationship with them.**



Security Awareness

- **Security Awareness is not just for Law Enforcement; it's a shared responsibility.**
- **Situational Awareness, Communication, and Preparedness are not optional, they're Essential!**
- **Security Awareness is not about being fearful, but being prepared, alert, and united.**
- **If something seems off or different, it more than likely is! Make it known!**



Security Awareness

- **Know Your Surroundings** – You enter / exit the same way everyday; you are the one that sits at your desk everyday. You know when something is different.
- **Follow Security Protocols** – The security checkpoints, badge requirement, surveillance cameras exists for a reason. They are our first line of defense.
- **Emergency Preparedness** – Know who to contact in case of a threat. Know the evacuation routes. Fully participate in drills.
- **Communication is Key** – If you hear something, see something, or suspect something – say something!
- **Work as a Team** – Courthouse Security Deputies cannot be everywhere at once. When we all work together, we create a safer environment for everyone.



Conclusion / Questions???

Cam: So, Mom, you're telling me you didn't have electronics, like we do back in the day when you were little?

Me: YUP!

Cam: But you had other things that we didn't have though., like Dinosaurs!

Me: We did NOT have...looking over at Cam... pausing..

Cam: *Trying to keep a straight face, but giggling*

Me: You little snot!

*****We ALL want to go home to our Families at the end of the day! You can help us achieve that goal!*****



Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Service Papers & Time Limits

Hon. Carla Brown &

Ms. Jackie Norman

Carla Brown started to work in Lee County Magistrate Court on July 11, 2003 as a deputy clerk. On May 4, 2005 I was appointed by Chief Magistrate Jim Thurman as a Magistrate Judge.

My husband Gilbert and I have 2 sons. Gil and his wife Jennifer live in Gainesville Ga and are both nurses. My baby boy Matt and his wife Kristen live on the island of Oahu HI. He works for the Department of Intelligence and she is also a nurse. My most prized gift is my grandson Tripp that is 7 months old. He is the joy of mine and my husband's lives. Just ask me if you want to see any pictures or videos. I have tons of them. Thank goodness he lives in Gainesville or I would be broke flying back and forth to HI all the time.

I enjoy spending my time outdoors gardening or walking with my dogs Ben and Clovis.

Jackie Norman

Jackie began working as a deputy clerk with the Lee County Magistrate in February 2010. She has resided in Lee County since 1988 and is the mother of two children, Cory Norman and Deanna Cross both being lifetime residents of Lee County. She has a stepson Matt Norman and his wife Kaitlyn who are also Lee County residents. She is the proud grandmother of a total of eleven grandchildren and so blessed with all of her family in the Lee County area. Her "pack" is a beagle named Scout who she loves dearly.

Jackie enjoys gardening, fishing or any outdoor activity.

Service Papers & Time Limits

Judge Carla Brown cabrown@lee.ga.us
and
Jackie Norman jnorman@lee.ga.us





O.C.G.A. 9-11-6. Time

- **(a) Computation.** In computing any period of time prescribed or allowed by this chapter, by the rules of any court, by order of court, or by an applicable statute, the computation rules prescribed in paragraph (3) of subsection (d) of [Code Section 1-3-1](#) shall be used.



O.C.G.A. 1-3-1. Construction of statutes generally

- **(d)** In addition to the rules for construction prescribed in subsections (a) through (c) of this Code section, the rules provided in this subsection shall govern the construction of all statutes with respect to the subjects enumerated.
- **(3) Computation of time.** Except as otherwise provided by time period computations specifically applying to other laws, when a period of time measured in days, weeks, months, years, or other measurements of time except hours is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted; and, if the last day falls on Saturday or Sunday, the party having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty. When the last day prescribed for such action falls on a public and legal holiday as set forth in [Code Section 1-4-1](#), the party having the privilege or duty shall have through the next business day to exercise the privilege or to discharge the duty. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.



This Photo by Unknown Author is licensed under [CC BY-SA](#)

O.C.G.A 9-11-4. Process

- ▶ (a) **Summons — Issuance.** Upon the filing of the complaint, the clerk shall forthwith issue a summons and deliver it for service. Upon request of the plaintiff, separate or additional summons shall issue against any defendants.
- ▶ (b) **Summons — Form.** The summons shall be signed by the clerk; contain the name of the court and county and the names of the parties; be directed to the defendant; state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address; and state the time within which this chapter requires the defendant to appear and file appropriate defensive pleadings with the clerk of the court, and shall notify the defendant that in case of the defendant's failure to do so judgment by default will be rendered against him or her for the relief demanded in the complaint.
- ▶ (c) **Summons — By whom served.** Process shall be served by:
 - ▶ (1) The sheriff of the county where the action is brought or where the defendant is found or by such sheriff's deputy;
 - ▶ (2) The marshal or sheriff of the court or by such official's deputy;
 - ▶ (3) Any citizen of the United States specially appointed by the court for that purpose;
 - ▶ (4) A person who is not a party, not younger than 18 years of age, and has been appointed by the court to serve process or as a permanent process server; or
 - ▶ (5) A certified process server as provided in [Code Section 9-11-4.1](#).



O.C.G.A 9-11-4. Process

- ▶ (e) Summons — Personal service. Except for cases in which the defendant has waived service, the summons and complaint shall be served together. The plaintiff shall furnish the clerk of the court with such copies as are necessary. Service shall be made by delivering a copy of the summons attached to a copy of the complaint as follows:
 - ▶ (6) If the principal sum involved is less than \$200.00 and if reasonable efforts have been made to obtain personal service by attempting to find some person residing at the most notorious place of abode of the defendant, then by securely attaching the service copy of the complaint in a conspicuously marked and waterproof packet to the upper part of the door of the abode and on the same day mailing by certified or registered mail or statutory overnight delivery an additional copy to the defendant at his or her last known address, if any, and making an entry of this action on the return of service;



O.C.G.A 9-11-4. Process

- ▶ (h) Return. The person serving the process shall make proof of such service with the court in the county in which the action is pending within five business days of the service date. If the proof of service is not filed within five business days, the time for the party served to answer the process shall not begin to run until such proof of service is filed. Proof of service shall be as follows:
 - ▶ (1) If served by a sheriff or marshal, or such official's deputy, the affidavit or certificate of the sheriff, marshal, or deputy;
 - ▶ (2) If by any other proper person, such person's affidavit;
 - ▶ (3) In case of publication, the certificate of the clerk of court certifying to the publication and mailing; or
 - ▶ (4) The written admission or acknowledgment of service by the defendant.
- ▶ In the case of service otherwise than by publication, the certificate or affidavit shall state the date, place, and manner of service. Failure to make proof of service shall not affect the validity of the service.

Writ of Possession Foreclosure

O.C.G.A. 44-14-232. Summons; service on defendant; debtor's duty to notify creditor of address changes; form



- ▶ (a) When the petition provided for in Code Section 44-14-231 is made, the judge, the magistrate, or the clerk shall grant and issue a summons as prescribed in this Code section to the sheriff, his deputy or marshal, or any lawful constable of the county where the debtor resides or the secured property is located. Service shall be made by the officer by delivering a copy of the summons attached to a copy of the petition to the defendant personally; or, if the officer is unable to serve the defendant personally, service may be had by delivering the summons and the petition to any person sui juris residing on the premises; or, if no such person is found residing on the premises after reasonable effort, service may be had by tacking a copy of the summons and the petition on the door of the premises and, on the same day of the tacking, by enclosing, directing, stamping, and mailing by first-class mail a copy of the summons and the petition to the defendant at his last known address, if any, and making an entry of this action on the petition filed in the case.

Service of Default Garnishment Judgments

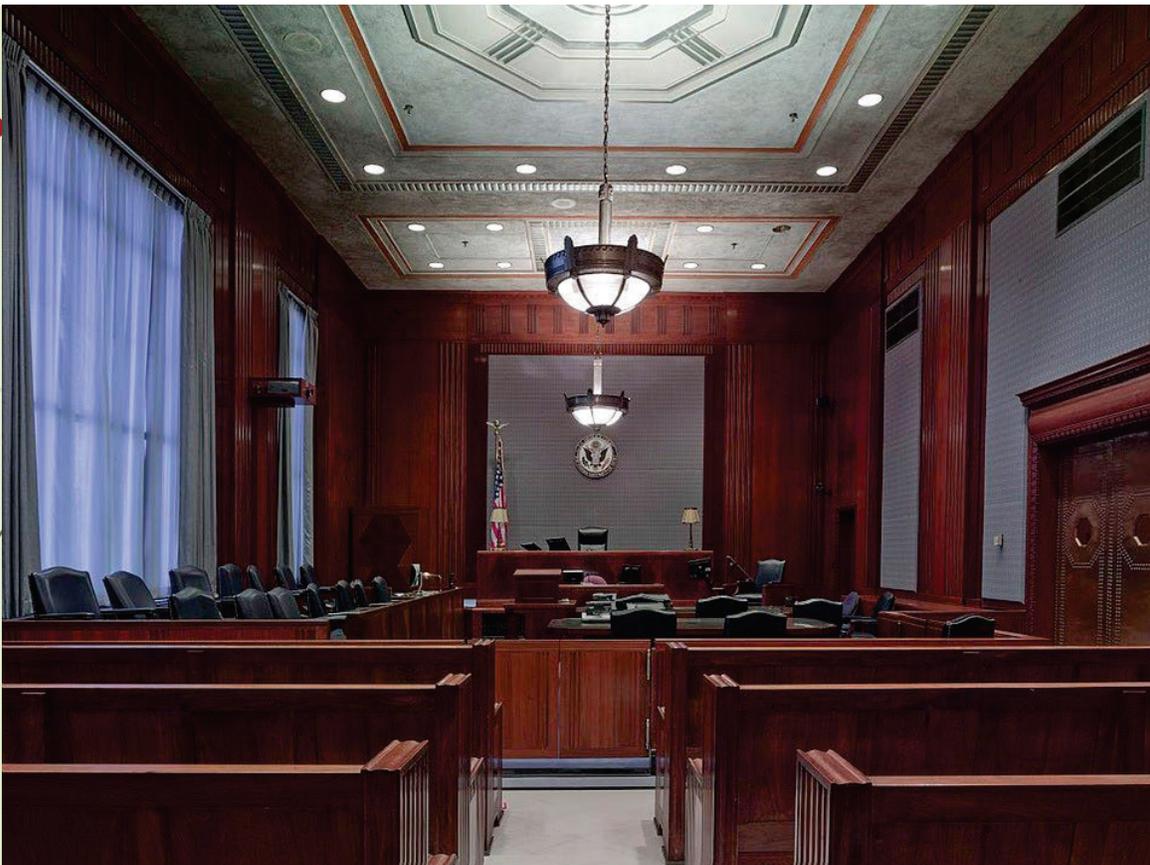
O.C.G.A. 18-4-24. Modification of default judgments; burden of proof.

- ▶ (a) When a default judgment is rendered against a garnishee under [Code Section 18-4-21](#), [18-4-22](#), or [18-4-43](#), the plaintiff shall serve the garnishee, as provided in [Code Section 9-11-4](#), or, when the garnishment is filed in a magistrate court, the plaintiff may serve the garnishee by using the constable of the magistrate court in the manner set forth in [Code Section 9-11-4](#), with a copy of such default judgment.

Issuance of scire facias; copies; service; return.

O.C.G.A. 9-12-63

- ▶ A scire facias to revive a dormant judgment in the courts must issue from and be returnable to the court of the county in which the judgment was obtained. It shall be directed to all and singular the sheriffs of this state and shall be signed by the clerk of such court who shall make out copies thereof. An original and a copy shall issue for each county in which any party to be notified resides. A copy shall be served by the sheriff of the county in which the party to be notified resides 20 days before the sitting of the court to which the scire facias is made returnable and the original shall be returned to the clerk of the court from which it issued.



Statement of Claim

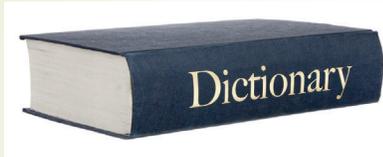
- ▶ O.C.G.A 15-10-43 (c) An answer to the claim shall be filed with the court or orally presented to the judge or clerk of the court within 30 days after service of the statement of claim on the defendant to avoid a default. The answer shall be in concise form and free from technical requirements, but shall admit or deny the claim of the plaintiff. The answer shall contain the address at which the defendant desires to receive the notice of hearing. If the answer is presented to the judge or clerk orally, the judge or clerk shall reduce the answer to writing. Verification of an answer shall not be required. A copy of the answer shall be forwarded to the plaintiff and defendant with the notice of hearing. If an answer is timely filed or presented, the court shall within ten days of filing or presentation of the answer notify the defendant and the plaintiff of the calling of a hearing on the claim. The notice shall include the date, hour, and location of the hearing, which date shall be not less than 15 nor more than 30 days after the date the notice is given. The notice shall be served on the plaintiff and the defendant by mail or personal service to the address given by the plaintiff at the time he or she files his or her claim and the address given by the defendant at the time he or she files or presents his or her answer. The date of mailing shall be the date the notice is given. The clerk shall enter a certificate of service.



Dispossessory

- ▶ O.C.G.A 44-7-53
- ▶ **(b)** If the tenant answers, a trial of the issues shall be had in accordance with the procedure prescribed for civil actions in courts of record except that if the action is tried in the magistrate court the trial shall be had in accordance with the procedures prescribed for that court. Every effort should be made by the trial court to expedite a trial of the issues. The defendant shall be allowed to remain in possession of the premises pending the final outcome of the litigation; provided, however, that, at the time of his answer, the tenant must pay rent into the registry of the court pursuant to [Code Section 44-7-54](#).





- Definition of Expedite “Merriam Webster” Expedite means to **accelerate the process or progress of**. It is a verb that means to **speed up the progress of**. It can also mean to **hasten, perform promptly, dispatch, or issue** an official document or letter. The word can also be used as an adjective to mean **ready for action**.

O.C.G.A 44-7-54. Payment of rent and utility payments into court; issuance of writ upon failure to pay; disposition of funds.

- **(a)** In any case where the issue of the right of possession cannot be finally determined within two weeks from the date of service of the copy of the summons and the copy of the affidavit, the tenant shall be required to pay into the registry of the trial court:
 - **(1)** All rent and utility payments which are the responsibility of the tenant payable to the landlord under terms of the lease which become due after the issuance of the dispossessory warrant, said rent and utility payments to be paid as such become due. If the landlord and the tenant disagree as to the amount of rent, either or both of them may submit to the court any written rental contract for the purpose of establishing the amount of rent to be paid into the registry of the court. If the amount of rent is in controversy and no written rental agreement exists between the tenant and landlord, the court shall require the amount of rent to be a sum equal to the last previous rental payment made by the tenant and accepted by the landlord without written objection; and

O.C.G.A 44-7-54 (Con't)

- ▶ **(2)** All rent and utility payments which are the responsibility of the tenant payable to the landlord under terms of the lease allegedly owed prior to the issuance of the dispossession warrant; provided, however, that, in lieu of such payment, the tenant shall be allowed to submit to the court a receipt indicating that payment has been made to the landlord. In the event that the amount of rent is in controversy, the court shall determine the amount of rent to be paid into court in the same manner as provided in paragraph (1) of this subsection.
- ▶ **(b)** If the tenant should fail to make any payment as it becomes due pursuant to paragraph (1) or (2) of subsection (a) of this Code section, the court shall issue a writ of possession and the landlord shall be placed in full possession of the premises by the sheriff, the deputy, or the constable.

Distress Warrants

O.C.G.A. 44-7-72. Issuance of summons; service on defendant; time for hearing.

- ▶ When the affidavit provided for in [Code Section 44-7-71](#) is made, the judge of the superior court, the state court, the civil court, or the magistrate court before whom it was made shall grant and issue a summons to the marshal or the sheriff or his deputy of the county where the tenant resides or where his property may be found. A copy of the summons and the affidavit shall be personally served upon the defendant. If an officer is unable to serve the defendant personally, service may be given by delivering the summons and affidavit to any person who is sui juris residing on the premises. The summons served on the defendant pursuant to this Code section shall command and require the tenant to appear at a hearing on a day certain not less than five nor more than seven days from the date of actual service.



Mobile Homes

► **O.C.G.A. 44-7-114 (a)** Within the 90 day period described in [Code Section 44-7-113](#), a responsible party, or after the expiration of such 90 day period, a landowner shall petition a magistrate court to hold a hearing to confirm or deny the decision of a local government agent that an abandoned mobile home is derelict. If a petition is filed pursuant to this Code section, a hearing on such issue shall be held within ten days of the filing of such petition.



Writ of Possession Foreclosure

► **O.C.G.A. 44-14-233 (c)** The defendant may answer either in writing or orally. If the defendant answers orally, the substance thereof shall be endorsed by the court on the petition. The answer may contain any legal or equitable defense or counterclaim. If the defendant answers, a trial of the issues shall be had in accordance with the procedure prescribed for civil actions in courts of record. Every effort shall be made by the trial court to expedite a trial of the issues and place the case on the next available calendar. However, the trial shall not be held before seven days have elapsed from the date the defendant files his answer. The defendant shall be allowed to remain in possession of the secured property pending the final outcome of the litigation, provided that the defendant complies with [Code Section 44-14-234](#)



Garnishment

O.C.G.A. 18-4-15. Parties to garnishment; basis for exemption; form; challenge to garnishment.

(d) Except as provided in subsection (h) of this Code section, upon the filing of the defendant's claim, a judge of the court in which the garnishment is pending shall order a hearing to be held not more than ten days from the date the claim is filed. The form for the order for such hearing is set forth in [Code Section 18-4-83](#). Such hearing shall be available to the defendant as a matter of right after filing his or her claim, and no further summons of garnishment shall issue nor shall any money or other property paid or delivered to the court as subject to garnishment be disbursed until the hearing shall be held.

► (h) A court may decline to order a hearing upon, and may issue a denial of, any defendant's claim which is filed after the dismissal of a garnishment action against such defendant. Except in a continuing garnishment or continuing garnishment for support, a court may decline to order a hearing upon, and may issue a denial of, any claim filed by a defendant which comes after a judgment is entered, an order to disburse funds is issued, or money or other property subject to garnishment is distributed by the court. No claim may succeed upon any basis which was already raised and adjudicated, or which was capable of being raised and adjudicated, in any claim previously made in the same garnishment action by the same defendant.



O.C.G.A. 18-4-16. Plaintiff filing traverse.

(a) Within 20 days after the plaintiff has been served with the garnishee's answer, the plaintiff may file a traverse stating that the garnishee's answer is untrue or legally insufficient. Such statement places in issue all questions of law and fact concerning the garnishee's answer. The form for a plaintiff's traverse is set forth in [Code Section 18-4-87](#).

► (b) The plaintiff may also file a traverse within 30 days after the plaintiff has been served with a garnishee's motion to modify default judgment pursuant to [Code Section 18-4-24](#) or [18-4-43](#), stating that the motion is untrue or legally insufficient, and by doing so bears the burden of proving that the motion to modify default was not timely, that the costs to accompany such motion were not paid or were paid in an incorrect amount, or that the total of money or property identified in and paid with garnishee's motion to modify as belonging or being owed to the defendant was not correct. The timeliness of the motion to modify, the payment of costs to accompany such motion, and the amount due from garnishee as belonging or being owed to the defendant during the applicable period are the only issues for trial on a traverse pursuant to this subsection. If a garnishee's motion to modify is found to be true and legally sufficient but for payment of costs in an incorrect amount, the court shall allow the garnishee to pay the remaining unpaid cost amount within a time not less than 30 days, shall consider the motion modified accordingly, and upon such payment shall grant the modification sought in said motion.



Governing practices and procedures; time for petitioning for review; parties; requirements of petition; amendable defects; service

► O.C.G.A. 5-3-7

(b) Except as otherwise prescribed by law, a petitioner shall file a petition for review with the clerk of the reviewing court within 30 days after the final judgment of the lower judicatory is:

(1) Signed and notice of the final judgment has been provided to all parties, if the lower judicatory does not have a clerk; or

(2) Filed or recorded, whichever first occurs, if the lower judicatory has a clerk.



O.C.G.A. 5-3-7 (con't)

(g) The petitioner shall serve a copy of the petition for review on all parties within five days after filing the petition for review in the reviewing court.

(h) The petitioner shall serve the lower judiciary with a copy of the filed petition for review within five days after filing the petition for review in the reviewing court. The copy of the petition for review served on the lower judiciary shall contain the case number assigned by the reviewing court. If the lower judiciary has a clerk, the copy of the petition for review shall be deemed served on the lower judiciary by service of a copy of the petition for review on the clerk.



Appeal; procedure; possession and payment of rent pending appeal.

O.C.G.A. 44-7-56

- (1) A copy of the petition for review filed in the reviewing superior or state court or the notice of appeal shall be filed with the clerk of the trial court within seven days after the date the judgment was entered in the trial court;



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

**Open Defaults/I have
a judgment, now
what?/Where does
the money go?/New
FiFa 1292**

Hon. Megan Kinsey

Judge Megan Kinsey - Bio

My legal career started in 2008 as a clerk of Probate Court and then in 2012, I became Clerk of Magistrate Court.

In 2016 I accepted an appointment as a part time Magistrate and continued working as a clerk. In 2017 I had an opportunity to become a full-time Magistrate and am in that position now.

In the past, I have served CMCJ as District Representative, Chair of Nominations, Vice Chair of Legislative, Chair of the Mentor Committee, a member of the Awards, Bench Book and Rules committees.

Currently I sit as the MCTC Chair, and the Magistrate Court representee for the ICJE Board of Trustees where I also have the honor of being chair.

2025 Magistrate Clerk's Training Conference

JUDGE MEGAN KINSEY, MAGISTRATE COURT OF BUTTS COUNTY
MKINSEY@BUTTS COUNTY.ORG



TODAY'S DISCUSSION TOPICS



Opening Defaults and Filing an Answer



Opening Defaults Filing Fees



Post Judgement Collections



FIFA Update HB1292

2



SERVICE

3

- ▶ Individual Service under O.C.G.A. 15-10-43(b):
 - ▶ Statement of Claim *shall* be served on the defendant:
 1. Personal delivery
 2. Notorious- by delivering a copy at Defendant's dwelling or usual place of abode with a person of suitable age and discretion ("sui juris") residing therein
 - ▶ Service on Corporation:
 - ▶ 1. Registered agent - both domestic corporations and foreign corporations transacting business [see OCGA 14-2-1501 for definition] in this state may be served through their registered agents listed with the Secretary of State (Corporation Division (404) 656-2817) [OCGA 14-2-504, -1510 (foreign), 14-3-62 (non-profit)]
 - ▶ Drop service is ok if the individual refuses to accept service and it is personal service on the named party and not notorious
 - ▶ Where Defendant is observed inside, speaks to officer and refuses to open [150 Ga.App. 696]
- Acknowledgment of service - the Defendant or authorized agent may always waive service in writing [OCGA 9-10-73].



PROCESS SERVERS

4

- ▶ Motion to Appoint can be granted by a Magistrate but many counties have a list of pre-approved servers from their Superior Court
- ▶ No requirement that a Plaintiff must use the Sheriff and private servers can be used from the beginning of the case
 - ▶ It really depends on the county and there is likely a reason the big filers are using process servers and not the Sheriff and it is often related to how quickly they can get their complaint served
- ▶ OCGA 9-11-4.1 outlines the requirements and process for certification
 - ▶ Application for certification: (a) criminal record check with no felony convictions or impersonating an officer; (b) completed 12 hour course approved by the AOC in consultation with GA Sheriff's Ass.; (c) passed a test approved by the AOC measuring knowledge of state law; (d) obtained a commercial surety bond or policy of commercial insurance; (e) is a US citizen



Service by Publication

5

OCGA 9-11-4(f)(1)(A)

Not favored in Magistrate Court

May be permissible where suit against non-resident involving personal property within the state

May be permitted in extreme cases where Defendant is evading service and received actual notice

OCGA 9-11-4(f)(1)(C) Process

Clerk shall cause publication in paper where sheriff's advertisements are printed, 4 times within 60 days, at least 7 days apart



Answers

6

Computing Answer times-

Magistrate Court Rule 33-Except as otherwise provided by time period computations prescribed by statute, to compute the date an answer is due in civil actions, begin counting on the day following the day of service and count the number of days. If the last day falls on a Saturday, Sunday, or legal holiday, then the next regular business day becomes the day the answer is due. When the period of time is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

And OCGA 15-10-43(c)

Statement of Claims/Trover- 30 days + 15

Dispossessory & Personal Prop Foreclosures- 7 days

*Time to answer runs from date service was filed in if not within 5 days of actual service (OCGA 9-11-4(h))



Clerk's Responsibility- Summons

OCGA 9-11-4

(a) **Summons- Issuance.** Upon the filing of the complaint, the clerk shall forthwith issue a summons and deliver it for service. Upon request of the plaintiff, separate or additional summons shall issue against any defendants.

(b) **Summons** -The summons shall be signed by the clerk; contain the name of the court and county and the names of the parties; be directed to the defendant; state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address; and state the time within which this chapter requires the defendant to appear and file appropriate defensive pleadings with the clerk of the court, and shall notify the defendant that in case of the defendant's failure to do so judgment by default will be rendered against him or her for the relief demanded in the complaint.



REQUEST FOR DEFAULT JUDGMENTS

-Rule 43.1. **Default Judgments in Civil Actions** The party seeking entry of a default judgment in any action shall certify to the court the following: the date and type of service effected; that proof of service was filed with the court; the date on which proof of service was filed; and that no defensive pleading has been filed by the defendant as shown by court records. This certificate shall be in writing and must be attached to the proposed default judgment, together with the military affidavit, if required by the Servicemembers Civil Relief Act, when presented to the judge for signature.

-OCGA 15-10-43(d)1





MAGISTRATE COURT OF BUTTS COUNTY

Honorable Rebecca J. Pitts, Chief Magistrate
625 WEST THIRD STREET, SUITE 11
JACKSON, GEORGIA 30233
PHONE: (770) 775-8220



Honorable Megan Kinsey, Magistrate Lauren Kersey, Chief Clerk & Magistrate Courtney English, Deputy Clerk

_____ Case No. _____
Plaintiff
VS
_____ Defendant

Certificate in Support of Default Judgment

COMES NOW, the Plaintiff(s), agent for the Plaintiff(s), certifying to the Court, in compliance with the Uniform Rules of Magistrate Court, Rule 43.1 as follows.

1. Defendant(s) herein was served with a Summons and Plaintiff's Statement of Claim on _____ (service date) by (check one) _____ Personal Service or _____ Notorious Service.
2. Said return of service was filed with the court on _____.
3. No defensive pleadings have been filed by the defendant(s).
4. More than the time allowed by law for the Defendant(s) to Answer and/or file defensive pleadings have elapsed.
5. Plaintiff shows that Pursuant to the SERVICEMEMBERS CIVIL RELIEF ACT ("SCRA") 50 U.S.C. App. §§501-597b1. For assistance visit the Defense of Manpower website- www.scradmdc.osd.mil
 Defendant(s) is/are in military service ascertained according to the attached information.
 Defendant(s) is/are not in military service ascertained according to the attached information.
 Plaintiff is unable whether the Defendant(s) is/are in the military.

_____ day of _____, 20__

Plaintiff's Signature

Notary/Clerk of Magistrate Court

Print Name



OPENING A DEFAULT IN CIVIL CASES

Answers must be filed within 30 days after service upon the Defendant to avoid a default OCGA § 15-10-43(d)1

Within 15 days - defendant may open default upon payment of court costs for an additional 15 days after the answer is due OCGA § 15-10-43(d)

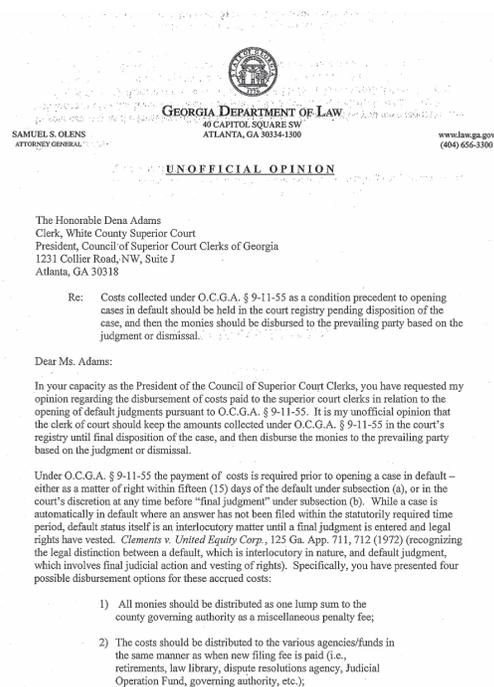
After 15 days but before final judgment OCGA § 15-10-43(f) - any time before final judgment the court may allow the case to be reopened, upon payment of costs

Does not apply to Dispossessory Cases



WHAT HAPPENS TO THE COSTS?

- ▶ Pursuant to Unofficial Opinion of the Attorney General dated November 26, 2012, the clerk of court should keep the amounts collected under OCGA 9-11-55 in the court's registry until final disposition of the case, and then the monies should be disbursed to the prevailing party based on the judgment or dismissal.



- 3) Without waiting for the disposition of the case, the cost is automatically disbursed to the plaintiff as a reimbursement of the initial filing fee costs paid. However, if plaintiff was exempt for paying advanced filing fees pursuant to a pauper's affidavit under O.C.G.A. § 15-6-77(e)(2) then the default cost is to be disbursed as the initial filing fee cost for the case; or
- 4) Relying on O.C.G.A. § 15-6-77(e)(5), costs should be held in the court's registry pending disposition of the case, then disbursed to prevailing party based on the judgment or dismissal.

Statutes providing for costs must be strictly construed. *Silverboard v. Ield*, 248 Ga. 589, 590 (1981). Additionally, "[a]ll officers charging costs must always show the authority of the law to do so." *Id.*; see also O.C.G.A. § 45-6-5; *Bentley v. State Bd. of Med. Exam'rs*, 152 Ga. 836 (1922) (It is "fundamental that the duties and powers of public officers are limited to those defined by law").

The text of O.C.G.A. § 9-11-55 neither defines precisely what elements constitute costs under that section nor addresses the underlying purpose behind the requirement that costs be paid prior to opening a case in default. Case law interpreting the statute, however, provides some direction in evaluating the distribution options by defining the responsibilities of the clerks to the parties in collecting costs. Specifically, those cases establish that costs belong to the court, not the parties. The Georgia Court of Appeals has recognized that "[w]hile superior court clerks are not 'collecting officers,' they are by law charged with the duty of receiving the amounts of all costs due in the court of which they are clerks." *Whitsett v. Heister*, 94 Ga. App. 78, 81 (1956). In *Whitsett*, the clerk failed to quote and charge the defaulting defendant the full amount of costs due to open the default. *Id.* In deciding that the failure to pay the full amount of costs did not affect the rights of the parties, the court noted that costs, in cases where the clerk is on salary, belong to the county. *Id.*; see also O.C.G.A. § 15-6-60. Moreover, a defendant has a right to rely upon the clerk's statement on the amount of costs due "since court costs are a matter to be handled by courts rather than by parties litigant." *Sirmans v. Sirmans*, 222 Ga. 202, 203 (1966).

Related Code sections addressing costs further indicate that costs are collected to compensate the clerk and not to punish or reward the parties. Georgia courts have defined costs as "all charges, fixed by statute, as compensation for services rendered by officers of the Court in the progress of the cause." *Davis v. State*, 33 Ga. 531, 533 (1863); see also O.C.G.A. § 9-15-3 (specifying that costs are those amounts for which "the party who dismisses, loses, or is cast in the action shall be liable."). Additionally, O.C.G.A. § 9-11-54(d) specifies that costs shall be awarded "as a matter of course to the prevailing party unless the court otherwise directs." The party ultimately receiving costs after final judgment collects such amounts not as compensation for having prevailed, but as reimbursement for costs already paid to the officer or collection of amounts to be paid to the officer. See *Holloman v. Humber*, 180 Ga. 470, 472-73 (1935). The assessment of costs does not "constitute[] part [of any] verdict" but is simply "one of the duties of the court."

UNOFFICIAL OPINION



Markon Realty Co. v. Klorman, 99 Ga. App. 703, 705 (1959). Accordingly, if the defendant pays the costs directly to the court officer, the plaintiff may not then "demand that the defendant also pay him the amount of costs"¹ in conjunction with "the taxing of costs in the judgment." *Holloman*, 180 Ga. at 473.

To this end, in *Sweeney v. Malloy*, 107 Ga. 80, 84 (1899), the Georgia Supreme Court described the system of taxing costs:

[J]udgments for costs are rendered against the losing and in favor of the prevailing party, primarily for the use of the officers of court, they not being parties to the litigation. In other words, the courts adjudge that the party in whose favor the case is decided shall be the channel, as it were, through whom the officers shall receive their compensation.

Thus, an overall reading of the Georgia statutes and case law suggests that costs should be treated as a mechanism for initially directing payment to the clerk, rather than an award to the prevailing party or a punishment of the losing party. This characterization best supports disbursement in accord with Option 4 below. Nevertheless, since you have raised four alternative means of disbursing such costs, I will address each method below in the order you have raised them.

Option 1

Treating the collected costs as a "miscellaneous penalty fee" to be distributed to the county governing authority (Option 1) is, at minimum, a feasible use of the costs collected pursuant to O.C.G.A. § 9-11-55 given the language of O.C.G.A. § 15-6-77(b)-(c). The latter statute provides that "the fees provided for in this Code section shall be paid into the county treasury less and except such sums as are otherwise directed to be paid pursuant to Code Section 15-6-61 and such sums as are collected pursuant to Code Section 36-15-9 . . ." O.C.G.A. § 15-6-77(c). The fees under O.C.G.A. § 15-6-77 are "exclusive of costs for service of process or other additional sums as may be provided by law." O.C.G.A. § 15-6-77(b) (emphasis added). Additionally, the dissent in at least one case has construed as a penalty the somewhat analogous requirement that costs be paid before renewing an action under O.C.G.A. § 9-11-41(d).² *Hiley v. McGoogon*, 177 Ga. App. 809, 812 (1986) (Deen, J., dissenting) (describing the precondition imposed upon refileing

¹ Similarly, a party is not entitled to collect costs from the opposing party which he did not pay. O.C.G.A. § 15-6-77(e)(5) ("no costs shall be refunded by the clerk unless and until the same has been paid to the clerk by the losing party"). *Greer v. Whitey*, 135 Ga. 333, 334 (1910). Thus, the clerk of a superior court must refund any portion of an advance costs deposit that exceeds actual costs. 1976 Op. Atty. Gen. Ga. U76-61.

² This section provides that "[i]f a plaintiff who has dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the plaintiff shall first pay the court costs of the action previously dismissed." O.C.G.A. § 9-11-41(d).

UNOFFICIAL OPINION



plaintiffs as “in the nature of a penalty for not being ready and willing to press his original suit to a hearing on the merits.”; see also *Wright v. Jett*, 120 Ga. 995, 1001 (1904).

Nonetheless, this interpretation is less ideal than Option 4. Despite the “additional costs” contemplated by O.C.G.A. § 15-6-77, neither that statute nor the associated case law suggests that costs under the default statute are “additional sums” “exclusive” of O.C.G.A. § 15-6-77. Given that officers charging costs must clearly show the authority of law to do so, treating the collected costs as a miscellaneous penalty – which results in the defaulting party paying costs twice if he also has final judgment entered against him – is not ideal because it does not have the same grounding in the law as Option 4 does. See O.C.G.A. § 45-6-5 (the duties and powers of public officers and agencies are limited to those defined by law). Moreover, the rationale for imposing a “penalty” under O.C.G.A. § 9-11-41(d) for failure to prosecute a case – i.e., punishing “the harassing renewal of a writ which the plaintiff has, after calling upon the defendant to appear in court and defend it, elected to dismiss” – simply is not present in a default scenario. *Hiley*, 177 Ga. App. at 812. Even the *Hiley* dissent recognizes that “[h]ere seems to be a greater burden on plaintiff regarding payment of costs or penalty in this type of situation.” *Id.* (emphasis added). Unlike the plaintiff who has willfully hailed a defendant into court only to dismiss it, the defaulting defendant is culpable for culpable oversight.

Second, reading the otherwise absent term “penalty” into O.C.G.A. § 9-11-55 contravenes the traditional rules of statutory interpretation. The cardinal rule of statutory interpretation is to ascertain the intent of the General Assembly, giving words their ordinary meaning unless they are words of art connected with a particular trade or subject matter. O.C.G.A. § 1-3-1. *Yazani v. Allstate Ins. Co.*, 142 Ga. App. 684, 686 (1977). One statute will not be construed to repeal another unless the two are in irreconcilable conflict. *Cornwell v. Atlanta Trust Co.* 177 Ga. 303, 306 (1933). Moreover, statutes *in pari materia* (i.e., on the same subject matter) should be construed to avoid conflicts and repeal by implication, if possible. *Lewis v. City of Smyrna*, 214 Ga. 323, 326 (1958).

If the General Assembly intended for costs under O.C.G.A. § 9-11-55 to be construed as a penalty, they could have easily used the term “penalty” in that statute, just as they have in hundreds of other instances. See, e.g., O.C.G.A. § 15-6-77.4 (specifying additional filing fees in divorce cases); O.C.G.A. § 36-1-9 (prescribing that “[a]ny county official . . . who is charged with the responsibility of collecting, receiving, or disbursing any fees, fines, forfeitures, costs, commissions, allowances, penalties, funds, or moneys, or any other emolument . . . may pay said funds directly into the county treasury upon their receipt.”) (Emphasis added).³ The Georgia

³ See also 2005 Op. Atty Gen. 2005-3 n.11 (“If the General Assembly specifically includes language in one section of a statute and fails to include that language in a provision dealing with the same subject matter, it is assumed that the exclusion is intentional. See *Dept. of Human Res. v. Hutchinson*, 217 Ga. App. 70, 72 (1995) (“The omission of [specific statutory language] invites the application of the venerable principle of statutory construction *expressio unius est exclusio alterius*—the express mention of one thing implies the exclusion of another; or the similar maxim more usually applied to statutes, *expressum facit cessare tacitum*, which means that if some things (of many) are expressly mentioned, the inference is stronger that those omitted are intended to be excluded than if none at all had been mentioned.”). 2000 Op. Atty Gen. 2000-2, at 2.”)

UNOFFICIAL OPINION



Court of Appeals has specified that “[t]he terms ‘cost’ and ‘costs’ as employed in O.C.G.A. § 9-15-2 and related statutes mean exactly what they say: any of the various court costs ordinarily incurred in a proceeding, and especially those set forth in detail in O.C.G.A. § 15-6-77.” *McKenzie v. Seaboard Sys. R.R.*, 173 Ga. App. 402, 404 (1985) (emphasis added). Thus, if O.C.G.A. § 9-11-55 is to maintain a plain meaning consistent with the established rules of statutory interpretation, the costs collected thereunder must mean costs as traditionally defined. Those costs should not be treated as a miscellaneous penalty fee.

Option 2

Treating the costs as filing fees to be distributed among various agencies (Option 2) also does not appear to be the best reading of O.C.G.A. § 9-11-55. Research does not yield any statutory or case law that might give this interpretation some grounding in Georgia law. Georgia courts have recognized that filing fees paid at the outset of the case are to be treated distinctly from costs awarded at the conclusion of an action under O.C.G.A. § 9-15-1. In *Newsome v. Graham*, 254 Ga. 711, 712 (1985), the Georgia Supreme Court concluded that the plaintiff was liable for court costs under O.C.G.A. § 9-15-1 as the losing party, notwithstanding that the plaintiff had originally filed his action in forma pauperis. The provision allowing for a pauper’s affidavit in filing an action under O.C.G.A. § 9-15-2(a)(1) only “ensures access to the courts [by waiving the filing fee] and does not forego liability for costs upon losing a case.” *Id.*; see also *Whitehead v. Lavoie*, 176 Ga. App. 666, 666 (1985).

Option 3

Reimbursing the plaintiff prior to the disposition of the case (Option 3) is the least sustainable option for distributing costs collected under O.C.G.A. § 9-11-55. As discussed above, default is an interlocutory matter. *Clements v. United Equity Corp.*, 125 Ga. App. 711, 712 (1972). An accounting for costs is to be settled only when a final judgment determines which party has prevailed. “The several officers of the court are prohibited from demanding the costs in any civil case or any part thereof until after final judgment in the same, except as otherwise provided by law.” O.C.G.A. § 9-15-3.⁴ Further, O.C.G.A. § 15-6-77(e)(5) specifies “no costs shall be refunded by the clerk unless and until the same have been paid to the clerk by the losing party.” (Emphasis added). During the default period, no winning and losing party can be discerned. Therefore, the clerk cannot use such amounts to immediately refund costs paid by the plaintiff to the action. Additionally, Option 3 is not an appropriate use of the costs at issue because it yields results which contravene the case law specifying that costs fundamentally belong to the court and not the parties. See, e.g., *Sweeney v. Malloy*, 107 Ga. 80, 84 (1899).

⁴ One such exception to this rule, however, is the filing fee deposit described in O.C.G.A. § 9-15-4(a); under this provision, a clerk is not required to file any civil case until after the fees of the superior court clerks under O.C.G.A. § 15-6-77 and 15-6-77.2 are paid, or after an affidavit of indigency is filed. Under O.C.G.A. § 9-15-4(b), the filing deposit required for filing “shall not affect any other law which requires a deposit in excess of or in addition to the deposit of cost required by this Code section.”

UNOFFICIAL OPINION



Option 4

As discussed above, Option 4 is the most logical and legally supported interpretation of costs under O.C.G.A. § 9-11-55. Principles of statutory construction support this definition of costs because it emulates the general definition of costs throughout two related areas of Georgia law – Titles 9 and 15. This interpretation also conforms to the plain meaning of costs recognized by Georgia case law: compensatory amounts to be handled by the clerk of court and not part of the verdict belonging to one of the parties. *See, e.g., Markan Realty Co., 59 Ga. App. at 705.* Given this legal grounding, the legislature likely did not envision that O.C.G.A. § 9-11-55 would require payment of double costs in the event the defaulting party also loses on the merits. To the extent that such costs are intended to deter parties from defaulting, the disincentive is that they must be paid before final judgment, as is typically required.

Therefore, it is my unofficial opinion that the clerk of court should keep the amounts collected under O.C.G.A. § 9-11-55 in the court’s registry until final disposition of the case, and then the monies should be disbursed to the prevailing party based on the judgment or dismissal.

Issued this 26th day of November, 2012

Sincerely,


SAMUEL S. OLENS
Attorney General

Prepared by:


Kelly Campanella
Assistant Attorney General

UNOFFICIAL OPINION



I HAVE A JUDGMENT NOW WHAT

What is the legal definition of a judgment?

OCGA 9-11-54(a)-Definition. The term “judgment,” as used in this chapter, includes a decree and any order from which an appeal lies

What is the clerk’s duties for judgments?

File/record judgment, transmit copies to parties





MAGISTRATE COURT OF BUTTS COUNTY

Honorable Rebecca J. Pitts, Chief Magistrate

625 WEST THIRD STREET, SUITE 11
JACKSON, GEORGIA 30333
PHONE: (770) 775-8220

Honorable Megan Kinsey, Magistrate

Lauren Kersey, Chief Clerk and Magistrate
Courtney English, Deputy Clerk

19

I have a Judgment, Now What?

-Please do not ask to speak to the Judge. It is unlawful for the Judge to speak about the case without both parties present.

-In accordance with Georgia Law and The Magistrate Court's Uniform Rules it is also unlawful for any employee of the court (including the clerk) to give legal advice. If you feel you may need assistance with your filing you may consult an attorney.

-A judgment is a finding by the Court that one party has a legal obligation to pay the other party a specified amount of money.

-That judgment will not provide a timeline for the judgment to be paid. This court will not be responsible for collecting on the judgment or setting up payment arrangements. This is left to decide between the parties.

-No proceedings can be filed to collect on the judgment until after 30 days after the judgment has been filed.

-There are multiple ways to collect on a judgment. A brief overview:

1) Writ of Fi Fa-is a document that is issued by the clerk's office for the purpose of recording a lien on the judgment debtor's property, it may also be used as a legal instrument by which the sheriff of a county may seize assets of a judgment debtor.

2) Garnishment—a separate legal action that can be filed against the garnishee, this is a person or business entity that either owes funds to the judgment debtor, or is holding funds on behalf of the judgment debtor.

3) Continuing Garnishment-can be used when the debtor is a wage earner, the appropriate sums will be deducted from the judgment debtor's wages on a 45 day recurring basis until the judgment is paid or the case has expired after 1,095 days of service.

4) Post-Judgment Interrogatories-the purpose for interrogatories is to ascertain what the assets, if any the judgment debtor has to satisfy the judgment debt.

-Please note that there is additional filing fees associated with these collections, please contact the clerk of court for the filing costs. You should thoroughly research these collection methods to find out which is best for you. If you are unsure of what to file, you should seek the advice of an attorney.



POST JUDGMENT COLLECTIONS

20

-Rule 44. Deferred Partial Payments of Judgments by Defendants

-44.1. Clerical and Accounting Costs Due Where plaintiff does not request partial payments be made to the court but the defendant requests to make such partial payments to the court rather than to the plaintiff, the judge may do so at the expense of the defendant and for the clerical and accounting costs incurred thereby, may charge 10%, but not less than \$1.00 and not to exceed \$10.00 for each payment.

-44.2. Clerical and Accounting Costs Withheld No clerical and accounting costs shall be deducted from monies received in the magistrate court in answer to a summons of garnishment, levy on property where such property is redeemed prior to public sale, when a defendant pays a claim in full, or when a defendant pays rent into court on a dispossessory action.



HB1292/NEW FIFA procedure

Part of the 2023/2024 legislative year, became effective January 1, 2025

Mandatory for real estate records to be filed electronically with Superior Court with some exceptions.

-Insurance agents, attorneys, banking agents, mortgage lender, agent of a servicer, **public official or government entity**

This will vary from county to county, have a conversation with your Clerk of Superior Court and how they wish to handle this change. Option 1- FIFAs delivered from Magistrate Court with a county check fall under “government entity” and can be paper filed

Option 2- Magistrate gives FIFA back to the Plaintiff and Plaintiff must figure out how to file with Superior Court



FIFA'S LOOK A LITTLE DIFFERENT

Front and back- 8.5X11 piece of paper

Cancellation on the first page

Additional Nulla Bona/Non-Est areas



(TOP MARGIN RESERVED FOR OFFICIAL RECORDING INFORMATION ONLY - NOT TO BE USED FOR ANY OTHER PURPOSE)

WRIT OF FIERI FACIAS
IN THE (insert court name) COURT OF (insert county name) COUNTY, GEORGIA

CIVIL ACTION NUMBER:
JUDGMENT DATE:
Plaintiff or Plaintiff's Attorney
Name:
Address:
Telephone & Area Code:
Email:
Fl. Fa. in Hands of:
Principal
Interest
Other
Attorney Fees
Court Costs
Fila Costs
Total

With future interest on said principal amount from the date of judgment at the legal rate or as set out in the judgment. Therefore, you are commanded to seize the personal property and lands of said defendant(s), and especially only of the following described property, to wit: and after sale at public sale on the courthouse steps, you deliver several sums set out on the foregoing the judgment in this case to the plaintiff(s) the principal, interest, attorney fees and costs aforesaid.

Witness the Honorable, Judge of Said Court, this day of May, 2025. Clerk/Deputy Clerk

CANCELLATION

The foregoing Writ of Fieri Facias having been paid in full the Clerk of Superior Court is directed to cancel it of record this day of 20. Plaintiff or Plaintiff's Attorney

SC-5 Rev'd 1/25



NON EST

A diligent search was made and no property of the defendant(s) has been found in this county on which to levy this writ. This the day of 20. Deputy Sheriff, County, Georgia

NON EST

A diligent search was made and no property of the defendant(s) has been found in this county on which to levy this writ. This the day of 20. Deputy Sheriff, County, Georgia

NON EST

A diligent search was made and no property of the defendant(s) has been found in this county on which to levy this writ. This the day of 20. Deputy Sheriff, County, Georgia

STATE OF GEORGIA, COUNTY OF I have this day executed this Writ of Fieri Facias by levying upon and seizing the following described property of defendant(s), to-wit:

Levied at Georgia, this day of 20.

Deputy Sheriff

The property described in this levy was knocked down to

Deputy Sheriff

Table with 2 columns: Item, Amount. Rows include Sheriff's Service, Sheriff's Deed, Sheriff's Commission, Sheriff's Levy, Advertising Fee, Other.

STATE OF GEORGIA, COUNTY OF I have this day executed this Writ of Fieri Facias by levying upon and seizing the following described property of defendant(s), to-wit:

Levied at Georgia, this day of 20.

Deputy Sheriff

The property described in this levy was knocked down to

Deputy Sheriff

Table with 2 columns: Item, Amount. Rows include Sheriff's Service, Sheriff's Deed, Sheriff's Commission, Sheriff's Levy, Advertising Fee, Other Commission.



Clerk's Duties-FIFAs

Magistrate Clerk's Handbook-

4.7 Procedure for Filing of Writ of Fieri Facias

4.7.1 Either provide the form to the judgment creditor or accept a form that has already been completed.

4.7.2 Check to see that the writ of Fieri Facias is based on a judgment.

4.7.3 Confirm the information is correct (party names, case number, judgment date, amounts, etc.).

4.7.4 Collect the proper fee.

4.7.5 Update the case file and send the writ of Fieri Facias to the clerk of Superior Court with payment for recording.

4.7.6 Once the recorded writ returns from the clerk of Superior Court, update the case file with the book and page number and put the original back in the file. If the original has been requested by the judgment creditor (generally only applicable to attorneys), make a true copy for the file and return the original.



Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Case Load Reports

Mr. Andres Bosque,

Lead Data Analyst, AOC

Andres Bosque - Bio

Andres Bosque is the Lead Data Analyst for the Judicial Council/Administrative Office of the Courts. He is primarily responsible for leading data projects including but not limited to the annual caseload collection and the quality assurance analysis. He also provides analytical support to several judicial partners, councils and committees, and stakeholders.

Before joining the AOC in 2022, Mr. Bosque worked as a Graduate Assistant in the Political Science Program at the University of Memphis. Mr. Bosque holds a master's degree in political science as well as a bachelor's degree in political science and philosophy from the University of Memphis.

Managing Court Data at the Statewide Level

ANDRES BOSQUE, LEAD DATA ANALYST – OFFICE OF RESEARCH AND DATA ANALYSIS



Data Governance

What, Why, How & Who?



What is Data Governance?

A framework for managing court data — ensures consistency, accuracy, and security.

"Data governance is the framework by which courts reach and communicate organizational decisions around data, ensure that business activities and data management are synchronized, and develop and document long- and short-term strategies around the collection, use, storage, and disposal of data." - NCSC

Why It Matters?

With greater transparency and rising expectations for data access, accurate and reliable court data are essential for maintaining public trust and confidence. Some key benefits of implementing Data Governance are:

- ✓ **Standardizes Best Practices** – Ensures consistency in data collection and reporting.
- ✓ **Enhances Data Quality** – Reduces missing, incorrect, or misleading data.
- ✓ **Transparency & Planning** – Provides insights for resource allocation.
- ✓ **Enables Meaningful Data Analysis** – Actionable data supports informed decision making.
- ✓ **Fosters a Culture of Data Responsibility** – Court staff takes ownership of their data.



Annual Caseload Data Collection (Casecount)



Casecount

Who is ORDA?

- ▶ We are the Office of Research and Data Analysis (ORDA) at the Administrative Office of the Courts (AOC).
- ▶ ORDA is responsible for collecting and analyzing annual caseload data from 159 counties in Georgia across 7 different classes of court including Superior, State, Juvenile, Probate, Magistrate, Municipal, and Recorders Courts.

What is Casecount?

- ▶ Georgia law requires the AOC to "compile statistical and financial data and other information on the judicial work of the courts and on the work of other offices related to and serving the courts, which data and information shall be provided by the courts." (O.C.G.A. § 15-5-24 (3)).
- ▶ Casecount is the process by which courts/clerks report/publish their caseload data to the AOC based on the Georgia Court Guide to Statistical Reporting (Guide) and ORDA compiles, quality assures, and reports/publishes the self reported data.
- ▶ Casecount captures caseload data/activity in your court from January 1 - December 31 each year. Reporting begins in January, ends in March, and is finalized in April.



Casecount (continued)

Why is Casecount important?

Your data is essential for analyzing court workload and ensuring compliance with state and federal laws. In addition, statewide caseload activity is reported to the National Center for State Courts and other national organizations that inform justice system stakeholders about Georgia's courts.

For example:

- ▶ **National Open Court Data Standards (NODS)**

Your courts annual caseload data supports informed decision-making in legislative and judicial branches and demonstrate the work of Georgia's courts.

For example:

- ▶ **Research Request**
- ▶ **Judgeships (Workload Assessment)**
- ▶ **Circuit Boundary Studies**
- ▶ **Legislative Policy**

It also allows us to compare the work of Georgia's courts with other states, counties, and cities.

For example:

- ▶ **Clearance Rates**
- ▶ **Caseload Dashboards**



Data Quality Assurance

What is it?

A standardized reporting process during Caseload to identify and communicate potential data errors to courts.

What is Caseload?

- ▶ Research staff routinely monitors submissions across all court types to ensure accurate data reporting.
- ▶ Using data analysis tools, research staff detects potentially erroneous data in court submissions.
- ▶ When potential errors are identified, court clerks and judges receive a "Potential Error" email highlighting flagged data.
- ▶ The email instructs court staff to how to review and, if necessary, correct the data.



Quality Assurance (Sample)

Criminal

	Cases			Manner of Disposition				Case Characteristics		
	Open	Filed	Disposed	Total	Non-Total	Transfer	ADR	Self-Represented Litigants	English Proficiency	
Ordinance Violations	0	11	11	0	11	0	0?	11	0	
Misdemeanor	0	1	1	0	1	0	0?	1	0	

Civil

	Cases			Manner of Disposition				Case Characteristics		
	Open	Filed	Disposed	Total	Non-Total	Transfer	ADR	Self-Represented Litigants	English Proficiency	
Abandoned Motor Vehicles	18	25	7	0	0	0	0?	25	0?	
Civil Claims	178	1167	989	164	825	5	0	0	0	
Dispossessory/Outness Warrants	31	584	553	275	678	2	0?	0?	0?	
Garnishments	83	232	172	14	158	0	0?	0?	0?	
Foreclosure/Attachments	10	36	21	5	10	1	0?	0?	0?	



How Can You Help Manage Your Court Data?

Get Involved With Your Data!

Judges, clerks, and court administrators should all be involved in the caseload reporting process. Outreach to the district attorney and probation offices may also be necessary. Courts should work collaboratively to identify all caseload reporting stakeholders and discuss concerns as they arise.

Talk To Your Case Management Vendor

All case management systems (CMS) should be able to quickly and easily create the reports requested by the Judicial Council. If you do not believe yours can, talk to your clerk and vendor about working with the AOC. Maintain regular communication with your CMS vendor to ensure reports are updated to accurately reflect Judicial Council policy.

Best Practices

- ▶ Ensure that all missing data fields are updated with '0' if no data exists.
- ▶ Review your current year's submission and how it compares to previous year's submissions. If your data varies greatly from previous years', there could be a problem. Please double-check that all cases are classified and counted according to the statistical guide.



Casecount Resources

- ▶ [Research Website](#)
- ▶ [Georgia Court Guide to Statistical Reporting](#)
- ▶ [Data Entry Guide and Instructions for Caseload Reporting](#)
- ▶ [Judicial Council Policy on the Submission of Caseload Reports by Trial Courts](#)
- ▶ [Clearance Rate Protocol](#)



Questions?

Contact Us

Andres Bosque

Andres.Bosque@georgiacourts.gov

(770) 825-6045

Research

<https://research.georgiacourts.gov/>

Casecount@georgiacourts.gov

(404) 463-0638





INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Pre-Warrants/Good Behaviors/Family Violence

Hon. Heather Culpepper

JUDGE HEATHER CULPEPPER BIO

Judge Heather Culpepper was first elected as Chief Magistrate Judge to the office of the Magistrate Court of Irwin County on August 21, 2012. She was re-elected to a fourth term in her last election on May 21, 2024 with no opposition.

Judge Culpepper is a lifelong resident of Irwin County. She is a graduate of Valdosta State University with a Bachelor of Arts Degree in Criminal Justice and holds an Associate of Science Degree from Abraham Baldwin Agricultural College.

Prior to her election as Chief Magistrate Judge, Culpepper was an adjunct instructor for the Criminal Justice Department for Moultrie Technical College – Tifton Campus where she taught criminal justice courses.

Judge Culpepper holds the position as District Two Representative to the Georgia Council of Magistrate Court Judges and is currently serving as chairperson of the Magistrate Court Training Council Mentor Committee, as well as appointed to the Magistrate Court Training Council in January of 2023.

PRE-WARRANTS GOOD BEHAVIOR BONDS FAMILY VIOLENCE

CHIEF MAGISTRATE JUDGE HEATHER CULPEPPER
IRWIN COUNTY, GEORGIA



PRESENTATION OVERVIEW

Clerk's Duties Related to the Following:

1. Pre-Warrant Apps
2. Good Behavior Bonds
3. Family Violence
4. Forms



FEES AND COSTS for Warrant Applications O.C.G.A. § 15-10-82

1. Warrant application fees shall not exceed \$20.
2. A **judge** may also waive the fee due to financial circumstances of the party applying for the warrant or in the interest of justice.
3. No fee shall be assessed against an alleged victim of domestic violence, victim of stalking or a victim of certain sexual assault offenses as defined in code sections 16-5-60, 16-5-91, 16-6-1, 16-6-2, 16-6-3, 16-6-4, 16-6-5.1, 16-6-22, or 16-6-22.2.



PRE-WARRANT APPLICATIONS Clerk's Duties

1. The Applicant will file an application requesting a warrant for the arrest of another person.
2. Provide the Applicant with the proper intake form.
3. If it is the policy of your office, require the applicant to provide an incident report.
4. Determine if the charge will be a felony or misdemeanor.



PRE-WARRANT APPLICATIONS

*Clerk's Duties

Present application to judge for review under the following circumstances:

1. The warrant application can be denied by the **judge** without a hearing if there is an issue as to whether the application sets forth probable cause.

Note: Any warrant for the arrest of a peace officer, law enforcement officer, DFCS case manager, teacher, or school administrator for any offense alleged to have been committed while in the performance of his or her duties may be issued only by a judge of a superior court, a judge of a state court, or a judge of a probate court.



PRE-WARRANT APPLICATIONS

*Clerk's Duties

Present application to judge for review under the following circumstances (Continued):

2. The warrant can be signed immediately by the **judge** if, based on the application and testimony, **probable cause exists and:**
 - (A) An immediate or continuing threat exists to the safety or well-being of the affiant or a third party;
 - (B) The person whose arrest is sought will attempt to evade arrest or otherwise obstruct justice if notice is given;
 - (C) The person whose arrest is sought is incarcerated or otherwise in the custody of a local, state, or federal law enforcement agency;
 - (D) The person whose arrest is sought is a fugitive from justice;
 - (E) The offense for which application for a warrant is made is deposit account fraud under Code Section 16-9-20, and the person whose arrest is sought has previously been served with the ten-day notice as provided in paragraph (2) of subsection (a) of Code Section 16-9-20; or
 - (F) The offense for which application for the warrant is made consists of an act of family violence as defined in Code Section 19-13-1.



PRE-WARRANT APPLICATIONS

*Clerk's Duties

If a Pre-Warrant Application Hearing is Required:

1. Prepare a Notice of Hearing with scheduled court date to be mailed to all parties and witnesses listed on the application.
2. This notice may be by any means approved by the judge or other officer which is reasonably calculated to apprise such person of the date, time, and location of the hearing (OCGA 17-4-40).
3. This can include personal service, or service by first class mail.



PRE-WARRANT APPLICATIONS

*Clerk's Duties

What does "reasonably calculated" mean?

1. Personal service is NOT required but is obviously sufficient.
2. Certified mail Return Receipt is ok, but not required.
3. Regular Mail to last known address can be used, but how long ago was the last known address truly known to be sufficient?

Note: If the notice is returned by the post office, service MUST be reattempted.



PRE-WARRANT APPLICATIONS

*Clerk's Duties

Before the Hearing:

1. Prepare draft of warrant for judge to have at the pre-warrant application hearing.
2. If your county has a bond schedule, include a proposed bond on the schedule.



GOOD BEHAVIOR BONDS

Clerk's Duties

1. The normal start for a Good Behavior Bond is an application and notice of a show cause hearing.
2. Such show cause hearing shall be held within seven days of such application or motion. **NOTE:** Normal procedure is now to set show cause hearing at the time of the application or motion [OCGA § 17-6-90(a)].
3. The statute allows for the judge, at his or her sound discretion, at the time of the application or thereafter, to issue an arrest warrant where the sworn allegations of an application show the danger posed by the respondent is imminent. O.C.G.A. 17-6-90(d).



GOOD BEHAVIOR BONDS Common Examples

Common Examples of Good Behavior Bond Applications:

1. A crime has occurred, but the victim does not want a criminal prosecution;
2. Probable cause exists of terroristic threats but there is not sufficient corroboration for conviction;
3. Probable cause exists for cross-warrants against both parties;
4. Seriousness of "criminal" conduct does not yet warrant prosecution, but some action is needed to prevent escalation; recent actions or statements indicate a clear intent to commit a criminal offense soon.

See *Parker v. Leeuwenburg*, 2017 WL 875104 (S16A1505, decided March 6, 2017) (dissent believes the statute is subject to a constitutional challenge for vagueness and overbreadth).



GOOD BEHAVIOR BONDS Grounds

1. Conduct of person in the county
2. Directed at person or property in the county
3. Justifying belief that:
 - a. Safety of person is endangered, or
 - b. Personal peace may be disturbed, or
 - c. Person's property may be disturbed, or
 - d. Person's property may be damaged.
4. Can't be purely speculative (Recommended: restrict use of GBB to situations sufficient to find probable cause that a criminal offense has occurred or is imminent.)



GOOD BEHAVIOR BOND NOTICE OF HEARING

GOOD BEHAVIOR BOND

IN RE: _____, Respondent

APPLICATION NO. _____

NOTICE OF HEARING TO SHOW CAUSE WHY GOOD BEHAVIOR BOND SHOULD NOT ISSUE

Whereas the above captioned is alleged to have committed acts which are sufficient to justify the belief that the safety of one or more persons in the county or the peace or property of the same is in danger of being injured or disturbed.

Towit: _____

Now therefore it is hereby ORDERED that said respondent be served forthwith with a copy of this notice of hearing to appear before this Court at _____ o'clock m. on the _____ day of _____, 20____ there to show cause, if any there be, why a BOND FOR GOOD BEHAVIOR should not issue to secure the safety or property of _____. Hearing will be held in courtroom _____ of the Magistrate Court of _____ County located at _____. Said respondent may bring legal counsel to said hearing if desired.

So ordered this _____ day of _____, 20____. Judge, Magistrate Court of _____ County.

I hereby certify that said respondent has been personally served by me with a copy of this Notice at _____ day of 20_____.

Deputy Sheriff/Marshal/Constable



School of Law
UNIVERSITY OF GEORGIA



o'clock m. on the _____
INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

GOOD BEHAVIOR BOND ORDER

GOOD BEHAVIOR BOND

IN RE: _____, Defendant

APPLICATION NO. _____

ORDER FOR GOOD BEHAVIOR BOND

The above-styled action having come on for hearing, and after hearing evidence, and the Court finding the defendant's conduct to be such as to justify the belief that the safety of persons in the county, or their peace or property, are in danger of being injured or disturbed thereby, To wit: (insert factual findings) _____

_____ and further finding from the evidence that Defendant is financially able to post bond in the amount stated below, it is:

ORDERED that the defendant give bond in the amount of _____ Dollars (\$_____), (with good security) (on his own recognizance) for defendant's good behavior concerning the safety and peace of persons and property in the county, and more specifically subject to the following terms and conditions: _____ and said bond shall expire six (6) months from the date of this order unless otherwise ordered by the Court, or, in default thereof, defendant shall be committed to the common jail of this county, and there safely kept until discharged by due process of law.

NOTICE: Defendant and the prosecuting witness can each be found in contempt of court for bringing about a violation of the conditions of this order. So ordered this _____ day of _____, 20_____.

Judge, Magistrate Court of _____ County

Received by: Prosecuting witnesses: _____ Defendant: _____



School of Law
UNIVERSITY OF GEORGIA



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

FAMILY VIOLENCE

Court Clerks are often one of the first contacts a Family Violence victim makes in the court system.

***These individuals just want help**

GA Magistrate Courts Uniform Rules Rule 17. Clerical Assistance for Pro Se Litigants Magistrate Court

clerks may not practice law, but may provide basic information regarding procedures, routine legal forms, available forms, and proceedings in the Magistrate Court. Each Chief Magistrate may institute methods for clerks to assist litigants and may utilize Appendix A "Guidelines and Instructions for Clerks Who Assist Pro Se Litigants in Georgia's Courts," in directing the conduct of clerical personnel. Clerks may also, in the absence of contrary judicial direction, rely on Appendix A for guidance in avoiding unlawful practice of law. Said Appendix shall not be considered a directory rule, nor as binding authority, but may be considered by Magistrates and the Supreme Court as persuasive authority on the scope of lawful provision of legal information by clerks; further such guidelines shall be admissible in showing good faith by clerks in providing information and assistance to the public.



FAMILY VIOLENCE

When Handling Family Violence Victims:

- 1. Listen carefully.**
- 2. Allow them to finish their question/statement.**
- 3. Understand they are likely feeling anxious and overwhelmed.**
- 4. Help them to be informed of procedure.**
- 5. Recognize that this is likely an unfamiliar, uncomfortable and intimidating environment.**
- 6. Provide simple and clear instructions.**
- 7. Use plain language (avoid legal jargon).**



O.C.G.A. § 17-4-40 - Persons who may issue warrants for arrest of offenders against penal laws; warrants requested by others; persons who may issue warrants for arrest of peace or law enforcement officers, DFCS case managers, or school teachers or administrators

- **(a)** Any judge of a superior, city, state, or magistrate court or any municipal officer clothed by law with the powers of a magistrate may issue a warrant for the arrest of any offender against the penal laws, based on probable cause either on the judge's or officer's own knowledge or on the information of others given to the judge or officer under oath. Any retired judge or judge emeritus of a state court may likewise issue arrest warrants if authorized in writing to do so by an active judge of the state court of the county wherein the warrants are to be issued.
- **(b)**
 - **(1)** If application is made for a warrant by a person other than a peace officer or law enforcement officer and the application alleges the commission of an offense against the penal laws, the judge or other officer shall schedule a warrant application hearing as provided in this subsection unless the person accused has been taken into custody by a peace officer or law enforcement officer or except as provided in paragraph (6) of this subsection; provided, however, that a warrant may be denied without the notice required in paragraph (2) of this subsection where the application form and any testimony from the affiant provided at the time of the application do not demonstrate probable cause for issuing a warrant.
 - **(2)** Except as otherwise provided in paragraph (6) of this subsection, a warrant application hearing shall be conducted only after attempting to notify the person whose arrest is sought by any means approved by the judge or other officer which is reasonably calculated to apprise such person of the date, time, and location of the hearing.
 - **(3)** If the person whose arrest is sought does not appear for the warrant application hearing, the judge or other officer shall proceed to hear the application and shall note on the warrant application that such person is not present.
 - **(4)** At the warrant application hearing, the rules of evidence at a commitment hearing shall apply as set forth in paragraph (1) of subsection (d) of Code Section 24-1-2. The person seeking the warrant shall have the customary rights of presentation of evidence and cross-examination of witnesses. The person whose arrest is sought may cross-examine the person or persons applying for the warrant and any other witnesses testifying in support of the application at the hearing. The person whose arrest is sought may present evidence that probable cause does not exist for his or her arrest. The judge or other officer shall have the right to limit the presentation of evidence and the cross-examination of witnesses to the issue of probable cause.
 - **(5)** At the warrant application hearing, a determination shall be made whether or not probable cause exists for the issuance of a warrant for the arrest of the person whose

arrest is sought. If the judge or other officer finds that probable cause exists, the warrant may issue instantaner.

- **(6)** Nothing in this subsection shall be construed as prohibiting a judge or other officer from immediately issuing a warrant for the arrest of a person upon application of a person other than a peace officer or law enforcement officer if the judge or other officer determines from the application or other information available to the judge or other officer that:
 - **(A)** An immediate or continuing threat exists to the safety or well-being of the affiant or a third party;
 - **(B)** The person whose arrest is sought will attempt to evade arrest or otherwise obstruct justice if notice is given;
 - **(C)** The person whose arrest is sought is incarcerated or otherwise in the custody of a local, state, or federal law enforcement agency;
 - **(D)** The person whose arrest is sought is a fugitive from justice;
 - **(E)** The offense for which application for a warrant is made is deposit account fraud under Code Section 16-9-20, and the person whose arrest is sought has previously been served with the ten-day notice as provided in paragraph (2) of subsection (a) of Code Section 16-9-20; or
 - **(F)** The offense for which application for the warrant is made consists of an act of family violence as defined in Code Section 19-13-1.

In the event that the judge or officer finds such circumstances justifying dispensing with the requirement of a warrant application hearing, the judge or officer shall note such circumstances on the face of the warrant application.

- **(7)** No warrant shall be quashed nor evidence suppressed because of any irregularity in proceedings conducted pursuant to this subsection not affecting the substantial rights of the accused under the Constitution of this state or of the United States.
- **(8)** Nothing contained in this subsection shall prohibit a judge from denying a warrant based upon the application and testimony heard at the time such application is made without requiring notice to the person whose arrest is sought.
- **(c)** Any warrant for the arrest of a peace officer, law enforcement officer, DFCS case manager, teacher, or school administrator for any offense alleged to have been committed while in the performance of his or her duties may be issued only by a judge of a superior court, a judge of a state court, or a judge of a probate court.

Amended by 2021 Ga. Laws 137,§ 1, eff. 5/3/2021.

Amended by 2011 Ga. Laws 52,§; 28, eff. 1/1/2013.

Amended by 2010 Ga. Laws 423,§; 1, eff. 7/1/2010.

O.C.G.A. § 17-6-90 — BONDS FOR GOOD BEHAVIOR

- **(a)** Any judicial officer authorized to hold a court of inquiry may, upon the application of others under oath or upon his or her own motion, issue a notice to appear for a show cause hearing to any person whose conduct in the county is sufficient to justify the belief that the safety of any one or more persons in the county or the peace or property of the same is in danger of being injured or disturbed thereby. Such show cause hearing shall be held within seven days of such application or motion. Upon sufficient cause being shown, the court may require from the person a bond with sureties for such person's good behavior with reasonable conditions to ensure the safety of persons or property in the county or the preservation of the peace of the county for a period of up to six months.
- **(b)** All bonds posted under this Code section shall be returnable in the court which required the bond and shall be amendable in the court's discretion.
- **(c)** If it is determined at a hearing that there was not sufficient cause for a hearing to have been held, the affiant who caused the bond to be imposed shall pay all court costs.
- **(d)** At the time of or at any time after the filing of an application as provided in subsection (a) of this Code section, the judicial officer may, in his or her sound discretion, issue an order of arrest for the person or persons named in the application if the sworn allegations regarding the conduct of such person or persons is sufficient to justify the belief that there is imminent danger of injury to any person in the county, damage to any property in the county, or disturbance of the peace of the county. Upon the arrest of such person, a hearing as provided in subsection (a) of this Code section shall be held within 24 hours; otherwise, such person shall be released on bond with sureties and reasonable conditions for his or her good behavior until a hearing can be held.
- **(e)** As used in this Code section, the term "county" means the county in which the judicial officer is authorized to hold a court of inquiry.

Amended by 2013 Ga. Laws 179, § 3, eff. 7/1/2013.

Amended by 2007 Ga. Laws 250, § 1, eff. 7/1/2007.

Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Clerks Ethics

Hon. Rick Waters

RICHARD L. WATERS, JR.

BIOGRAPHY

Judge Rick Waters is currently serving his 5th term as the Judge of the State Court of Mitchell County. On January 1, 2017, he was appointed the Presiding Judge of the Juvenile Court of the South Georgia Judicial Circuit. In this capacity, he also hears all of Circuit's child support cases. He has served as a Municipal Court Judges in various cities for over 20 years and currently serves as the Judge of the Municipal Court of Newton. During his judicial career, he has formed a mental and substance abuse treatment court program, a family violence program, Parental Accountability Court for parents who owe child support arrearage and a program that helps offenders obtain their G.E.D. He holds a degree from Mercer University in Political Science with a minor in English, a juris doctorate from the Walter F. George School of Law and a Masters Degree in Biblical Education from West Coast Bible College and Seminary. He is a member of the Camilla United Methodist Church where he serves as the worship leader for the church's contemporary service- "The Warehouse".

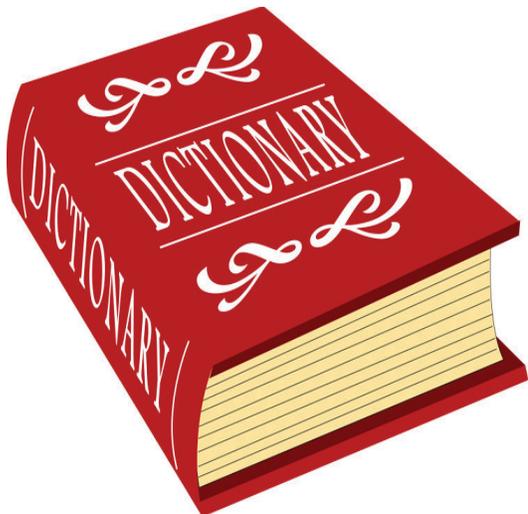
ETHICS FOR MAGISTRATE COURT CLERKS



JUDGE RICK WATERS

rwatersjr@hotmail.com

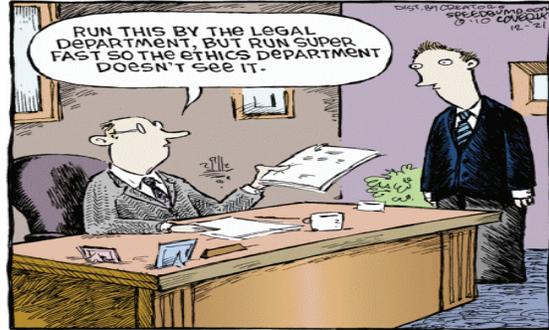
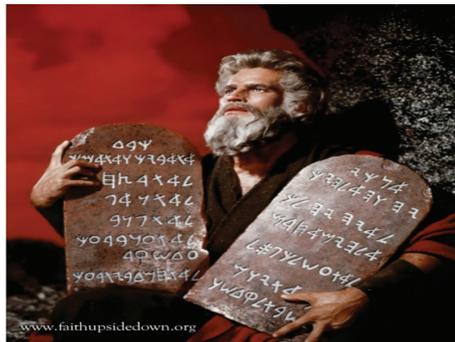
What does the dictionary say?



The American Heritage Dictionary defines ethics as:

The rules and standards governing the conduct of a person or members of a profession.

WHAT IS ETHICS????



"WHAT IS MORALITY IN ANY GIVEN TIME OR PLACE? IT IS WHAT THE MAJORITY THEN AND THERE HAPPEN TO LIKE AND IMMORALITY IS WHAT THEY DISLIKE."

What is ethics then????

- What, then, is ethics? Ethics is two things. First, ethics refers to well-founded standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, laws, religion, obligations, benefits to society, fairness, or specific virtues.

What is ethics then???? (part 2)

- Secondly, ethics refers to the study and development of one's ethical standards. As mentioned above, feelings, laws, and social norms can deviate from what is ethical. So it is necessary to constantly examine one's standards to ensure that they are reasonable and well-founded.

Is Ethics for Court staff really an issue??????



**He's innocent –
no evidence!**

A deputy clerk was arrested after “misplacing” evidence that allowed her boyfriend to go free on a drug charge.



**It's FINE—No
Problem here**

Clerk steals \$51,531.80 in traffic fines when she voided transactions in the court's accounting software to conceal her crime.



I just love to give!

A deputy clerk was arrested after using court funds to give food and gifts to court employees, including "Easter Goodies," Mother's Day gifts, Father's Day gifts and Valentine's Day gifts; paint supplies; flowers and decor; various meals for herself; office furniture; dog food, dog bones and a dog bed, among other items.



But daddy I love him!

Clerk arrested after being accused of revealing court records to her boyfriend that he then used as leverage against his ex-wife, in a child custody case.

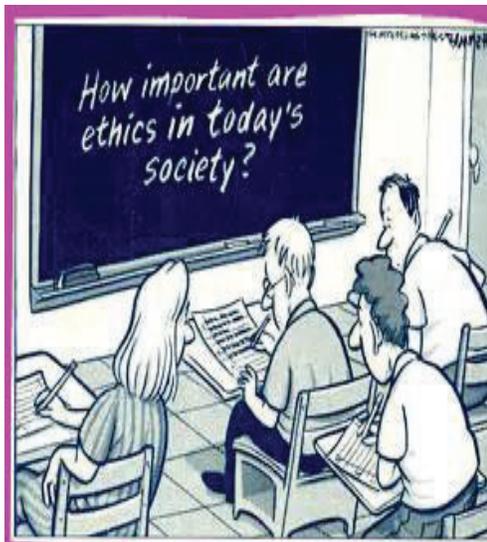


Sealed with a kiss

Clerk was arrested as a result of an investigation into an allegation that she sealed court cases involving her or her family members without a judge's authority.



Why Should I Care About Ethics?



- To protect myself from harm
- To be a good Court Clerk
- To achieve the best results for the most people
- To do the right thing
- To respect people's fundamental rights

MISSION OF COURT CLERKS

- *The Mission of municipal court clerks in Georgia is threefold: (1) to assure the administrative efficiency of the court, (2) to protect the court's ethical integrity, and (3) to help maintain public confidence in the court's fairness in dispensing justice impartially.*

GEORGIA CODE OF ETHICS FOR MUNICIPAL CLERKS

- Responsible and defensible ethical decision-making in any given situation requires informed judgment in applying relevant ethical principles in their situation-specific order of priority. **A litmus test for the soundness of ethical judgments would be the decision makers' comfort level if their ethical judgments were both publicized in the local media and also scrutinized by an expert board of their peers.**

What kind of ethical situation might I encounter as a court clerk?

- 1. In a previous job, you worked for a company whose case is now assigned to your judge.
- 2. A lawyer that you used for your divorce now serves as counsel in a matter before your judge.
- 3. You witnessed a crime and the alleged perpetrator's case is now before your judge.
- 4. Your spouse is part owner of a company that is a party before your judge.
- 5. Your cousin is the victim in a case pending before your judge.

What kind of ethical situation might I encounter as a court clerk?

- 6. A court clerk is leaving court for lunch and tells a person leaving the court room at the same time that "the judge sure seems agitated".
- 7. A court clerk tells an attorney that the judge she works for usually rules favourably when motions that are filed in court are very short.
- 8. A neighbor's name appears on a witness list in a case your judge is handling
- 9. An attorney you meet at a social function, and with whom you engage in a long discussion, appears the next day to argue a motion before your judge.

What kind of ethical situation might I encounter as a court clerk?

- 10. A court clerk tells a Defendant the procedure for filing an appeal from the Judge's order.
- 11. A court clerk sells a raffle tickets from her child's school to an attorney that comes into her office to file and "Entry of Appearance".
- 12. A court clerk accepts a coffee mug from an attorney for Christmas.

Ethical Principals for Georgia Court Clerks (from Clerk's Code of Conduct)

- **Lawfulness**
To uphold federal, state, and local laws.
- **Propriety**
To maintain high standard of personal conduct and avoid even the appearance of impropriety that can harm the reputation of and diminish public trust in the court.
- **Financial probity**
To account accurately and fully for all court receipts and financial transactions.

Ethical Principals for Georgia Court Clerks (from Clerk's Code of Conduct) (Part 2)

- **Integrity**
To act honestly, truthfully, and above reproach.
- **Impartiality**
To treat all stakeholders in the court equitably, fairly, and neutrally.
- **Confidentiality**
To protect confidential information, never use it for personal advantage or disclose it, except for lawful reasons.

Ethical Principals for Georgia Court Clerks (from Clerk's Code of Conduct) (Part 3)

- **Service**
To provide courteous and timely service to all stakeholders in the court, respectful of their human dignity and personal worth.
- **Competence**
To know all aspects of the job and continually perfect job skills.
- **Motivation**
To perform job responsibilities and apply job knowledge and skills with dedication and a positive attitude.

Ethical Principals for Georgia Court Clerks (from Clerk's Code of Conduct) (Part 4)

- **Information**
To provide accurate, understandable, timely, and, within legal constraints, complete information to all stakeholders but without giving legal advice.
- **Non-discrimination**
To avoid discriminatory, biased, or prejudicial acts or words based on race, color, gender, age, etc.
- **Non-harassment**
To refrain from harassing another either sexually or non-sexually.

The 4 C's of Clerk Ethics

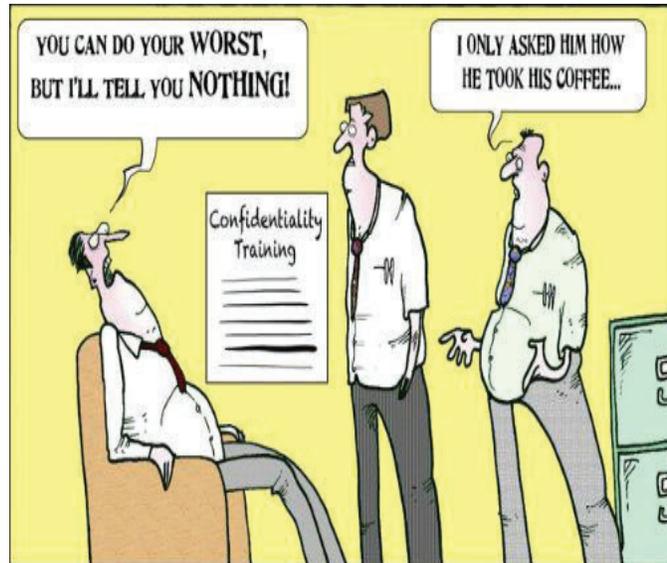


- Confidentiality
- Conflict of Interest
- Caution
- Counseling

Confidentiality

What can you discuss with:

- (1) the public,
- (2) attorneys
- (3) your friends
- (4) your family???



CANNON (B6)

- **Confidentiality**

To protect confidential information, never use it for personal advantage or disclose it, except for lawful reasons.

Info that's Confidential

- Hints of how a Judge might decide the case or timing of the decision
- Observations about the Judge's decision making process
- Content of case related discussions with the Judge
- Information not available to the general public

Info that's Not Confidential

- Court Rule and Court Procedures
- Court Records including sentences unless sealed (O.C.G.A. 35-3-37)
- Info about how, in general, the court operates
- Info disclosed in open court

Conflicts of Interest

Would a reasonable person question if you were performing your duties Impartially?



"So, I'm the only one who sees a conflict of interest here?"

CANNON (B2) Part 1

- To maintain high standard of personal conduct and avoid even the appearance of impropriety that can harm the reputation of and diminish public trust in the court
- Don't be unduly influenced
- Don't compromise your independence
- Don't allow your judgment to be impaired
- Don't let outside forces interfere

Potential Conflicts

- A friend has a financial interest in a case
- You solicit funds for a charitable organization or for your child's school
- You have a personal bias towards (or are related to) a party
- You have a social relationship with a party or attorney

How do you handle conflicts??

- Disclose the conflict to the Judge as soon as possible.
- Think about how an outsider would look at the situation and your relation to it
- If it doesn't feel right –DON'T DO IT!

Can I solicit funds or sell tickets?

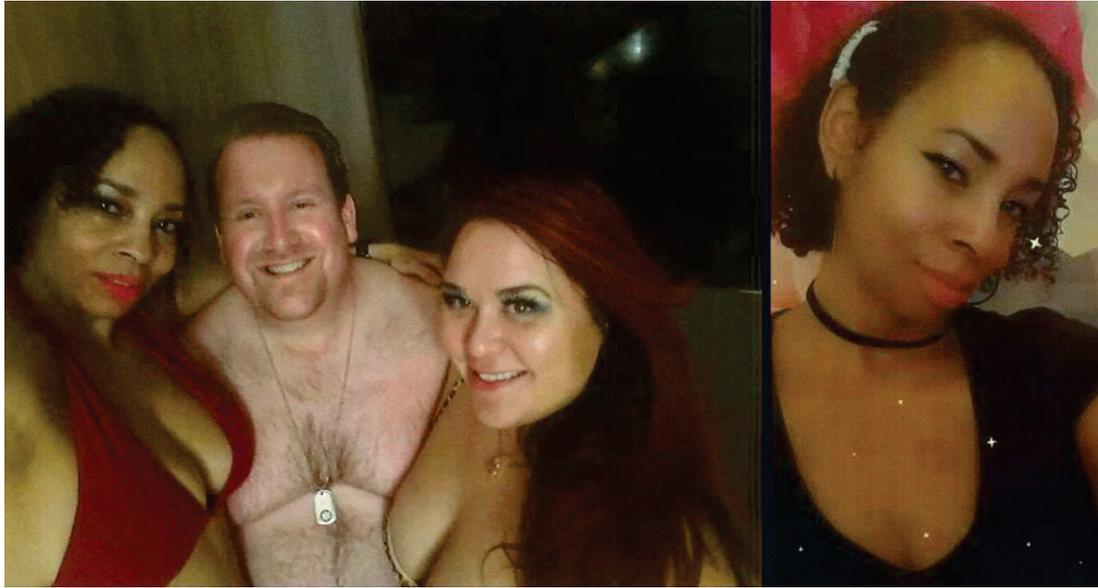


Favorite Girl Scout cookie?

But it's for charity!!!!

- Do not use you the prestige of your office to solicit the funds.
- Do not solicit funds from subordinates or other court personnel.
- Do not solicit funds from attorneys who appear in court.
- Do not raise funds for organizations who take controversial stands on matters that arise, or might arise in court.

Dangerous waters!



Caution (gifts and social media)



Definition

- “Gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other similar item having monetary value but does not include:
- (a) social hospitality based on personal relationships;

Definition

- • (b) modest items, such as food and refreshments, offered as a matter of social hospitality;
- • (c) greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;

CANNON (B2) Part 2

- refrain from soliciting or receiving gratuities or favors or promises of the same by using one's position at the court

Best Practice



- A judicial employee should not accept a gift from anyone who is seeking official action from or doing business with the court or other entity served by the judicial officer or employee, or from any other person whose interests may be substantially affected by the performance or nonperformance of the judicial official duties

Exceptions to the rule on receiving gifts:

- ordinary social hospitality (someone brings cookies by for the whole office)
- gifts from relatives and friends on special occasions
- de minimis gifts – attorney gives you a pen with his firm name on it
- gifts that are given as a result of your spouse's separate business and professional activities

IMPROPER GIFTS – WHAT TO DO?

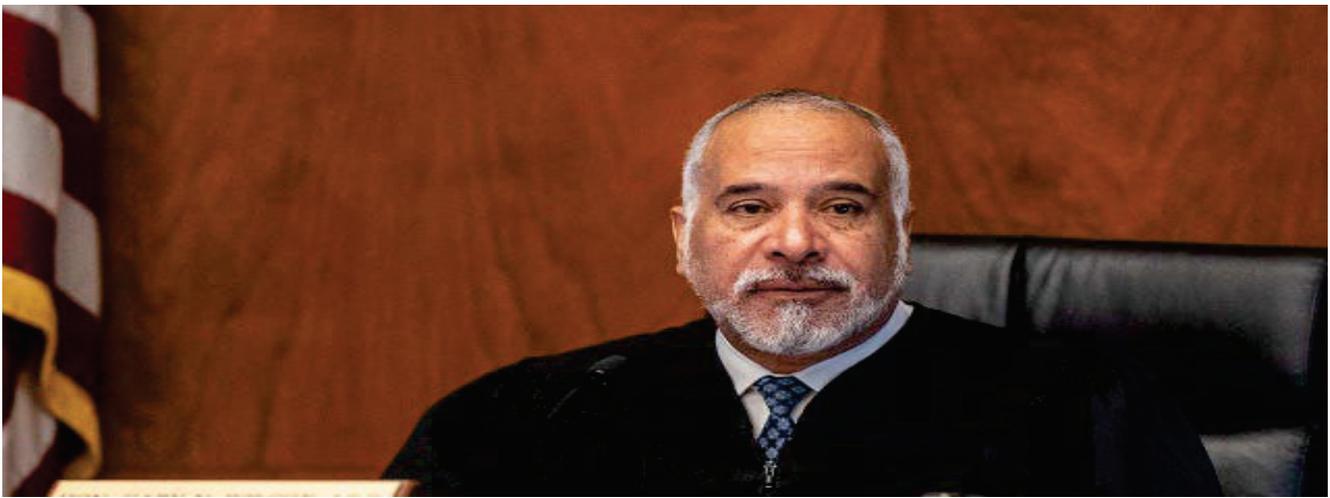
- Eat it !
- Return it!
- Pay for It!
- Donate It!

Social Media Ethics



Don't Bother Me I'm on Twitter





Howard Bashman

@howappealing

...

“Judge Investigated Over His Profane TikTok Videos; The New Jersey judge, Gary Wilcox, posted the videos using an alias; In some, he wore judicial robes; At least one was recorded from bed”: Tracey Tully

Possible Social Media Ethical Problems



Court Clerk to Attorney



Possible Social Media Ethical Problems



How do I enjoy social media ethically?

- 1. Don't list work on social media sites
- 2. Make your site private
- 3. Think before you post.
- 4. Speak for yourself, not your institution.
- 5. Keep secrets secret.
- 6 Remember the SCREEN SHOT

Counseling (a.k.a giving legal advice)



CANNON (B10)

- **Information**

To provide accurate, understandable, timely, and, within legal constraints, complete information to all stakeholders but without giving legal advice.

How do I know if what I'm doing is giving legal advice????

- The Supreme Court of Florida in the case of State v. Sperry had a very good explanation of what giving legal advice means. The Court said:
- “If the giving of such advice affects important rights of a person under the law, and if the reasonable protection of the rights requires the person giving the advice to possess *legal skill and knowledge of the law greater than that possessed by the average citizen*, then the giving of such advice constitutes the practice of law.”

OCGA § 15-19-51

- (a) It shall be unlawful for any person other than a duly licensed attorney at law:
 - (4) To render or furnish legal services or advice;
- ****Punished as a misdemeanor**** (O.C.G.A. 15-19-56)

Test regarding giving legal advice



Ethical Decision Making in 4 Steps

- **Step 1: Is it an ethical issue?**

Being ethical does not always mean following the law. And just because something is possible doesn't mean it is ethical. This is perhaps the trickiest stage in ethical decision making, as sometimes the subtleties of the issue are above and beyond our knowledge and experience. Listen to your instincts - if it feels uncomfortable making the decision on your own, get others involved and use their collective knowledge and experience to make a more considered decision.

Ethical Decision Making in 4 Steps

- **Step 2: Get the facts.**

What do you know, and just as importantly, what don't you know? Who are the people affected by your decision? Have they been consulted? What are your options? Have you reviewed your options with someone you respect?

Ethical Decision Making in 4 Steps

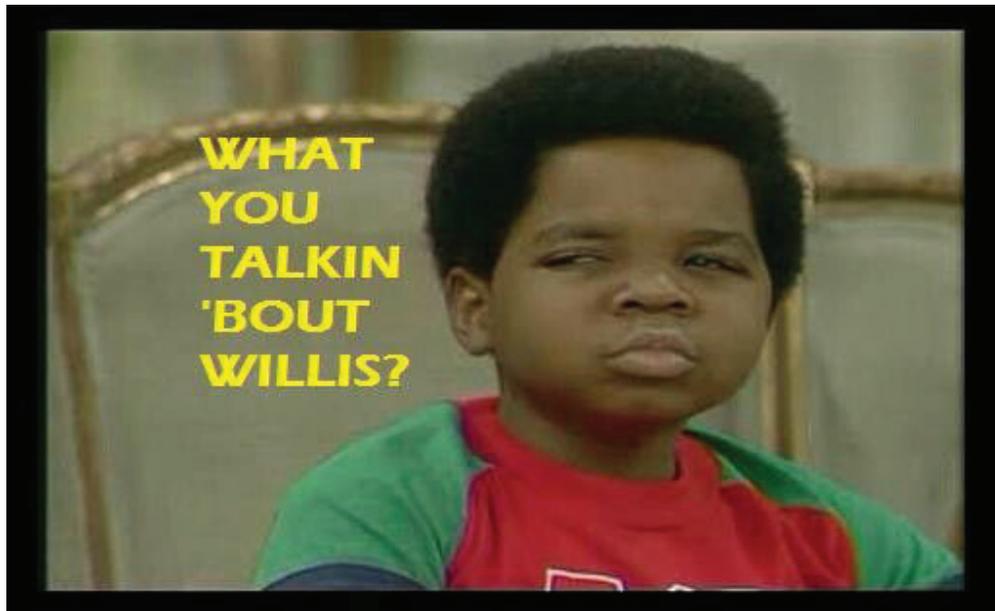
- **Step 3: Evaluate alternative actions**
- Utilitarian Approach - which action results in the most good and least harm?
- Rights Based Approach - which action respects the rights of everyone involved?
- Fairness or Justice Approach- which action treats people fairly?
- Common Good Approach - which action contributes most to the quality of life of the people affected?
- Virtue Approach - which action embodies the character strengths you value?

Ethical Decision Making in 4 Steps

- **Step 4: Test your decision**

Could you comfortably explain your decision to your mother? To another clerk that you respect? To the press? If not, you may have to re-think your decision before you take action.

Best Practical Test



Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Squatters Law/Evictions/A-Z Steps

Hon. Brendan Murphy

Hon. Brendan Murphy – Bio:

Judge Brendan F. Murphy serves as the Chief Magistrate of Cobb County. Before taking the bench in 2019, he served the people of Cobb County as a prosecutor for nearly a decade after beginning his legal career in private, civil practice.

Judge Murphy currently serves as Vice-Chair of the Board of Commissioners of the Magistrates Retirement Fund and Chair of the Council of Magistrate Court Judges Legislative Committee.

In 2021, he was recognized as the “Workhorse of the Year” by the Council. A proud “Double Dawg,” Judge Murphy is a two-time graduate of the University of Georgia and resides in East Cobb with his wife Sarah and two children.

Squatter Law Update

Judge Brendan F. Murphy,
Chief Magistrate of Cobb County

2025 Magistrate Court Clerks' Training– SSI, Georgia

Notice and Credit

- This presentation contains the creative works of others which are being used under a claim of fair use under 17 U.S.C. 107.
- Thank you to Senior Magistrate Michael Barker for the Editor's Notes.





Objectives

- Existing criminal law
- HB 1017 – Ga. Squatter Reform Act
- Criminal & Civil
- HB 1203 – Dispossession set-out caution
- Preview of pending legislation
- Questions

Three Paths for Squatters

- Criminal: Existing state law charges
 - Arrest warrant option
- Criminal: New Unlawful Squatting misdemeanor charge
 - Citation only
 - Some overlap with civil process
- Civil: Ejectment Proceeding Against Intruders – New to Magistrate Court

Criminal: Existing State Law

Criminal: Existing State Law Charges

- O.C.G.A. § 16-7-21 Criminal Trespass
 - (b)(1) Enters...the...premises of another person...for an unlawful purpose
 - (b)(2) Enters...the...premises of another person...after receiving, prior to such entry, notice...that such entry is forbidden
 - (b)(3) Remains upon the...premises of another person...after receiving notice...to depart
- O.C.G.A. § 16-7-1(b) Burglary – First Degree
 - ...without authority and with the intent to commit a felony or theft therein...enters or remains within...dwelling house of another...

Criminal: New State Law

HB 1017: Georgia Squatter Reform Act— Unlawful Squatting (M)

- Effective Date – April 24, 2024
- Georgia Squatter Reform Act effective upon signing by the Governor
- Adds new O.C.G.A. § 16-7-21.1
- “A person commits the offense of unlawful squatting when he or she enters upon the land or premises of another and resides on such land or premises for any period of time knowingly acting without the knowledge or consent of the owner, rightful occupant, or an authorized representative of the owner. For purposes of this Code section, the term ‘resides’ means to inhabit or live on or within any land or premises.”

HB 1017: Georgia Squatter Reform Act— Initiation of Criminal Process

- Law Enforcement issues a citation
- Stating that the accused must present to the head of the issuing law enforcement agency or their designee within 3 business days of receiving the citation for such alleged offense
- Properly executed documentation that authorizes the person's entry on such land or premises.
 - Such documentation may include a properly executed lease or rental agreement or proof of rental payments.

HB 1017: Georgia Squatter Reform Act— Documents not Provided in Criminal Process

- If the accused is unable to provide the documentation, such person shall be subject to arrest for unlawful squatting.
- **EDITOR'S NOTE:** O.C.G.A. § 16-7-21.1 (a)(3) provides for arrest and prosecution in this situation, but not the issuance of a writ of possession. In that case, the landowner still needs to file an affidavit with the sheriff, sheriff deputy, constable, marshal, or other POST-certified individual of the county where the land or tenement is located and follow OCGA § 44-11-30 *et seq.* to get possession of the property.

HB 1017: Georgia Squatter Reform Act— Documents Provided – 1st Criminal Hearing

- A hearing must be set within 7 days of the submission of such documentation.
- **EDITOR'S NOTES:** (1) The statute does not provide how Law Enforcement is to notify the Court of the need for a hearing, nor is it clear whether the 7 days runs from when the documents are submitted to Law Enforcement or to the Court.
- (2) Unlike the civil process outlined below, this hearing is not required to be held in the Magistrate Court. If a particular Magistrate Court does not already routinely exercise its jurisdiction to try the misdemeanors enumerated in O.C.G.A. § 15-10-260, it should consider creating a local workflow where the citation-issuing law enforcement agency notifies State or Superior Court—wherever the criminal case would be ultimately tried— to hold the 7 day hearing.

HB 1017: Georgia Squatter Reform Act— Documents Provided – 1st Criminal Hearing (cont.)

- (3) Since an inquiry is going to be made and testimony taken, this should be considered a “critical stage” of the prosecution, invoking the accused’s right to counsel and right to remain silent. However, this process is quasi-civil, so an invocation of a trial by jury at this stage should not prohibit the hearing from proceeding.
- (4) The prosecuting attorney should be notified of all hearings.

HB 1017: Georgia Squatter Reform Act— Documents Provided – 1st Criminal Hearing (cont.)

- (5) The burden of proof is not specified in the statute, but a probable cause standard is likely given the nature of the inquiry and similarity to a preliminary hearing. The initial burden is on the state/victim to show the citation is supported by probable cause. Once that burden is met, Defendant's documentation would be evaluated in the same way to show the citation is not supported by probable cause.

HB 1017: Georgia Squatter Reform Act— Documents Provided – 1st Criminal Hearing (cont.)

- If the documents are in order, there is no probable cause to support the citation, and it should be dismissed.
- If the documents are insufficient, such person shall be subject to demand for possession and removal as provided in O.C.G.A. § 44-11-32. The writ should issue instanter. O.C.G.A. § 44-11-33.
- This hearing does NOT result in a criminal conviction, and the criminal case now moves forward to trial.
- **EDITOR'S NOTE:** It is unclear if there is any method of review for this decision.

HB 1017: Georgia Squatter Reform Act— Unlawful Squatting (M) Non-jury Trial

- Magistrate Court has jurisdiction to conduct non-jury trials for violations of O.C.G.A. § 16-7-21.1.
- **EDITOR'S NOTE:** Under Magistrate Court's normal misdemeanor jurisdiction, a written waiver of a trial by jury must be obtained before proceeding. O.C.G.A. § 15-10-261; compare O.C.G.A. § 15-10-61 (in ordinance cases, it is up to defendant to make a written demand for a jury trial). Best practices suggest obtaining a written waiver before proceeding. If waiver is not obtained, bind the case to your local State Court (or Superior Court if your county does not have a State Court).

HB 1017: Georgia Squatter Reform Act— Unlawful Squatting (M) Sentencing

- If convicted, the Defendant may be punished as follows:
 - (1) By a fine \leq \$1,000.00 or by confinement in the county or other jail, county correctional institution, or such other places as counties may provide for maintenance of county inmates, for a total term not to exceed 12 months, or both;
 - (2) By confinement under the jurisdiction of the Board of Corrections in a state probation detention center pursuant to O.C.G.A. § 42-8-35.4 for a determinate term of months \leq 12 months;

HB 1017: Georgia Squatter Reform Act— Unlawful Squatting (M) Sentencing (cont.)

- (3) An additional mandatory fine based on the fair market monthly rental value of the land or premises;
- (4) Restitution as provided in O.C.G.A. § 17-4-1 *et seq.* Unless the parties have not agreed on the amount of restitution, the court shall set a hearing and make a determination as to the amount.

HB 1017: Georgia Squatter Reform Act— Unlawful Squatting (M) Sentencing/Restitution

- “Damages” means all special damages which a victim could recover against an offender in a civil action, including a wrongful death action, based on the same act or acts for which the offender is sentenced, except punitive damages and damages for pain and suffering, mental anguish, or loss of consortium. Such special damages shall not be limited by any law which may cap economic damages. Special damages may include the reasonably determined costs of transportation to and from court proceedings related to the prosecution of the crime.” O.C.G.A. § 17-14-2 (2).
- The initial burden of proof is on the state/victim (preponderance of the evidence). The offender bears the burden of proving his/her financial resources (preponderance of the evidence). O.C.G.A. § 17-4-7 (b). When determining the nature and amount of restitution, the Court should consider the factors found in O.C.G.A. § 17-14-10. Written findings of fact are not required. *McCart v. State*, 289 Ga. App. 830, 658 S.E.2d 465 (2008). O.C.G.A. § § 17-10-3 (a); 16-7-21.1 (b).
- **Fair market monthly rental value of the land or premises?**

Civil: New to the Magistrate Court

HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders

- Amends O.C.G.A. § 44-11-30 *et seq.*
- Plaintiff (personally or through an agent or attorney in fact) presents an affidavit to the sheriff, sheriff deputy, constable, marshal, or other POST-certified individual alleging a right of possession over the disputed property.

HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders (cont.)

- The sheriff exhibits said affidavit to the individual accused of unlawfully occupying the property at least 3 days prior to putting said person out of the property, unless said person swears a counteraffidavit.
- If so, the sheriff then returns both affidavits to the **Magistrate Court** clerk's office and status quo at property is maintained pending a hearing.
- If not, the sheriff shall turn out such person once 3 days have elapsed, no Writ required.

HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders (cont.)

- The clerk should notify the plaintiff that court costs are due prior to a hearing being scheduled. Once court costs are received, the case should be scheduled expeditiously, no later than 30 days. *Hill v. Sec. Loan & Abstract Co.*, 35 Ga. App. 93, 132 S.E. 107, 108 (1926); Uniform Magistrate Court Rule 10.
- **EDITOR'S NOTE:** Court costs should be the cost of a normal civil filing, less any service fee.

HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders Hearing

- If the party in possession submits any counteraffidavit or other documentation at trial, upon the Magistrate's determination that the affidavit is not meritorious based on the preponderance of the evidence, the sheriff, sheriff deputy, constable, marshal, or other POST-certified individual shall turn him or her out of possession...as soon as practicable pursuant to a writ of possession.

HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders Hearing (cont.)

- If there is a verdict for the plaintiff, the clerk of the court shall issue a writ of possession instanter and a fi. fa. for the costs of the proceeding and any other monetary relief awarded by the court. O.C.G.A. § 44-11-33.
- The court may award the plaintiff the fair market value rent for the duration of the party's occupancy, and other monetary relief found appropriate by the court. O.C.G.A. § 44-11-32 (a)(2-3).



HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders Appeals

- The decision is directly appealable to the Georgia Appellate Courts.
- The aggrieved party has 30 days to appeal, initiated in Magistrate Court by filing a notice of appeal. O.C.G.A. § 5-6-38 (a).
- Magistrate clerk must prepare and transmit the record within 20 days of the date of filing a notice of appeal. O.C.G.A. § 5-6-43 (a).

HB 1017: Georgia Squatter Reform Act— Civil Proceeding Against Intruders Appeals (cont.)

- Notice of appeal acts as supersedeas, but Magistrate Court still retains jurisdiction to entertain a motion for supersedeas bond. “[U]pon motion by the appellee, made in the trial court before or after the appeal is docketed in the appellate court, the trial court shall require that supersedeas bond or other form of security be given with such surety and in such amount as the court may require, conditioned for the satisfaction of the judgment in full, together with costs, interest, and damages for delay if the appeal is found to be frivolous.” O.C.G.A. § 5-6-46 (a).

HB 1203: Dispossession Set-outs

- Amends O.C.G.A. § 44-7-55(e)
- Allows off-duty LEOs to execute Writs of Possession in certain circumstances
- Dispossession writs ONLY
- Does NOT apply to Squatter writs

Watch for changes in 2026!



Pending Legislation

- HB 61 (Note: title is different; bill was substituted in Senate)
- SB 184 “Georgia Anti-Squatting Act of 2025”
- HB 183
 - A new non-judicial ejection procedure for extended stay motels

Questions

- What is the filing fee for civil squatter case?
 - Don't forget the tack-ons!
- For civil cases, how are you scheduling? What are we looking for from plaintiff? If we find for plaintiff, how much time does the defendant have to vacate?

More Questions

- Regarding scammed tenants, who are also victims. If we find that they signed a lease with a fake landlord and have paid a deposit and rent to this person, but now they are facing a civil action, can a monetary judgment for "fair market rent" be issued against them? This would essentially have them paying rent twice.

Even More Questions

- For criminal charges, how are you scheduling? With ordinances? On their own? Does it work like a misdemeanor trial (burden of proof, rules of evidence, etc.)?
 - Remember: two different phases for criminal squatter cases.
- How will these types of evictions affect people's credit since these are criminal? Will it show up the same for when landlords are doing credit checks on potential tenants? Are there protections in place preventing scammed tenants who have Writs issued against them from being on public record as having an eviction against them?

Your Questions!?



Thank you (and Good Luck)!



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

New Legislative Update/New Notary Law

Hon. Brendan Murphy

Hon. Brendan Murphy – Bio:

Judge Brendan F. Murphy serves as the Chief Magistrate of Cobb County. Before taking the bench in 2019, he served the people of Cobb County as a prosecutor for nearly a decade after beginning his legal career in private, civil practice.

Judge Murphy currently serves as Vice-Chair of the Board of Commissioners of the Magistrates Retirement Fund and Chair of the Council of Magistrate Court Judges Legislative Committee.

In 2021, he was recognized as the “Workhorse of the Year” by the Council. A proud “Double Dawg,” Judge Murphy is a two-time graduate of the University of Georgia and resides in East Cobb with his wife Sarah and two children.

Page left intentionally blank.



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

Questions & Answers

Hon. Carla Brown



INSTITUTE OF
CONTINUING JUDICIAL
EDUCATION
OF GEORGIA

ICJE Featured Policies
on
Faculty Diversity and
Inclusion
&
New No-Show Policy
(effective January 1st, 2026)



FEATURED ICJE POLICIES

INSTITUTE OF CONTINUING JUDICIAL EDUCATION OF GEORGIA (ICJE) POLICY ON FACULTY DIVERSITY AND INCLUSION



It is the policy of the ICJE of Georgia to encourage Diversity and Inclusion in the faculty recruited for ICJE-facilitated programming, as a diverse and an inclusive faculty pool with expertise on substantive legal and judicial issues will enhance the success of ICJE-facilitated programming.

This policy shall be communicated by ICJE staff to the leadership of all of the constituencies represented on the ICJE Board of Trustees; and, to the leadership of the educational apparatus of each ICJE constituent group at the beginning of the planning process for each period of programming. The ICJE Board of Trustees requests that ICJE constituent groups and educational apparatuses make every effort to implement this policy.

Looking Ahead – What’s New in 2026



No-Show Policy, Effective Jan. 1, 2026 ***Approved by ICJE Board of Trustees Friday, April 4, 2025***

To ensure fairness, mitigate financial impact on program costs (including catering, materials, and instructor time), and promote accountability for attendance at ICJE professional development synchronous trainings for Georgia's judiciary and court personnel, the following no-show policy will be effective January 1, 2026. By registering for ICJE programming, you agree to these terms:

- **Notification Requirement:**
 - You must notify the assigned ICJE staff via email **at least three (3) business days** before the start of any in-person or online training if you are unable to attend.

