

MAGISTRATE COURT OF FULTON COUNTY

Civil Division General Information Booklet (with sample forms)



***Fulton County Justice Center Tower
185 Central Avenue, S.W.
Room TG-700
Atlanta, GA 30303
404-730-5045***

***North Fulton Service Center
7741 Roswell Road
Room 231
Atlanta, Georgia 30350
770-551-7640***

***South Fulton Service Center
5600 Stonewall-Tell Road
Room 213
College Park, Georgia 30349
770-306-3014***

website (forms): www.fultonstatecourt.com

WHAT IS MAGISTRATE COURT?

The Magistrate Court is a court that handles monetary claims \$15,000.00 (fifteen thousand dollars) and under. A Magistrate holds an informal trial to listen to and decide each case. Any person may file a claim in Magistrate Court in his/her own name, without an attorney. Either a person or a business may be sued. If you sue an individual and a business in the same suit you must pay court cost for two defendants in order to obtain a judgment against both.

Examples of a typical Magistrate Court lawsuit include the following:

(A) Mr. X bought a T.V. from a local store. The next week the set would not work. The store refused to give him a new set or his money back.

(B) Ms. B paid a security deposit when she moved into her apartment, her landlord will not return the security deposit.

(C) Mr. Z was fired from his job. He claims the company owes him one week's pay. The company will not pay him.

In each example, the person can file suit in Magistrate Court and ask for money damages, if the amount claimed does not exceed \$15,000.00.

HOW TO BRING A CASE IN MAGISTRATE COURT

I. DECIDING TO SUE

The first step is deciding whether to sue. **REMEMBER, YOU MUST PROVE THAT THE PERSON YOU ARE SUING OWES YOU SOMETHING.** IF YOU CANNOT PROVE YOUR CASE, YOU MAY LOSE EVEN IF YOU THINK YOU SHOULD WIN. Do you have some proof of the debt such as a written contract, a receipt, promise, bill of sale, warranty and/or witnesses? In deciding to sue, consider whether you have any evidence, for example, an expert witness that something was repaired incorrectly or something is defective.

The second step is deciding whether it's worth it to file a suit. Try to determine if the defendant has resources available to pay a judgment. Does he/she have a job earning sufficient wages to be subject to garnishment? Does he/she own property that's clear

of liens? Does he/she have a savings or checking account? Consider these questions before filing. A judgment is collectible only if the defendant has assets available to pay a judgment.

The person you sue must be a person living in, or a company doing business in or incorporated in Fulton County in order for you to sue in Fulton County.

II. MEDIATION

The Justice Center of Atlanta, Inc. offers a free mediation service to individuals desiring to attempt settlement before filing suit. Often times many disputes can be resolved at the Center without resorting to filing a suit. The center's address is 976 Edgewood Avenue, Atlanta, Georgia 30307. To schedule a mediation conference call at 404-523-8236.

III. WHERE TO FILE

There are three locations for filing:

JUSTICE CENTER TOWER

185 CENTRAL AVE., S.W., ROOM TG700, ATLANTA, GA 30303
404-730-5045

NORTH FULTON SERVICE CENTER

7741 ROSWELL ROAD, ROOM 231, ATLANTA, GA 30350
770-551-7640

SOUTH FULTON SERVICE CENTER

5600 STONEWALL-TELL RD., ROOM 213, COLLEGE PARK, GA 30349
770-306-3014

IV. HOW TO FILE

The Magistrate Clerk will give you a claim form to fill out. On this form, you will put the name and address of the person or business you are suing, tell the exact amount of money you are suing for and explain why you are suing.

In order for the Court to pass judgment in your case, you have to sue the right person. The person you sue is called the

"defendant". If the defendant owns a business which is not incorporated, you need to sue the person and the trade name he does business under. You must pay additional court cost to sue both the individual and business operating under a trade name. You can find out the exact trade name as it is registered with the Fulton County Superior Court Clerk, by going to 136 Pryor St., Atlanta, Georgia.

If the defendant is a corporation, you must sue the corporation itself, rather than someone who works for the corporation. Call the Corporations' listing office of the Secretary of State, 404-656-2817, to obtain the name of the registered agent for service and the agent's address. The Marshal will deliver the summons by serving the registered agent for the corporation.

In addition, you must include your name, complete mailing address and a daytime telephone number. The clerk will use this information to notify you of trial. Please notify the clerk's office, in writing, of any change in your address or telephone number immediately. This will assist us in mailing any notices to the correct address.

V. STATUTE OF LIMITATIONS

The law limits the time during which an individual may sue another. The limits for the most commonly filed suits are:

open accounts.....4 years
contracts.....6 years
personal injury.....2 years
property damage.....4 years

VI. FILING FEE

If you are suing someone you must pay a \$54.00 filing fee. This fee includes filing and service on the defendant. If you are suing more than one defendant in Fulton County, the cost for each additional service is \$25.00.

**** CASH, CASHIER'S CHECK, MONEY ORDER, BUSINESS CHECKS**

**** MASTERCARD OR VISA (TO PAY BY CREDIT CARD YOU MUST FILE IN PERSON AT THE CENTRAL LOCATION ONLY)**

**** NO PERSONAL CHECKS**

**** PLEASE DO NOT SEND CASH IN THE MAIL**

VII. NOTIFYING THE DEFENDANT

The Marshal will serve the defendant(s) with a copy of the Statement of Claim and Summons. The papers will inform the defendant of the nature of your claim. The defendant has 30 days from the date of service to answer your claim. The defendant- has a fifteen (15) day default period in which he/she can pay the court cost and file a late answer. If the defendant answers your suit, the clerk will notify both parties by first class mail of the trial date, time and location.

VIII. CLAIMS BY THE DEFENDANT AGAINST YOU

The defendant is allowed to make a claim against you related to your claim against him/her. If the defendant makes such a claim he/she must fill out a claim form. This type of claim is called a counterclaim. The counterclaim will also be heard on the trial date.

IX. PREPARING FOR TRIAL

While you are waiting for trial, you should gather all your evidence. Collect all contracts, receipts, repair bills, bills of sale, or other papers you might need, and **BRING THESE THINGS TO COURT WITH YOU FOR YOUR TRIAL.**

It is best to bring eyewitnesses, like someone who saw the defendant hit your car. If a witness important to your case will not come to Court, you can obtain a subpoena, issued by the clerk at no charge. You may serve the subpoena yourself (personally or by mail) or pay an additional cost for the Marshal to serve it for you. This will require the witness to appear.

If you have damages that have not been repaired, it is good to bring with you at least two written estimates or repair cost, and if possible, the person who made the estimates. To prove defective workmanship you may need an expert witness to prove incorrect repairs.

X. SETTLEMENT

Sometimes the person you are suing will offer to settle out of court. If so, remember that the defendant should have to pay your filing fees. If you agree to settlement, be sure to get it in writing, signed by both parties, and mail the original settlement

agreement to the clerk. The settlement agreement will become the judgment of the Court and the Court can help you enforce it.

BEFORE THE TRIAL, YOU AND THE DEFENDANT ARE URGED TO MAKE AN EFFORT TO SETTLE YOUR DISPUTE THROUGH THE JUSTICE CENTER OF ATLANTA, INC., LOCATED AT 976 EDGEWOOD AVE., N.E., ATLANTA, GA 30307, TELEPHONE NUMBER 404-523-8236. IF A SETTLEMENT IS NOT REACHED THE TRIAL WILL PROCEED AS SCHEDULED.

XI. THE TRIAL

The Magistrate Court hears civil cases at the Central courthouse, North Service Center and the South Service Center. A particular case is assigned to a particular location based on considerations of Judges' schedules and hearing cases as quickly as possible.

It is important for you to appear on time with all of your evidence and witnesses. **IF YOU ARE LATE OR FAIL TO APPEAR, YOU MAY AUTOMATICALLY LOSE YOUR CASE.**

You should prepare what you want to say before the trial so that what you say is clear, short and convincing.

Listen closely to the defendant's version of the case. It is up to you to make sure all the facts are presented fairly and accurately. If the defendant changes his story or facts, let the judge know. After all the facts have been heard, the judge will make a decision.

Once a court date has been set, continuances are granted by consent of both parties or for legal cause only.

XII. DEFAULT

If the defendant does not answer your complaint or does not come to court, you may get a judgment without having to go to trial. This is called a default judgment and should be for the full amount of your claim plus court cost. If you are suing for damages (for example, your claim is for automobile damages) you will not automatically obtain a default judgment and must appear before the judge to prove your damages before a judgment can be entered in your favor.

XIII. APPEALS

Both parties have the right to appeal the judge's decision. You have 30 (thirty) days from the date of judgment to appeal. There is no appeal from a default judgment. The party filing the appeal will have to pay costs and copy expenses. The appeals clerk will bill the appellant for the costs. Appeals may be filed in Room TG-300, 185 Central Ave., S.W., Atlanta, Georgia.

XIV. COLLECTING YOUR JUDGMENT

After a judge has ruled in your favor and entered a money judgment for you against the person you sued, you have four (4) ways to collect the money.

1. VOLUNTARY PAYMENT

First, contact the person you have the judgment against and see if he/she will voluntarily pay you. If he/she pays you in full you should send a letter to the Clerk's Office to let them know that the judgment is "Paid in Full". If he/she will not pay, you will need to file a garnishment against their wages and/or bank account. You may also obtain a FiFa which would enable you to place a lien upon or seize real or personal property.

2. GARNISHMENT ON WAGES

If the person works in Fulton County, you do not need a FiFa to file a garnishment. You will need to take a copy of your judgment to the State Court of Fulton County, 185 Central Avenue, S.W., Room TG-100, Atlanta, GA 30303 and obtain the forms and instructions for a Continuing Garnishment. A garnishment action will require the employer to withhold a percentage of the employee's pay check and pay that amount into court until the judgment is paid in full. Refer to the garnishment instructions on how you would receive the money from the court.

3. GARNISHMENT ON BANK ACCOUNTS

If you know where the person banks, you can file a garnishment action against the bank. A garnishment action will require the bank to hold any monies in any account(s) in that person's name, and pay that amount into court. You will need to take a copy of your judgment to the State Court of Fulton County, 185 Central Avenue, S.W., Room TG-100, Atlanta, GA 30303 and obtain the forms and instructions for a Regular Garnishment. Refer to the

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garnishment instructions on how you would receive the money from the court.

4. FiFa

A FiFa is a legal document that directs action be taken against the person's real estate or personal property (automobiles, boats, land, etc). If you use the FiFa to place a lien on real estate, the person will usually have to pay you off before they can sell it. You can also use the FiFa to direct the Marshal (160 Pryor Street, S.W., Room J-102, Atlanta, GA) to seize personal property that you can identify specifically. Once the judgment is paid in full, you should mark the FiFa "PAID AND SATISFIED", date and sign it, and give it to the defendant.

To obtain a FiFa submit the following to the Clerk's Office:

- a. A copy of your judgment;
- b. Your current address and the current address of defendant;
- c. A check or money order in the amount of \$5.50 payable to the Clerk, Superior Court of Fulton County.

Once the FiFa is issued, it is sent to the Superior Court General Execution Docket (GED) for recording. After recording, the Superior Court will mail it to you. It usually takes several weeks before the FiFa is mailed to you.

If the defendant works or banks in another county you will need a FiFa to file a garnishment.

If you need you FiFa quickly, you may request it in person in the Clerk's Office, 185 Central Ave., S.W., Room TG-700, Atlanta, GA. The Clerk of Superior Court will charge an extra fee for a "RUSH RECORDING".

XV. SATISFACTION OF JUDGMENT

When a judgment is satisfied, you must direct cancellation and satisfaction of the judgment within 60 days. You should file a letter with the clerk noting the case number and the names of the parties stating the judgment has been satisfied. If you were issued a fi.fa., the original fi.fa. should be marked paid and satisfied and recorded on the General Execution Docket (GED).

The Clerk's Office staff cannot:

- Give advice about whether you should file a case or whether you should take any particular action in a case.
- Advise you what to say in court.
- Speculate about what decision the judge might make.

This booklet provides general information only. Court clerks provide legal information, not legal advice. If you need legal advice, please consult an attorney. If you do not have an attorney, you may wish to contact any of the following agencies for the name of an attorney practicing in the area of law in which you need advice.

LAWYER REFERRAL SERVICE	404-521-0777
ATLANTA VOLUNTEER LAWYERS	404-521-0790
LEGAL AID SOCIETY	404-524-5811

WHAT HAPPENS AFTER I FILE MY CLAIM ? ? ? ?

- 1. Your claim will be given a case number and sent to the Marshal's Office for service on the defendant.**
- 2. You should receive a copy of the Entry of Service in approximately 2-3 weeks. If you do not receive a copy call the Clerk's Office at 404-730-5045 (after 3:00 PM) to obtain your case number and check the status of your case.**
- 3. Once the defendant is served he/she has 30 days, excluding the date of service, to file an answer with the court. He/she is also instructed in the summons to mail you a copy of the answer.**
- 4. If no answer is filed within 30 days, the defendant is in default. The defendant has 15 days to open the default by paying the court cost and filing an answer.**
- 5. If an answer is filed, a trial date will be scheduled and you will be notified by first class mail.**
- 6. If no answer is filed and the claim is for a liquidated amount (account, contract, note), in most instances a default judgment will automatically enter. If your claim is for an unliquidated amount (tort, personal injury) you will have to appear in court to prove the amount of damages. You will be notified of the court date by first class mail.**
- 7. It takes approximately 3 months from the date of filing to get to trial.**

COLLECTING YOUR JUDGMENT

After a judge has ruled in your favor and entered a money judgment for you against the person you sued, you have four ways to collect the money: 1) Contact the person to see if they will pay you voluntarily; 2) Garnish their wages; 3) Garnish their bank account; or 4) put a lien upon and/or seize their real or personal property (i.e. homes, land cars, stereos etc.)

1. VOLUNTARY PAYMENT — First, contact the person you have the judgment against and see if they will voluntarily pay you. If they will not pay you, you will need to file a garnishment action against their wages or their bank account or obtain a FiFa which you can use to put a lien upon and or/seize real or personal property.

2. GARNISHMENTS AGAINST THE PERSON'S EMPLOYER — If the person is employed by someone else (i.e. another person, company or corporation), you may proceed to the State Court of Fulton County, TG 100, 185 Central Ave., S.W., Atlanta Ga. 30303 (Phone number 404-730-5030) and obtain the forms and instructions for a "Continuing Garnishment." You may also send a self-addressed, stamped envelope to the foregoing State Court address and request those forms and instructions. A garnishment action will force the employer to send a percentage of the employee's pay check to the court each pay period, until the judgment is paid off, and the court will then send you the money. You do not need a FiFa to file a garnishment in Fulton County.

3. GARNISHMENTS AGAINST THE PERSON'S BANK ACCOUNT — If you know where the person banks, you can file a garnishment action against the bank which will force the bank to send the money it holds in an account in that person's name to the court, and the court will then send it to you. You do not need to know the account number. You do not need a FiFa for a garnishment in Fulton county. In order to garnish a bank account, you should proceed to the State Court of Fulton County, TG 100, 185 Central Ave., S.W., Atlanta Ga. 30303 (Phone number 404-730-5030) and obtain the forms and instructions for a "Regular Garnishment." You may also send a self-addressed, stamped envelope to the foregoing State Court address and request those forms and instructions.

4. FiFa — A FiFa is a court order that directs Fulton County Marshals and court clerks to take action against the person's real estate or personal property like automobiles, televisions, boats etc. If you use the FiFa to put a lien on real estate, the person will usually have to pay you off before they can sell it. You can also use the FiFa to direct the marshals to seize personal property that you can identify specifically or simply request the marshals to go out and demand the money. To obtain a FiFa you must submit the following:

- A. A copy of your judgment.
- B. A check or money order made payable to THE SUPERIOR COURT OF FULTON COUNTY.
- C. The current address of the defendant and your current address.

NEW PROCEDURES FOR OBTAINING A FiFa IN FULTON MAGISTRATE COURT

Requests for FiFas submitted after September 27, 2000 should comply with the ensuing directions and provide the following information:

1. The NAME and ADDRESS OF:
 - A. the person requesting the FiFa;
 - B. the defendant and;
 - C. the plaintiff (if different from the requestor's).
2. A check or money order for \$5.50 payable to the SUPERIOR COURT OF FULTON COUNTY. ***NOTE --- ONLY ONE (1) \$5.50 CHECK PER FiFa REQUEST. *** REQUESTS WITH CHECKS MADE PAYABLE TO THE MAGISTRATE COURT WILL BE RETURNED.
3. A copy of the final judgment or an affidavit supporting a default judgment on a consent agreement or consent order with which the defendant has failed to comply. IF YOU DO NOT HAVE OR CANNOT OBTAIN AND PROVIDE US WITH A COPY OF THE FINAL JUDGMENT, IT WILL DELAY OUR PROCESSING OF YOUR FiFa REQUEST.

If you do not provide the above information or comply with the directions, your FiFa request could be delayed. Further, please note that if you need a FiFa quickly, you may request in person the FiFa at TG700, pay \$5.00, obtain it from the Magistrate Court that day, and walk it over to the Superior Court, where for \$20.50, you will get the recorded FiFa back within an hour.

FIFA REQUEST FORM

IN ORDER TO OBTAIN A FIFA, YOU MUST COMPLETE THIS FORM. PROVIDE YOUR NAME AND ADDRESS, THE DEFENDANT'S NAME AND ADDRESS, A COPY OF YOUR FINAL JUDGMENT AND A CHECK FOR \$5.50 MADE PAYABLE TO THE SUPERIOR COURT OF FULTON COUNTY. RETURN THIS FORM, THE CHECK AND COPY OF JUDGMENT TO: MAGISTRATE COURT OF FULTON COUNTY, TG700, 185 CENTRAL AVE. S.W., ATLANTA GA 30303.

PLAINTIFF'S NAME AND ADDRESS:
(or the attorney's name and address if represented)

DEFENDANT'S NAME AND ADDRESS

___ COPY OF JUDGMENT ATTACHED

___ CHECK MADE PAYABLE TO THE SUPERIOR COURT OF FULTON COUNTY
ATTACHED

MAGISTRATE COURT OF FULTON COUNTY
185 Central Ave., S. W., Suite TG700, Atlanta, GA 30303

DO NOT WRITE IN THIS SPACE

Your Name _____
Your Complete Street or Mailing Address _____
City, State Zip Code _____
Plaintiff: Name, Street Address, City/State, Zip Code _____
Telephone Number: () AREA Code and phone # _____

versus

The name of the person you are suing _____
Street address (no P.O. Boxes) _____
City, State Zip Code _____

Defendant: Name, Street Address, City/State, Zip Code _____

Plaintiff's Attorney: Name/Address/Zip Code/Phone No. _____

STATEMENT OF CLAIM

Type of Suit: ☐ Account ☐ Contract ☐ Note ☐ Tort ☐ Trover ☐ Personal Injury

1. Defendant named resides in Fulton County and is subject to the jurisdiction of this Court.
2. Defendant is indebted to Plaintiff in the sums of \$ _____, principal, \$ _____, interest, _____ attorney fees and \$ _____ costs to date as follows:

(State your claim here)

State why you are filing this claim

3. WHEREFORE, Plaintiff demands judgment against Defendant in the amounts as alleged in paragraph 2 herein.

STATE OF GEORGIA, FULTON COUNTY:

After being duly sworn on oath, says the foregoing is a just and true statement of the amounts owing by Defendant to Plaintiff, exclusive of all setoffs and just grounds of defense.

Sworn to and subscribed before me, this _____

Plaintiff's Signature

Deputy Clerk or Notary Public

SUMMONS

TO THE ABOVE-NAMED DEFENDANT:

You are hereby required to file with the Clerk of said Court and to serve a copy on Plaintiff or Plaintiff's Attorney, an answer to the complaint which is herewith served on you, within thirty (30) days after service on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint, plus cost of this action.

Your answer may be filed in writing or may be given orally (in person) to the Court. If you mail in your answer it must be notarized. Upon receipt of your answer a hearing date will be set and you will be notified by mail. At said hearing, bring your witnesses, books, receipts or other writings bearing on your claim or defense. Failure to appear at the time of hearing may result in judgment being entered against you.

SERVED: _____

Deputy Clerk

Deputy Marshal

You may file an answer at one of these locations:

185 Central Avenue, S.W., Room TG700

North Annex: 7741 Roswell Road, Room 231

South Annex: 5600 Stonewall-Tell Road, Room 213

MAGISTRATE COURT OF FULTON COUNTY
STATE OF GEORGIA

DO NOT WRITE IN THIS SPACE

Attorney or Plaintiff Name and Address

Your name
Your complete street or mailing address
City, State Zip Code
Name and Address of PLAINTIFF

vs

The person's name who you are suing
Complete street address only
City, State Zip Code
Name and Address of DEFENDANT

MARSHAL'S ENTRY OF SERVICE

PERSONAL	GEORGIA, FULTON COUNTY I have this day served the defendant(s) _____ _____ personally with a copy of the within action and summons. This _____ day of _____, _____. DEPUTY MARSHAL
NOTORIOUS	GEORGIA, FULTON COUNTY I have this day served the defendant(s) _____ by leaving a copy of the action and summons at his/their most notorious place of abode in said County. Delivered same in hands of _____, a _____ _____ described as follows: Age, about _____ years; weight, about _____ lbs; height, about _____ ft. _____ in., domiciled at the residence of the defendant(s). This _____ day of _____, _____. DEPUTY MARSHAL
CORPORATION	GEORGIA, FULTON COUNTY Served the defendant _____, a corporation, by leaving a copy of the within action and summons with _____ in charge of the office and place doing business of said corporation, in Fulton County, Georgia. This _____ day of _____, _____. DEPUTY MARSHAL
BETTER ADDRESS	GEORGIA, FULTON COUNTY Diligent search made and the defendant(s): _____ not to be found in the jurisdiction of said Court for the following reason: _____ Please furnish this office with a new service form with the correct address.
NON-EST	This _____ day of _____, _____. DEPUTY MARSHAL