

## KEY LEGAL DEFINITIONS

**Affidavit:** A written statement that someone swears to under oath in front of someone that is legally authorized, like a judge or notary public.

**Answer:** An Answer is a defendant's written response to a lawsuit.

**Calendar:** A list, in alphabetical order, of all the cases in each courtroom every day.

**Default Judgment:** A court decision in favor of the plaintiff when the defendant doesn't answer or go to court when they're supposed to attend.

**Dismiss WITH Prejudice:** When a court dismisses a case and will not allow another suit to be filed on the same claim in the future.

**Dismiss WITHOUT Prejudice:** When a court dismisses a case but will allow other suits to be filed on the same claim.

**Defendant:** In a civil case, the person or organization sued by the plaintiff. In a criminal case, the person accused of the crime.

**Evidence:** Any proof legally presented at trial through witnesses, records, and/or exhibits.

**Exhibit:** A document or an object shown and identified in court as evidence in a case.

**Hearsay:** Statements by a witness that did not see or hear the incident in question but heard about it from someone else.

**Judgment:** The court's official decision resolving the dispute between the parties to a lawsuit.

**Judgment Creditor:** The party who won a money judgment.

**Judgment Debtor:** The party that the judgment has been entered against.

**Litigants:** The parties (sides) involved in a lawsuit.

**Mediation:** A process in which a neutral person helps people who have a dispute reach an agreement.

**Motion:** An oral or written request that a party makes to the court for a ruling or an order on a particular point.

**Plaintiff:** A person that brings an action; the party that complains or sues in a civil case.

**Small Claim:** A lawsuit brought by someone seeking to get back money, personal property for no more than \$15,000.

**Statement of Claim:** A form that tells the court who you are, who you're suing, why, how much you are suing for, and why you're suing in Fulton.

## E-FILING

The court requires parties to file documents electronically (e-file) in the court's case management system. You can register for e-filing at [www.odysseyfilega.com](http://www.odysseyfilega.com). Once you file, you can find your case online using the "Find My Case" link on the court's website.

## CONTACT US TODAY!

Monday - Thursday | 8:30 a.m. - 5:00 p.m.



### PHONE

404-613-9307



### EMAIL

Magistrate.JArequests@FultonCountyGA.Gov



### IN-PERSON

185 Shirley C. Franklin BLVD SW (formerly: 185 Central AVE SW), Atlanta, GA 30303



### WEBSITE

[www.MagistrateFulton.Org](http://www.MagistrateFulton.Org)

**Disclaimer:** The information in this pamphlet is not legal advice. It is intended to give a general description of the services available through the R.E.A.C.H. Clinic. Consult an attorney for legal advice about your case.



*Thank You!*

**CHIEF MAGISTRATE JUDGE**

Cassandra Kirk

## Magistrate Court of Fulton County



## SMALL CLAIMS

### BEFORE YOU START A SMALL CLAIMS CASE

Make sure you file your case in the right court and county.

The judge will not have jurisdiction to hear your case if you file it in the wrong court, and it will likely be dismissed. The Court can hear civil cases where the amount of the dispute is \$15,000.00 or less. Where you file depends on the type and location of the Defendant.

### WHERE YOU CAN SUE

#### Suing a Person

- You must sue in the county where they currently live.

#### Suing a Business

- For a **sole proprietorship**, you should sue in the county in which the owner of the business resides.
- For a **partnership**, you must sue in the county where at least one of the owners resides.
- For an **unincorporated business**, you must sue in the county where the business is physically located.
- For a **corporation**, you must sue in the county of the registered agent for the company.

**TIP!** Go to the Secretary of State's website [www.sos.ga.gov](http://www.sos.ga.gov) to find the name/location of the registered agent. Or call them at 404-656-2817.

### QUESTIONS TO ASK YOURSELF

- How much money are you asking for?
- Who are you suing and where are they?
- Do you have proof that supports your claim?
- Do you have an agreement that says you can't sue?
- Has the deadline passed for you to sue?

## THE PROCESS

1. Plaintiff files a Statement of Claim
2. Plaintiff Serves Court Papers on Defendant
3. Defendant Files An Answer/Counterclaim
4. Determine if case is in Default
5. Determine if You want to use a Mediator
6. Get Ready For Your Court Date
7. Your Trial
8. The Appeal

### STEP 1: PLAINTIFF FILES STATEMENT OF CLAIM

- The plaintiff must file a notarized "Statement of Claim."
- It tells the court who you are, who you're suing (full name and address), how much you are suing for, and why you're suing in Fulton County.

**NOTE: If you write your own Complaint, you must attach a Notice and Summons form. The Clerk's Office charges a \$60 filing fee.**

#### CLERK'S OFFICE

136 Pryor ST SW, Suite TG-100  
Atlanta, GA 30303. (404) 613-5313

### STEP 2: PLAINTIFF SERVES PAPERS ON DEFENDANT

- Notify each defendant of the lawsuit by serving them with a copy of the claim.
- You can use either the Marshal's Department or a court-approved process server to serve your court papers.
- **Fees** -> Marshal's Office: \$50 for the first defendant, \$8 for each additional defendant.

#### MARSHAL'S DEPARTMENT

160 Pryor ST SW, Atlanta, GA 30303  
(404) 612-4451

### STEP 3: DEFENDANT FILES ANSWER/COUNTERCLAIM

- An "Answer" is a defendant's written response to a lawsuit.
- It must include a response to each allegation in the complaint and all defenses the defendant has.
- The defendant must file an Answer **within 30 days of being served** with the statement of claim.
- If the defendant files a counterclaim against the plaintiff, the plaintiff must file an Answer **within 30 days of service**.

### STEP 4: DETERMINE IF CASE IS IN DEFAULT

- If the defendant doesn't respond **within 30 days** of being served, the case goes into default.
- The defendant can get the case out of default by paying court costs and filing an **answer within 45 days** of service.
- If the defendant still hasn't responded after 45 days, the plaintiff can ask the court to enter a default judgment against the defendant.
- The plaintiff must also submit an "Affidavit of Non-Military Service" to show that the defendant is not in the military.
- The court may hold a hearing if the Statement of Claim does not provide sufficient evidence about the damages.

### STEP 5: DETERMINE IF YOU WANT A MEDIATOR

The court offers free mediation to help people resolve their case before the hearing. However, you don't have to mediate. If you want to mediate, come to court as scheduled and tell the clerk. The other party may not want to mediate. If you can't agree, the case will be heard as scheduled.

### STEP 6: GET READY FOR YOUR COURT DATE

**Gather witnesses and evidence to support your case.**

- Witnesses can testify/back up your claims, defenses, or damage claims. To make a witness attend the hearing, get a "Request for Subpoena" form from the Clerk's office.
- The Marshal's Office or an authorized process server must serve the subpoena on the witness.

**Ask for court services at least 48 hours beforehand.**

- For an interpreter, call (404) 613-9071.
- For disability accommodations, call (404) 612-7305.
- If you have time, go to court and watch a small claims case.

**Prepare your documents.**

- Bring originals and copies of all supporting evidence, including contracts, work orders, service records, receipts, photos, and canceled checks. Bring extra copies for the court, witnesses, and the opposing party.

**Plan what you are going to say.**

- Look over the court papers, think about what the other side might say, practice how you will tell your side, and create a list of everything you asked for and why.

**Make arrangements for childcare and time off work.**

### REMEMBER!

- **Expert Witnesses.** Are recommended for evidence that requires scientific, technical or specialized knowledge.
- **Hearsay.** The court cannot consider any statements from anyone who is not at trial. Witnesses must appear in person to testify and face cross-examination, with **limited exceptions**.

### STEP 7: YOUR TRIAL

- **Arrive Early.** Give yourself enough time to park, walk to the courthouse, go through security, find the courtroom, and check in with the court.
- **Calendar Call.** If you miss the call of your case, your case may be dismissed or a judgment entered against you.
- **Go to the Front.** When your case is called, go to the front of the courtroom with all your court papers and notes.
- **Bring Copies.** Parties must share copies of documents so that both sides know what evidence will be presented.

**Present your case and evidence, and explain your desired outcome to the judge.**

1. The plaintiff presents its case (evidence/witnesses)
2. The defendant can then cross-examine witnesses
3. The defendant presents its defense (evidence/witnesses)
4. The plaintiff can then cross-examine witnesses
5. Counterclaims may be heard at this time or afterwards
6. Both parties give closing arguments explaining what they want and why they should win.
7. Lastly, the judge will decide the case and let the parties know when the written order will be available.

### STEP 8: THE APPEAL

If you disagree with the court's decision, you can appeal to a higher court by:

- Filing a Petition for Review within 30 days
- Serving a copy of the notice on the other party, and
- Paying the filing fee within 20 days.