

**INSTRUCTIONS FOR FILING  
AND PURSUING A CIVIL COMPLAINT  
IN THE MAGISTRATE COURT  
OF LOWNDES COUNTY**

Welcome to the Magistrate Court of Lowndes County. We are located at 327 N. Ashley Street in the Lowndes County Judicial Complex. We are here to serve you and will do anything in our power to assist you with the procedures of this Court. This information is of a general nature and is not meant to be a complete disclosure of the services or of legal principles and procedures of this Court. It should not be used as a substitute for competent legal counsel. If you have any questions, please do not hesitate to ask. However, please remember that the clerks of the Magistrate Court are not lawyers and are prohibited by law from giving you legal advice.

1. The maximum amount you can sue for in the Magistrate Court of Lowndes County is \$15,000.00 as set by Georgia law.
2. The Court will provide you with a uniform complaint form if you wish. You are not required to use this form. However, the form may assist you in setting forth a legal claim. It is the responsibility of the Plaintiff to furnish all information necessary to file a complaint.
3. A Plaintiff is the person who initiates or begins the suit. The Defendant is the one who is being sued. You may represent yourself, act as an agent for a corporation, or on behalf of a minor. However, you cannot represent someone if you are not a licensed attorney. The Magistrate Court does not appoint attorneys for civil cases.
4. **Do not attempt to plead your case to the clerks of the Court. They are not lawyers and cannot advise you as to whether or not you have enough evidence or cause to file a complaint. The clerks are here to assist you with procedures in this Court, not to provide you with legal advice. If you have any questions about the law, you need to contact an attorney.**
5. The Defendant you are suing must be a resident of Lowndes County or otherwise subject to the jurisdiction of this Court.
6. Please verify that the person and/or business you sue is the proper person and/or business to be sued. In order for the Court to pass judgment in your case, you must sue the correct legal entity (i.e., person, corporation) and use the correct name. If the Defendant owns a business which is not incorporated, and your claim is against the business, you may sue the owner and the trade name under which he or she does business (e.g., John Doe dba John's Body Shop), but you cannot sue the trade name only. If you are suing a corporation, you should obtain the correct corporate name and the name and address of the registered agent from the Secretary of State (404-656-2817) or

[www.sos.state.ga.us/corporations/corpsearch](http://www.sos.state.ga.us/corporations/corpsearch). It is the Plaintiff's responsibility to sue the proper Defendant. **If you are not sure about the proper Defendant, please consult an attorney.**

7. If the basis of your claim is a note, account, lease, or other written contract or agreement, you should provide two (2) copies with your claim. Please do not include the Defendant's social security number, as all records filed in the Magistrate Court are public records; including the social security number on a Statement of Claims may be a violation of O.C.G.A 10-1-393.8.
8. The court cost to file a suit in Magistrate Court is \$100.00 for one Defendant. There is an additional \$50.00 for each Defendant after that. This fee covers the filing fee with the Court and the service of the claim on the Defendant.
9. A Constable will serve your claim. You **must** have a street address. Constables cannot serve claims at a post office box! If the Constable is unable to serve the Defendant at the address given, there will be a \$50.00 charge for each additional address at which service is attempted. The more accurate the information you give the constable, the faster your suit will be served which saves you time and money.
10. The Defendant has 30 days after service to file an answer. The Defendant has an additional 15 days to open default in which an answer can be filed along with payment of the court costs. If the Defendant files an answer and/or counterclaim, the Plaintiff and Defendant will be notified by mail of the court date for the trial of the case. Failure of either party to receive their mail is not an excuse for failure to appear at the trial of the case. It is the responsibility of each party to keep the Court updated with their current address.
11. Upon receipt of the hearing notice, please notify the Court in writing immediately of any conflict with the court date. The Court will consider all legal basis when deciding whether or not to grant a continuance.
12. The Defendant may file a counterclaim against the Plaintiff. If the Defendant makes such a claim, s/he must state his/her claim in his/her answer. A copy of Defendant's answer/claim will be mailed to the Plaintiff. The Plaintiff does not have to answer a counterclaim until the court hearing. If the Defendant's counterclaim is more than fifteen thousand dollars (\$15,000.00) actual damages, the case may be transferred to the State or Superior Court of Lowndes County.
13. You should gather all of your documents (receipts, warranties, etc.) and **organize them before the hearing**. You will need to notify your witnesses of your court date. The Court is not responsible for witnesses who do not show up at the hearing unless the Court issued a subpoena for that witness. You may ask the Court to subpoena witnesses for their appearance. To do this you must provide the Court, in writing, with the witness(es) names, address(es) and phone number(s). There is a ten dollar (\$10.00) service fee to subpoena a witness in the Lowndes County area. Should your witness reside outside of the Lowndes County area, please contact the court for additional instructions on subpoena procedures

and costs. Witnesses must be served with a subpoena at least twenty-four (24) hours prior to trial time. **Contact the Court immediately upon receiving your trial notice if you wish to subpoena any witnesses.**

14. At the hearing the Judge will hear the evidence presented by both parties before rendering a decision. The Judge may make a ruling at the hearing, or take the case under advisement. The judgment will be reduced to writing and a copy will be provided to both parties.
15. If no answer has been filed within 45 days after service on the Defendant, the Plaintiff may request a **default judgment** against the Defendant. The default judgment will be for the amount of the suit at time of filing less any payments made after filing. **A Military Affidavit is required when requesting a default judgment.** The required Military status information may be accessed through the Department of Defense at <https://www.dmdc.osd.mil/appj/scra/scraHome.do>.
16. If the request for a default judgment is on a case where the Plaintiff is requesting unliquidated charges, the case will be put on the next available trial calendar so the Plaintiff can prove damages.
17. When requesting a Writ of Possession for a Dispossessory, or filing a Writ of Possession for personal property, a Military Affidavit is required. The required Military status information may be accessed through The Department of Defense at, <https://www.dmdc.osd.mil/appj/scra/scraHome.do>.

## COLLECTION OF JUDGMENTS

A person should think about collecting the judgment before his/her suit is filed. Obtaining a money judgment against a defendant represents only half the work. It is the responsibility of the winning party to collect on their judgment. When credit is advanced to an individual, valuable information can be obtained for later use in collecting a judgment. A credit application may reveal checking account information, including the account number, the debtor's place of employment, and references to real and personal property, which may be levied upon to satisfy a judgment.

The records in the county courthouse may reveal information, which can be useful in satisfying a judgment. The tax assessors' office maintains records of property ownership. Records in the office of the clerk of courts also reveal property ownership and transfers, records of judgments, and security interest filings in the Uniform Commercial Code filing dockets. The records can certainly provide a starting point to help determine whether an individual owns property and whether money has been borrowed against that property.

Interest may be added to judgments as allowed by law. In computing the total amount due upon a judgment, the holder of the judgment must compute the interest, which has accrued since the rendering of the judgment. All judgments in Georgia bear interest upon the unpaid principal at the annual rate or prime plus 3% unless the underlying contract or obligation provides for a different rate, in which case the judgment would bear interest at the rate specified in the underlying written contract or obligation.

In many cases collecting the judgment is harder than proving your case in court. **THE COURT CANNOT COLLECT YOUR JUDGMENT FOR YOU.** If you receive a judgment and you are not voluntarily paid, there are several methods of collection the law provides.

Upon receiving a judgment from the court you may want to:

- a. Have the Court issue a Fi. Fa.. The Fi. Fa. once issued, places a lien against the losing party and property s/he may own both real and personal. The cost for issuing and recording the Fi. Fa. on the General Execution Docket is twenty-nine dollars (\$29.00). You may also take your Fi. Fa. and have it recorded in any county in Georgia. If you need to record your Fi. Fa. outside the State of Georgia, you should consult an attorney.
- b. Have the judgment recorded against the Motor Vehicle Title Certificate. For information regarding the procedure for asserting a judgment on the Motor Vehicle Title Certificate, you should request information, instruments and forms from the Department of Motor Vehicle Safety or Tag office.

- c. File a wage garnishment. Garnishments filed against the Defendant's wages are filed in the county where the Defendant's employer is located. The cost is one hundred dollars and zero cents (\$100.00).
- d. File a garnishment on the bank account. Garnishments that are filed against the bank account are done in the county where the bank is located. The cost is one hundred dollars and zero cents (\$100.00).
- e. Levy against real and personal property. Having the clerk issue a Fi. Fa. for you begins the process. Since the Fi. Fa. is your proof of having a judgment, the Constable will require a Fi. Fa. to levy against any personal property. You must be certain that any personal property you wish to levy is owned free and clear of any liens, and actually belongs to that individual. If you want to levy against real property you should contact an attorney for the procedure. The cost is fifty dollars and zero cents (\$50.00).
- f. File Post Judgment Interrogatories. Limited post judgment discovery is available in the Magistrate Courts of the State of Georgia. If the unpaid balance on any judgment or execution does not exceed \$15,000, post judgment interrogatories may be sent to the defendant upon payment of \$10. Interrogatories may be served by personal service the fee for this service is \$50.00. These interrogatories are served upon the judgment debtor/defendant by the court by certified mail. Post judgment interrogatories, which are filed regarding a judgment entered in any other Court must be filed as a new civil action and the filing fee is one hundred dollars and zero cents (\$100.00). The defendant has 30 days to fully answer the interrogatories, which are aimed at determining where the defendant works and the location or whereabouts of any bank accounts or other assets, which may be subject to levy or garnishment. The defendant may be compelled to answer the interrogatories. A failure to answer may subject the defendant to contempt sanctions from the issuing court. Forms for post judgment interrogatories are available from the Clerk of the Magistrate Court.
- g. You may also elect to turn your judgment over to an attorney or a collection agency for collection.

## Satisfaction of Judgment

Once a case has been satisfied it is the responsibility of the Plaintiff to inform the court **in writing**. A Plaintiff can at any time notify the court that they desire to have a case closed either with a dismissal or satisfaction depending on the actions taken during the case.

- A. If the case has been satisfied in any other manner than payment in full, the Plaintiff will need to fill out a dismissal form requesting “dismissal without prejudice”.
- B. If payment has been received in full on a case without a judgment, the Plaintiff will need to fill out a dismissal form requesting “dismissal with prejudice”.
- C. If a judgment was issued either a consent judgment or a judgment from a hearing, the Plaintiff just needs to notify the court in writing that the case has been satisfied and if it had been paid in full or not.
- D. If a Fi. Fa. was issued, the Plaintiff will need to request in writing a cancellation of the Fi. Fa., and state if the judgment has been paid in full or not. There is a required cost of twenty-five dollars (\$25.00) made payable to the Superior Court of Lowndes County, if not paid in cash.
- E. If a garnishment was requested, once the Court receives full payment of the garnishment, the Court will release the garnishment and close the case.
- F. If a garnishment was requested and the Plaintiff desires to have the garnishment dismissed for any reason other than full payment through the Court, that request will need to be in writing stating the reason for dismissal.

Prior to your hearing, you may wish to view the videos, “I Present My Case” and “Bringing Your Case to Magistrate Court”. Please schedule a time to view the videos by calling the Magistrate Court at (229) 671-2610.

**IN THE MAGISTRATE COURT OF LOWNDES COUNTY  
STATE OF GEORGIA  
FEE SCHEDULE**

**Effective January 1, 2020**

**Pursuant to HB 1055 and O.C.G.A. 15-10-80 the following schedule of fees will be in effect:**

Statement of Claims/Garnishments/Petition for Writs for Personal Property/ Interrogatory from another court

Filing fee	\$22.00
ADR Surcharge	\$10.00
Service Process	\$50.00 (Each Defendant)
Indigent Defense Program	\$15.00
Retirement Fund	<u>\$ 3.00</u>
	\$100.00 (Total 1 Defendant)

Affidavits of Dispossessory

Filing fee	\$22.00
ADR Surcharge	\$10.00
Service Process	\$25.00
Indigent Defense Program	\$15.00
Retirement Fund	<u>\$ 3.00</u>
	\$75.00

Reservice of Unlocateable Parties (except for Dispossessory) \$50.00 (Each Defendant)

Writ of Possession for Dispossessory and Writ of Possession for Personal Property \$25.00

Fi. Fa. Issuance (Payable to Magistrate Court) \$29.00  
Fi. Fa. Cancellation (Payable to Superior Court) \$25.00

Nulla Bona (Payable to Magistrate Court) \$20.00  
Nulla Bona Recording (Payable to Superior Court) \$25.00

Issuance of Witness Subpoena (Lowndes County Area Only) \$10.00 (Each Person)

Interrogatories from Lowndes Magistrate Court judgments \$10.00

Interrogatories by Personal Service \$50.00

Abandoned Motor Vehicle \$11.00

Criminal Warrant Application \$20.00

