



Magistrate Courts let you sue for money claims under \$15,000 (fifteen thousand dollars). A Magistrate Judge decides your case after a trial. There is no jury. You do not need a lawyer. However, you may seek help from a lawyer.

### What Do Some of the Legal Terms Mean?

If you file the lawsuit against someone, you are the *Plaintiff*. The person or business you are suing is the Defendant. The complaint is your written statement of why the Defendant owes you money. When you give your complaint to the court, you are filing the suit. You file your lawsuit at the Magistrate Court in the Magistrate Court Clerk's Office. See the last item in this brochure for your local Magistrate Court's address and phone number.

To win your case, you must prove what the *Defendant* owes you. Receipts, repair estimates and warranties are evidence that will help you prove your case. If someone knows firsthand about your case, that person is a witness. The hearing where you must prove your case to the judge is the trial. A Magistrate is the judge. He or she will listen to witnesses for both sides and will look at all evidence. The Magistrate will then make a decision or judgment.

### How Do I File A Lawsuit?

When you file your lawsuit, the court clerk will give you a form to fill out. This will become your *complaint*. Complete this form telling why you are suing. Put down the Defendant's

name and address.

If you are suing a person, you must file the lawsuit in the county where he or she lives. If you are suing a business, you must file in the county where the business is run or the county where the business is incorporated. You must also find out the name and address of the registered agent for the business.

To find out if the business is incorporated and has a registered agent, call and ask the Georgia Secretary of State's Office, Corporate Division, at (404) 656-2817. They will need the exact name of the business. If the business is not incorporated and does not have a registered agent, you must sue the owner in the county where he or she lives.

### What About Filing Fees?

To file your case in Magistrate Court you must first pay a *filing fee*. Filing fees are different for each county. You should call the Magistrate Court Clerk's Office before filing your lawsuit and find out how much you must pay. If you cannot afford to pay the filing fees, you may ask the court's clerk for a *Pauper's Affidavit*. This is a statement that says that you cannot afford to pay the filing fees. In some counties you may have to be approved by a judge. The clerk will tell you how to file the Pauper's Affidavit.

### How Does the Defendant Find Out About the Lawsuit?

The clerk will give you a copy of the complaint and a form called a *summons*. Take the summons to the marshal or sheriff. The marshal or sheriff must give these to the Defendant. The process is called *serving the Defendant*. These papers tell the Defendant why you are suing and how to answer the lawsuit. If you

are suing a corporation, the court must serve the complaint to the registered agent.

### What Does the Defendant Have to Do?

After the Defendant gets the complaint, he/she will have 30 days to reply. A Defendant's written reply is called an *Answer*. If the Defendant files an *Answer*, the court will tell you when the trial will take place. If the Defendant does not answer on time, you may get a judgment against the Defendant without going to trial. This is called a default judgment. It should give you what you asked for, and your filing fee and other court costs.

### What about Claims against Me?

The Defendant can make claims against you. They should be related to your claim. A Defendant's claim against a Plaintiff is called a counterclaim. If the Defendant files a counterclaim, the court will send you a copy. The judge may hear both claims at the same time or at different times.

### How Do I Get Ready for the Trial?

Before your trial, get all of your *evidence*. These would be receipts, repair bills, estimates, or other papers that will help you prove your case. Bring these papers to court. You must bring any eyewitnesses you have, too. The Court will not accept their written statements. It is usually a good idea to subpoena the witness at least 24 hours before the trial. The clerk will issue the subpoena to you. It is up to you to give it to the witness in person. You must also give the names and addresses of these witnesses to the clerk at least six hours before the trial.

You must be on time. Think about what you want to say before you come to court. Keep

your words short and to the point. Have your witnesses and evidence ready.

### What Happens If I am Late or Do Not Come to Court?

If you are late or don't come to court, you will most likely lose the case. In that case, you will not have a trial.

### What about a Settlement?

The judge may ask you and the Defendant to try to resolve the case without a trial. This is called *settling your case*. As part of the settlement, you and the Defendant must decide who will pay filing fees and court costs. If you make a settlement, put it in writing. Be sure to tell the judge. Normally you may not appeal a case that you have settled.

### How Do I Get the Money Owed Me?

If you win your case, you must then get the money that the Defendant owes you. Try to get the Defendant to pay you at once. If the Defendant pays you, tell the judge. If the Defendant does not pay within a reasonable time, you need to file a *Writ of Fieri Facias*. This is known as a Fi-Fa. A Fi-Fa can help you only if the Defendant owns property. This would be things like business equipment, a car or a building.

If the Defendant does not own property but has a steady job, you can file a *garnishment*. A garnishment is a lawsuit that tells the Defendant's employer to pay you out of the Defendant's wages. Check with the clerk of the court about getting a Fi-Fa or garnishment.

### What about An Appeal?

After your trial, you or the Defendant can ask

another court to look at the judge's decision. To do this, you or the Defendant must file an *appeal*. This must be filed within 30 days of the judge's decision. Ask the court clerk how to file an appeal.

If you meet client eligibility requirements, Atlanta Legal Aid Society may be able to help you.

## Local Magistrate Courts

Fulton County  
185 Central Avenue, SW  
Room TG-700  
Atlanta, GA 30303  
(404) 730-5045

DeKalb County  
556 N. McDonough St.  
Decatur, GA 30030  
(404) 371-2261

Clayton County  
Harold R. Banke Justice Center  
9151 Tara Blvd.  
Jonesboro, GA 30236  
(770) 477-3443

Cobb County  
32 Waddell Street  
Marieta, GA 30060  
(770) 528-8910

Gwinnett County  
75 Langley Drive  
Lawrenceville, GA 30245  
(770) 822-8070

## Contact Us

DeKalb County  
246 Sycamore Street  
Suite 120  
Decatur, GA 30030  
(404) 377-0701

Clayton County Pro Bono Project  
1000 Main Street  
Forest Park, GA 30050  
(404) 366-0586

Cobb County  
30 S. Park Square  
Marietta, GA 30090  
(770) 528-2565

Fulton County  
151 Spring Street, N.W.  
Atlanta, GA 30303  
(404) 524-5811

South Fulton &  
Clayton Counties  
1514 East Cleveland Avenue  
Suite 100  
East Point, GA 30344  
(404) 669-0233  
(Wagon Works Building)

Gwinnett County  
180 Camden Hill Road  
Suite A  
Lawrenceville, GA 30045  
(678)376-4545

For TTD/TTY users, call the Georgia Relay Center at (800) 255-0135.

Copyright Atlanta Legal Aid Society, Inc.  
September 30th, 2010



# How to Sue in Magistrate's Court

Atlanta Legal Aid Society, Inc.