

DISPOSSESSORY ACTIONS IN THE
WALKER COUNTY MAGISTRATE COURT

As with civil claims there are several things you should know before filing a dispossession, we will not be able to cover them all in this information sheet but in an effort to assist you in filing and representing your claim we offer the following general information.

We are a **COURT** and not a **COLLECTOR** and are required by law to be impartial. We cannot tell you what to say or how to file your claim or the probability of winning or losing. In a dispossession action the court can issue a Writ of Possession, which is an order to remove the person and their property from the landlord's property. Also a monetary judgement may be issued if the defendant was properly served (personal or notorious) or if the defendant submits himself or herself to the jurisdiction of the court. A judgement gives the authority to attach property of the losing party, such as garnishment of wages or bank accounts, or personal property such as a vehicle, to mention a few.

Grounds for dispossession are 1) Holding over and beyond the terms, or (2) Non-Payment of Rent when Due, or (3) Tenant at Will, or (4) Tenant at Sufferance, whether under contract of rent or not.

A three day Demand For Possession Notice must be made pursuant to OCGA §44-7-50. An agreement by a tenant to vacate the premises does not eliminate the necessity of demanding possession of the property.

If you have decided to file there will be a charge of **\$73.00** when you file, **(this is for filing and service of the summons, there will be an additional cost of \$25.00 for each additional defendant)**. The Walker County Magistrate Court has jurisdiction over persons residing in Walker County and property in Walker County.

After you file your claim it will be given to the Walker County Sheriff's department to be served. When the defendant is served they will mail a copy of the service to you. The defendant has 7 days from the day of service in which to file an answer. If an answer is filed we will mail you a copy of the answer and a date for trial. **You should bring any evidence and witnesses with you to the trial. If you need witnesses subpoenaed, let the court know in plenty of time to serve them prior to trial.** Motions for continuance of a trial date are required to be in writing and at least 24 hours prior to trial. At trial, the burden is on you to prove your case. You may come with or without an attorney.

If the defendant does not file an answer within the 7 days you are entitled to a Judgement by Default (if properly served) and a Writ of Possession. You are required to file a written motion with the court requesting this to be done. (The attached forms may be used for this purpose). If a Writ of Possession is issued you must contact the Sheriff's office and set up a time so they can be at the property when **YOU** set out the defendant and their property. **(The Sheriff's officer is there ONLY to see that no trouble arises while you are moving the defendant out)**. If you rent a lot and are seeking to have a mobile home removed, the defendant will have an additional 10 days after the Writ is issued to make arrangements to move the mobile home.

Should the claim be settled before judgement you should request in writing that the case be dismissed. If the claim is settled after judgement you should notify the court in writing that the case has been settled so we can record this in the docket book.

Mailing Address: Walker County Magistrate Court
201 S. Duke St.
LaFayette, GA 30728 706-638-1217 fax 706-638-1218

**IN THE MAGISTRATE COURT OF WALKER COUNTY
STATE OF GEORGIA**

**201 S. Duke Street
LaFayette, GA 30728**
COURT ADDRESS

CASE NO. _____
Date Filed _____

Plaintiff _____

Defendant _____

NAME AND ADDRESS

NAME AND ADDRESS

Phone _____
Email _____

AFFIDAVIT FOR SUMMONS OF DISPOSSESSORY

Personally appeared _____, who upon oath says that he/she is (circle one) owner, or attorney, agent or lessee for the owner of the said premises, and that Defendant is in possession as tenant of premises at the above address in Walker County.

1. Tenant (Check applicable claim(s))

- ☐ Fails to pay the rent, which is now past due.
☐ Holds the premises over and beyond the term for which they were rented or leased to him.
☐ _____

☐ 2. Plaintiff has given the defendant(s) a three (3) day notice demanding possession of the premises and said Defendant has failed and/or refused to deliver said premises.

3. Defendant has failed and refused to deliver possession of the premises.

WHEREFORE, Plaintiff Demands:

(a) possession of the premises; (b) past due rent of \$ _____; (c) rent accruing up to the date of judgement or vacancy at the rate of \$ _____ per _____
(d) _____

Sworn to and Subscribed before me this _____ day
Of _____, 20 _____.

Affiant

Magistrate or Notary Public

NOTICE AND SUMMONS

This is to notify you that _____ has filed a claim against you. This claim asks for judgement against you for possession of the above premises. A judgement is also requested for any other demands by Plaintiff, as shown above.

You are required to present an answer to this claim with SEVEN (7) days after service of this notice, or on the first business day thereafter if the seventh day falls on a Saturday, Sunday or a legal holiday. Your answer may be presented in writing or be given in person to the Magistrate during regular court hours at the Magistrate Court. Your answer may contain any legal or equitable defense or counterclaim.

If you do not answer on time, a judgement may be entered against you. Your last possible date to answer is the _____ day of _____, 20 _____.

Given under my hand and seal this _____ day of _____, 20 _____.

Magistrate