

House Bill 530

By: Representatives Jacobs of the 80th, Willard of the 51st, Weldon of the 3rd, Welch of the 110th, Powell of the 171st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated,
2 relating to civil proceedings in magistrate court, so as to change provisions relating to filing
3 a statement of claim, answer, and verification related thereto; to provide for related matters;
4 to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Article 3 of Chapter 10 of Title 15 of the Official Code of Georgia Annotated, relating to
8 civil proceedings in magistrate court, is amended by revising subsections (a) through (c) of
9 Code Section 15-10-43, relating to statement of claim, service of process, answer to claim,
10 default judgments, opening of default, and relief in magistrate court, as follows:

11 "(a) Actions shall be commenced by the filing of a statement of claim, including the last
12 known address of the defendant, in concise form and free from technicalities. The plaintiff
13 or his or her agent shall sign and, if he or she is not an attorney, shall verify the statement
14 of claim by oath or affirmation. Verification of a statement of claim filed by an attorney
15 shall not be required. At the request of any individual, the judge or clerk may prepare the
16 statement of claim and other papers required to be filed in an action. The statement of
17 claim shall include a brief statement of the claim giving the defendant reasonable notice
18 of the basis for each claim contained in the statement of claim and the address at which the
19 plaintiff desires to receive the notice of hearing.

20 (b) A copy of the ~~verified~~ statement of claim shall be served on the defendant personally,
21 or by leaving a copy thereof at the defendant's dwelling or usual place of abode with some
22 person of suitable age and discretion then residing therein, or by delivering a copy of the
23 claim to an agent authorized by appointment or by law to receive service of process, and
24 such service shall be sufficient. Service of said process shall be made within the county
25 as provided in this Code section. Service outside the county shall be by second original as
26 provided in Code Section 9-10-72. Said service shall be made by any official or person

27 authorized by law to serve process in the superior court, by a constable, or by any person
 28 sui juris who is not a party to, or otherwise interested in, the action, who is specially
 29 appointed by the judge of said court for that purpose. When the claim and notice are
 30 served by a private individual, such individual shall make proof of service by affidavit,
 31 showing the time and place of such service on the defendant.

32 (c) An answer to the claim ~~must~~ shall be filed with the court or orally presented to the
 33 judge or clerk of the court within 30 days after service of the statement of claim on the
 34 defendant to avoid a default. The answer shall be in concise form and free from technical
 35 requirements, but ~~must~~ shall admit or deny the claim of the plaintiff. The answer shall
 36 contain the address at which the defendant desires to receive the notice of hearing. If the
 37 answer is presented to the judge or clerk orally, the judge or clerk shall reduce the answer
 38 to writing. Verification of an answer shall not be required. A copy of the answer shall be
 39 forwarded to the plaintiff and defendant with the notice of hearing. If an answer is timely
 40 filed or presented, the court shall within ten days of filing or presentation of the answer
 41 notify the defendant and the plaintiff of the calling of a hearing on the claim. The notice
 42 shall include the date, hour, and location of the hearing, which date shall be not less than
 43 15 nor more than 30 days after the date the notice is given. The notice shall be served on
 44 the plaintiff and the defendant by mail or personal service to the address given by the
 45 plaintiff at the time he or she files his or her claim and the address given by the defendant
 46 at the time he or she files or presents his or her answer. The date of mailing shall be the
 47 date the notice is given. The clerk shall enter a certificate of service."

48 SECTION 2.

49 Said article is further amended by revising subsections (a) through (c) of Code Section
 50 15-10-45, relating to compulsory and permissive counterclaims, as follows:

51 "(a) If any defendant has a ~~claim~~ counterclaim against the plaintiff arising out of the
 52 transaction or occurrence that is the subject matter of the plaintiff's claim, which ~~claim~~
 53 counterclaim does not require for its adjudication the presence of third parties over whom
 54 the court cannot obtain jurisdiction, such ~~claim~~ counterclaim shall be asserted by the
 55 defendant at or before the hearing on the plaintiff's claim or thereafter be barred.

56 (b) If any defendant has a ~~claim~~ counterclaim against the plaintiff other than a compulsory
 57 counterclaim described in subsection (a) of this Code section, such ~~claim~~ counterclaim may
 58 be asserted by the defendant at or before the hearing on the plaintiff's claim.

59 (c) If any defendant asserts a ~~claim~~ counterclaim against the plaintiff, the defendant shall
 60 file with the court a statement of the ~~claim~~ counterclaim in concise form and free from
 61 technicalities. The defendant's ~~claim~~ counterclaim shall give the plaintiff reasonable notice
 62 of the basis for each claim contained in the ~~statement of claim~~ counterclaim. The

63 defendant shall sign ~~and verify the statement of claim by oath or affirmation~~ the
64 counterclaim. At the request of a defendant, the judge or clerk may prepare the ~~statement~~
65 counterclaim. Verification of such counterclaim shall not be required."

66 **SECTION 3.**

67 Said article is further amended by revising Code Section 15-10-48, relating to form of
68 statement of claim, verification, and notice, as follows:

69 "15-10-48.

70 The statement of claim, verification, and notice shall be in substantially the following form:

71 Magistrate Court of _____ County
72 State of Georgia

73 _____

74 Plaintiff

75 _____

76 Address

77 v.

78 _____

79 Defendant

80 **Statement of Claim**

81 (Here the plaintiff or, at his or her request, the court will insert a brief statement of the
82 plaintiff's claim or claims giving the defendant reasonable notice of the basis for each
83 claim and, if the action is on a contract, either express or implied, the original statement
84 of the plaintiff's claim which is to be filed with the court may be verified by the plaintiff
85 ~~or his or her agent~~ as follows:)

86 STATE OF GEORGIA

87 COUNTY OF _____

88 _____, being first duly sworn on oath, says the foregoing is a just
89 and true statement of the amount owing by defendant to plaintiff, exclusive of all setoffs
90 and just grounds of defense.

91

92

93 Sworn and subscribed

94 before me this _____ day

95 of _____, _____.

96 _____

97 Notary public

98 or attesting

99 official

Plaintiff or agent

100

Notice

101 TO: _____

102 Defendant

103 _____

104 Home Address

105 or

106 _____

107 Business Address

108 You are hereby notified that _____ has made a claim and is
109 requesting judgment against you in the sum of _____ dollars (\$_____), as shown
110 by the foregoing statement. The court will hold a hearing upon this claim at (address
111 of court) at a time to be set after your answer is filed.

112 YOU ARE REQUIRED TO FILE OR PRESENT AN ANSWER TO THIS CLAIM
113 WITHIN 30 DAYS AFTER SERVICE OF THIS CLAIM UPON YOU. IF YOU DO
114 NOT ANSWER, JUDGMENT BY DEFAULT WILL BE ENTERED AGAINST YOU.
115 YOUR ANSWER MAY BE FILED IN WRITING OR MAY BE GIVEN ORALLY
116 TO THE JUDGE.

117 If you have witnesses, books, receipts, or other writings bearing on this claim, you
118 should bring them with you at the time of hearing.

119 If you wish to have witnesses summoned, see the court at once for assistance.

120 If you have any claim against the plaintiff, you should notify the court at once.

121 If you admit the claim, but desire additional time to pay, you must come to the hearing
122 in person and state the circumstances to the court.

123 You may come with or without an attorney.

124

Magistrate of _____County”

125

SECTION 4.

126

All laws and parts of laws in conflict with this Act are repealed.