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Session of the General Assembly

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Title 22. Eminent Domain

Title 23. Equity

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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2025 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through May 12, 2025. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through May 12, 2025.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice Forms Annotated.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Seventh Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2025 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2025 supplement pamphlets and in the bound volumes of the Code.

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TITLE 22

EMINENT DOMAIN

Chap.

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RESEARCH REFERENCES

ALR. state law for taking of property — twenty-first century cases, 80 A.L.R.7th 6.
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For note, “The Georgia Condominium Act’s Authorization of Private Takings:

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ALR. state law for taking of property — twenty-first century cases, 80 A.L.R.7th 6.
Eminent domain: construction and application of “reasonable necessity” under

22-1-2. Nature of right of eminent domain; property to be put to public use.

RESEARCH REFERENCES

ALR. Good faith, or bona fide, negotiations required under state law in relation to eminent domain Actions, 91 A.L.R.7th 3.
Eminent domain: energy-related projects as public use under state law—21st Century Cases, 69 A.L.R. 7th 5.

22-1-9. Policies and practices guiding exercise of eminent domain.

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Compliance with O.C.G.A. § 22-1-9. — Trial court did not err in denying the motion to set aside the petition for condemnation because the evidence demonstrated that the city attempted to negotiate in good faith, but the property owners preemptively informed the city that any offer below \$500,000 would be insulting and they were uninterested in the results of the city’s appraisal, thus, the city’s subsequent delay in sending the appraisal summary to the property owners was, at most, a harmless violation of O.C.G.A. § 22-1-9. *Joe & James Props. v. City of Atlanta*, 368 Ga. App. 302, 890 S.E.2d 21, 2023 Ga. App. LEXIS 301 (2023).

Insufficient compliance with O.C.G.A. § 22-1-9. O.C.G.A. § 32-3-11 grants superior courts authority to set aside, vacate, and annul declarations of taking for violations of O.C.G.A. § 22-1-9. *Department of Transportation v. Star Land Holdings, LLC*, 371 Ga. App. 734, 903 S.E.2d 123, 2024 Ga. App. LEXIS 214 (2024).

Trial court did not err when the court found that the Department of Transportation violated O.C.G.A. § 22-1-9 because evidence supported the court’s finding that the department did not give the property owner an opportunity to accompany the appraiser during the inspection of the property. *Department of Transportation v. Star Land Holdings, LLC*, 371 Ga. App. 734, 903 S.E.2d 123, 2024 Ga. App. LEXIS 214 (2024).

Petition to set aside properly denied. — Trial court’s order denying the property owner’s petition to set aside a declaration of taking was upheld because there was evidence that the city did not act in bad faith; the plat sufficiently set out the boundaries of the claimed easement; and the property owner failed to show that the trial court erred by allowing the city to amend the declaration to address the deficiency in the description of the easement. *Edgewater Hall Enters. v. City of Canton Two Cases*, 366 Ga. App. 142, 880 S.E.2d 582, 2022 Ga. App. LEXIS 519 (2022).

RESEARCH REFERENCES

ALR. Eminent domain: construction and application of “reasonable necessity” under state law for taking of property — twenty-first century cases, 80 A.L.R.7th 6.
“Quick take” condemnation, 83 A.L.R.7th 5.

22-1-11. Determination of authority to exercise eminent domain.

RESEARCH REFERENCES

ALR. “Quick take” condemnation, 83 A.L.R.7th 5.

22-1-15. Process for condemnor to condemn property for public use; requirements; service.

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A.L.R.7th 5.

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22-2-100. “Condemning body” and “condemnor” defined.

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ALR.

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state law for taking of property — twenty-first century cases, 80 A.L.R.7th 6.

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EXERCISE OF POWER OF EMINENT DOMAIN FOR SPECIAL PURPOSES

Article 2

Construction and Operation of Electric Power Plants

PART 2

ACQUISITION OF RIGHT TO FLOOD ROADS AND HIGHWAYS

Sec.

22-3-44. Appeal to superior court.

ARTICLE 2
CONSTRUCTION AND OPERATION OF
ELECTRIC POWER PLANTS

PART 2
ACQUISITION OF RIGHT TO FLOOD ROADS AND HIGHWAYS

22-3-44. Appeal to superior court.

Within 30 days after the award of condemnation is made pursuant to Part 4 of Article 1 of Chapter 2 of this title or pursuant to Article 2 of Chapter 2 of this title, any party may appeal to the superior court of the county in which the public roads or highways lie by filing a petition for review with the superior court. The trial on such an appeal shall be de novo. The proceedings on the petition for review shall be governed by Chapter 3 of Title 5.

History.

Ga. L. 1925, p. 272, § 1; Code 1933, § 36-805; Ga. L. 2022, p. 767, § 2-15/HB 916.

Amendments.

The 2022 amendment, effective July 1, 2023, rewrote this Code section, which read: “Within 30 days after the award of condemnation is made pursuant to Part 4 of Article 1 of Chapter 2 of this title or pursuant to Article 2 of Chapter 2 of this title, any party may appeal to the superior court of the county in which the public roads or highways lie by filing with the

judge of the probate court of the county a written notice of appeal. Within ten days after his receipt of the notice, the judge shall transmit the notice to the superior court. The trial on such an appeal shall be de novo.” See Editor’s notes for applicability.

Editor’s notes.

Ga. L. 2022, p. 767, § 3-1/HB 916, not codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

ARTICLE 5
CONSTRUCTION AND OPERATION OF WATERSHED
PROJECTS, FLOOD-CONTROL PROJECTS AND
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BY COUNTIES

22-3-100. Authority of counties to exercise power of eminent domain.

RESEARCH REFERENCES

ALR.

Good faith, or bona fide, negotiations

required under state law in relation to eminent domain Actions, 91 A.L.R.7th 3.

TITLE 23

EQUITY

Chap.

3. Equitable Remedies And Proceedings Generally, 23-3-1 through 23-3-127.
4. Equity Procedure, 23-4-1 through 23-4-38.

CHAPTER 1

GENERAL PROVISIONS

23-1-6. Equity follows the law.

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Equitable remedy could not be greater than if rights not violated by referendum vote. — Equitable relief sought by the petitioners was denied because if the trial court had not erred, the referendum still would have passed and the petitioners would be part of the city;

thus, the petitioners were asking the court to put them in a better position than they would be in if their rights had not been violated. *Harris v. City of S. Fulton*, 358 Ga. App. 788, 856 S.E.2d 361, 2021 Ga. App. LEXIS 132 (2021).

23-1-25. Laches.

JUDICIAL DECISIONS

Equitable Demands Must Be Asserted Within Reasonable Time

Laches not available in legal action. — Trial court did not err when by rejecting appellants' claim that foreclosure was barred by laches because, even if laches arguably could be available to a plaintiff

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MUTUAL MISTAKE

PLEADING AND PRACTICE

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Pleading and Practice

Failure to properly evaluate \$100,000 discrepancy. — Trial court erred refusing to grant the plaintiffs motion to withdraw an offer of settlement as the offer’s reference to \$12,000 instead of \$125,000 was a unilateral mistake resulting from negligence by the plaintiffs attorney and the trial court did not evaluate whether it would be unconscionable to enforce the mistake. *Miller v. Evans*, 366 Ga. App. 798, 884 S.E.2d 398, 2023 Ga. App. LEXIS 82 (2023).

23-2-23. Mistake of law in instrument by agent.

JUDICIAL DECISIONS

Remedy of reformation not appropriate. — Remedy of trial court ordering reformation of deed was reversed because evidence showed that parties intended re-finance loan to hold first priority and

nothing in form of conveyance was inaccurate. *U. S. Bank v. Carrington Mortg. Svcs., LLC*, 364 Ga. App. 179, 874 S.E.2d 372, 2022 Ga. App. LEXIS 281 (2022).

23-2-24. When mistake of fact relieved.

JUDICIAL DECISIONS

Relief of mistake of fact generally. — Defendants’ motion to dismiss the reformation claim was denied because plain-

tiff well pled bases for reformation and that there existed an actual controversy between the parties regarding the mean-

ing of the term “net operating revenue” within the Operating Agreement that could not be resolved on the pleadings. *Novarus Capital Holdings, LLC v. AFG*

ME West Holdings, LLC, No. 2020-0331-JRS, 2021 Del. Ch. LEXIS 128 (Del. Ch. June 23, 2021).

23-2-25. Form of conveyance contrary to intent.

JUDICIAL DECISIONS

Remedy of reformation not appropriate. — Remedy of trial court ordering reformation of deed was reversed because evidence showed that parties intended re-finance loan to hold first priority and

nothing in form of conveyance was inaccurate. *U. S. Bank v. Carrington Mortg. Svcs., LLC*, 364 Ga. App. 179, 874 S.E.2d 372, 2022 Ga. App. LEXIS 281 (2022).

23-2-27. Equitable interference not authorized by mere ignorance of law.

JUDICIAL DECISIONS

Mere ignorance of law insufficient for relief. — Dismissal of minor’s wrongful death claims with prejudice was upheld because the trial court judge approved the consent order based on representations of both parties, and the father failed to cite any legal authority to support his assertion that the trial court had an independent duty to verify the

parties’ joint statement that the statute of limitations had run on the minor’s claims against the defendants. *Parrish v. St. Joseph’s/Candler Health Sys., Inc.*, 364 Ga. App. 228, 874 S.E.2d 413, 2022 Ga. App. LEXIS 288 (2022), overruled in part, *Hamon v. Connell*, 315 Ga. 760, 883 S.E.2d 785, 2023 Ga. LEXIS 24 (2023).

23-2-31. Rescission for unilateral mistake of fact.

JUDICIAL DECISIONS

ANALYSIS

RESCISSION

4. CLERICAL ERROR

Rescission

4. Clerical Error

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eral mistake resulting from negligence by the plaintiff’s attorney and the trial court did not evaluate whether it would be unconscionable to enforce the mistake. *Miller v. Evans*, 366 Ga. App. 798, 884 S.E.2d 398, 2023 Ga. App. LEXIS 82 (2023).

23-2-32. When negligent complainant granted relief.

JUDICIAL DECISIONS

Mistake of \$100,000 in settlement. — Trial court erred by refusing to grant the plaintiff’s motion to withdraw an offer of settlement as the offer’s reference to \$12,000 instead of \$125,000 was an unilateral mistake resulting from negligence

by the plaintiff’s attorney and the trial court did not evaluate whether it would be unconscionable to enforce the mistake. *Miller v. Evans*, 366 Ga. App. 798, 884 S.E.2d 398, 2023 Ga. App. LEXIS 82 (2023).

ARTICLE 3
FRAUD

23-2-52. Misrepresentation as legal fraud.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Actual fraud. — In a sexual abuse by a priest case, the plaintiff’s negligent supervision, training, and retention, negligent failure to warn and provide adequate security, breach of fiduciary duty, and fraudulent misrepresentation and concealment claims were improperly dismissed as the plaintiff adequately pled actual fraud for purposes of tolling as the plaintiff could possibly establish the existence of a confidential relationship be-

tween the plaintiff and the defendants, and that the defendants’ alleged fraudulent concealment about the abusive priest debarred or deterred the plaintiff from discovering the plaintiff’s causes of action; and the plaintiff could show that the plaintiff exercised reasonable diligence to discover the defendants’ fraud. *Doe v. St. Joseph’s Catholic Church*, 313 Ga. 558, 870 S.E.2d 365, 2022 Ga. LEXIS 59 (2022).

23-2-53. Suppression of fact as fraud.

JUDICIAL DECISIONS

Suppression of fact about sexual abuse by priest. — In a sexual abuse by a priest case, the plaintiff’s negligent supervision, training, and retention, negligent failure to warn and provide adequate security, breach of fiduciary duty, and fraudulent misrepresentation and concealment claims were improperly dismissed as the plaintiff adequately pled actual fraud for purposes of tolling as the plaintiff could possibly establish the existence of a confidential relationship be-

tween the plaintiff and the defendants, and that the defendants’ alleged fraudulent concealment about the abusive priest debarred or deterred the plaintiff from discovering the plaintiff’s causes of action; and the plaintiff could show that the plaintiff exercised reasonable diligence to discover the defendants’ fraud. *Doe v. St. Joseph’s Catholic Church*, 313 Ga. 558, 870 S.E.2d 365, 2022 Ga. LEXIS 59 (2022).

23-2-58. Confidential relations defined.

Law reviews.

For article, “For Whom the Church Bells Toll: The Supreme Court of Georgia Resolves the Issue of Whether Fraud Can

Toll the Statute of Limitations for Sexual Abuse Claims,” see 74 Mercer L. Rev. 1683 (2023).

JUDICIAL DECISIONS

ANALYSIS

CONFIDENTIAL RELATIONS GENERALLY

1. IN GENERAL
2. SPECIFIC RELATIONSHIPS

Confidential Relations Generally

1. In General

When confidential relationship also a fiduciary relationship. — Georgia Supreme Court held that when a confidential relationship is also a fiduciary relationship, the fiduciary’s fraudulent breach of the duty to disclose can give rise to a breach-of-fiduciary duty tort claim if that breach violates a fiduciary’s duty to act with the utmost good faith; but whether a fiduciary has failed to act with the utmost good faith in a particular circumstance is a question of fact, not law. *King v. King*, 316 Ga. 354, 888 S.E.2d 166, 2023 Ga. LEXIS 100 (2023).

2. Specific Relationships

Bank and its customers. — No confidential relationship existed under O.C.G.A. § 23-2-58 to relieve a bankruptcy debtor from his obligation to read a life insurance contract bought from an investment banking and advisory firm because there was no evidence of a relationship other than the firm’s efforts

to secure financing to enable the debtor to buy its product. *Harris v. Synovus Bank* (In re Harris), No. 22-4079, 2023 U.S. App. LEXIS 33028 (6th Cir. Dec. 12, 2023).

Clergyman and parishioner. — In a sexual abuse by a priest case, the plaintiff’s negligent supervision, training, and retention, negligent failure to warn and provide adequate security, breach of fiduciary duty, and fraudulent misrepresentation and concealment claims were improperly dismissed as the plaintiff adequately pled actual fraud for purposes of tolling as the plaintiff could possibly establish the existence of a confidential relationship between the plaintiff and the defendants, and that the defendants’ alleged fraudulent concealment about the abusive priest debarred or deterred the plaintiff from discovering the plaintiff’s causes of action; and the plaintiff could show that the plaintiff exercised reasonable diligence to discover the defendants’ fraud. *Doe v. St. Joseph’s Catholic Church*, 313 Ga. 558, 870 S.E.2d 365, 2022 Ga. LEXIS 59 (2022).

ARTICLE 4

ACCOUNTING OF CONTRIBUTION; APPORTIONMENT; SETOFF

23-2-71. Entitlement to contribution; when equity has jurisdiction.

JUDICIAL DECISIONS

Construction with federal bankruptcy provisions. — In an adversary

proceeding in bankruptcy that sought terminations regarding a contribution

claim and an adequate protection lien, the parties liable for contribution under Georgia law included only the debtors, as guarantors under a settlement agreement, but not primary obligors and pledgors; applying a presumption of solvency and both a balance sheet test and a cash flow test, an entity that had paid claims against it and was paying debts when due was solvent. *Good Gateway, LLC v. NRCT, LLC* (In re Bay Circle Props., LLC), 635 B.R. 784, 2022 Bankr. LEXIS 233 (Bankr. E.D. Mo. 2022).

Insolvency of co-obligors. — In a lienholder’s action for contribution, a co-obligor failed to rebut the presumption that all co-obligors were solvent because evidence of bankruptcy was not dispositive. *Good Gateway, LLC v. NRCT, LLC* (In re Bay Circle Props., LLC), No. 15-58440-WLH, No. 19-5284, 2022 Bankr. LEXIS 257 (Bankr. N.D. Ga. Jan. 31, 2022).

ARTICLE 7

NONPERFORMANCE OF CONTRACT

23-2-130. When specific performance decreed generally.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

Remedy of reformation not appropriate in refinancing loan. — Remedy of trial court ordering reformation of a deed was reversed because the evidence showed that the parties intended the refi-

nance loan to hold first priority and nothing in the form of conveyance was inaccurate. *U.S. Bank v. Carrington Mortg. Svcs., LLC*, 364 Ga. App. 179, 874 S.E.2d 372, 2022 Ga. App. LEXIS 281 (2022).

23-2-132. When voluntary agreement enforced.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION
PROOF GENERALLY

General Consideration

Parental conveyance of life estate. — For purposes of specific performance, a jury could find that appellant entered into possession of the home place based on a parent’s promise of a life estate as appellant testified that appellant returned home after the parent promised to “make everything right” and later told appellant and appellant’s sibling that the sibling would get the home but that appellant

would have a life estate, and appellant continued to live in the home after the parent conveyed it to the sibling, after the parent died, and after the sibling conveyed the land to appellee. *Farmer v. Farmer*, 371 Ga. App. 156, 899 S.E.2d 780, 2024 Ga. App. LEXIS 131 (2024).

Proof Generally

Inadequate description of property. — In light of the description of the home place in the wills of appellant’s parents, as

well as the extent of appellant’s use of the property over the past two decades, an issue of fact existed as to the identification of the land involved. Thus, it was improper to grant summary judgment to appellee on the ground that specific performance was not warranted because the land was insufficiently described. *Farmer v. Farmer*, 371 Ga. App. 156, 899 S.E.2d 780, 2024 Ga. App. LEXIS 131 (2024).

23-2-135. Damages when specific performance impossible.

RESEARCH REFERENCES

ALR. COVID-19 related litigation: effect of pandemic on contractual obligations, 73 A.L.R.7th 2.

CHAPTER 3

EQUITABLE REMEDIES AND PROCEEDINGS
GENERALLY

Article 3

Quia Timet

PART 1

CONVENTIONAL QUIA TIMET

Sec. 23-3-41. When relief granted; costs.

ARTICLE 1

GENERAL PROVISIONS

23-3-3. Ancillary extraordinary remedies.

JUDICIAL DECISIONS

Deed in lieu of foreclosure. — Trial court did not err by denying the debtor’s motion to set aside the deed in lieu of foreclosure under O.C.G.A. § 23-3-3 because a year after the lender recorded the deed in lieu the debtor still had not paid the lender what was owed under the notes. *Underwood v. Colony Bank*, 362 Ga. App. 548, 869 S.E.2d 535, 2022 Ga. App. LEXIS 65 (2022).

ARTICLE 3
QUIA TIMET

PART 1
CONVENTIONAL QUIA TIMET

23-3-40. Purpose of quia timet.

JUDICIAL DECISIONS

Venue in quiet title action. — Although the lendeed did not allege a proper basis for venue in Rockdale County for the quiet title action, as defendants did not reside there, the proper remedy was a transfer, not dismissal. *Richards v. Opteum Mortgage*, 364 Ga. App. 269, 874 S.E.2d 469, 2022 Ga. App. LEXIS 294 (2022).

Prerequisites not met. — Trial court did not err in setting aside the 2016 warranty deed and quieting title to the property in appellee because sufficient evi-

dence supported the special master’s conclusion that appellant lacked authority to sign the 2016 warranty deed that conveyed the property from appellee to appellant. Appellee’s owners testified that appellant was not authorized to sign the deed on behalf of appellee in January 2016 and that, despite what appellant indicated on the deed, appellant was not the president of appellee. *Davidson v. Lindfield Holdings*, 359 Ga. App. 432, 858 S.E.2d 247, 2021 Ga. App. LEXIS 214 (2021).

23-3-41. When relief granted; costs.

(a) In all proceedings quia timet or proceedings to remove clouds upon titles to real estate, if a proper case is made, the relief sought shall be granted to any complainant irrespective of whether the invalidity of the instrument sought to be canceled appears upon the face of the instrument or whether the invalidity appears or arises solely from facts outside of the instrument.

(b) In such cases the costs shall be taxed against the litigants in the discretion of the court; provided, however, that, in any case where it is found that the defendant fraudulently created the instrument that is sought to be cancelled, the complainant shall be entitled to recover all costs, including reasonable attorney’s fees, incurred in bringing the action to cancel such instrument.

History.

Ga. L. 1905, p. 102, §§ 1, 2; Civil Code 1910, §§ 5466, 5467; Code 1933, §§ 37-1408, 37-1409; Ga. L. 2024, p. 553, § 2-2/HB 1292, effective May 2, 2024.

Amendments.

The 2024 amendment, effective May 2, 2024, added the proviso at the end of subsection (b).

23-3-43. Special master.**JUDICIAL DECISIONS**

Jury trial unavailable. — Because the appellant requested that a special master hear its quiet title claim, the trial court was required to submit the claim to a special master, and therefore the trial

court did not err in finding that the appellant did not have a right to trial by jury. *Davidson v. Lindfield Holdings*, 359 Ga. App. 432, 858 S.E.2d 247, 2021 Ga. App. LEXIS 214 (2021).

ARTICLE 4**EQUITABLE INTERPLEADER****23-3-90. Interpleader; when compelled; taxing of costs, attorney's fees.****JUDICIAL DECISIONS****ANALYSIS****PLEADING AND PRACTICE****Pleading and Practice**

No right to jury trial. — Trial court did not err by not holding a trial to determine entitlement to the excess funds despite the estate executor's several demands for a jury trial because under the plain language of O.C.G.A. § 48-4-5(b), it was for the trial court to apportion the

excess funds according to the priority of the claimants' interests and § 48-4-5 conferred no right to a jury trial in an interpleader action resulting from a tax sale. *Mancuso v. Jackson*, 359 Ga. App. 428, 858 S.E.2d 244, 2021 Ga. App. LEXIS 212 (2021).

ARTICLE 6**TAXPAYER PROTECTION AGAINST FALSE CLAIMS****23-3-120. Definitions.****RESEARCH REFERENCES****ALR.**

Use of state false claims acts to recover taxes, 50 A.L.R.7th 1.

23-3-122. Investigations by Attorney General; civil actions authorized; intervention by government; limitation on participating in litigation; stay of discovery; alternative remedies; division of recovery; limitations.**Law reviews.**

For article, "Executive Secrecy: Con-

gress, the People, and the Courts," see 72 Emory L.J. 1301 (2023).

CHAPTER 4

EQUITY PROCEDURE

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Sec.			2026.) Decree in will or contract matters; consent of guardian or guardian ad litem.
23-4-3.	(Effective until July 1, 2026.) Claim of legal and equitable relief by defendant.	23-4-33.	(Effective July 1, 2026.) Decree in will or contract matters; consent of guardian or guardian ad litem.
23-4-3.	(Effective July 1, 2026.) Claim of legal and equitable relief by defendant.		
Article 3			
Decrees			
23-4-33.	(Effective until July 1,		

ARTICLE 1

GENERAL PROVISIONS

23-4-3. (Effective until July 1, 2026.) Claim of legal and equitable relief by defendant.

A defendant to any action in the superior court or in the Georgia State-wide Business Court, whether the action is for legal or equitable relief, may claim legal or equitable relief, or both, by framing proper pleadings for that purpose and sustaining them by sufficient evidence.

History.	Delayed effective date.
Ga. L. 1884-85, p. 36, § 2; Civil Code 1895, § 4837; Civil Code 1910, § 5410; Code 1933, § 37-905; Ga. L. 2019, p. 845, § 3-5/HB 239.	Code Section 23-4-3 is set out twice in this Code. This version is effective until July 1, 2026. For version effective July 1, 2026, see the following version.

23-4-3. (Effective July 1, 2026.) Claim of legal and equitable relief by defendant.

A defendant to any action in the superior court or in the Georgia State-wide Business Court or the Georgia Tax Court, whether the action is for legal or equitable relief, may claim legal or equitable relief, or both, by framing proper pleadings for that purpose and sustaining them by sufficient evidence.

History.	
Ga. L. 1884-85, p. 36, § 2; Civil Code 1895, § 4837; Civil Code 1910, § 5410;	Code 1933, § 37-905; Ga. L. 2019, p. 845, § 3-5/HB 239; Ga. L. 2024, p. 888, § 2-9/HB 1267, effective July 1, 2026.

Delayed effective date.

Code Section 23-4-3 is set out twice in this Code. This version is effective July 1, 2026. For version effective until July 1, 2026, see the preceding version.

Amendments.

The 2024 amendment, effective July 1, 2026, inserted “or the Georgia Tax Court” near the middle of this Code section.

Editor’s notes.

Ga. L. 2024, p. 888, § 4-1(a)/HB 1267, not codified by the General Assembly, provides that the 2024 amendments to this Code section shall only become effective on July 1, 2026, upon the

ratification of a resolution at the November, 2024, state-wide general election that amends the Constitution so as to authorize the General Assembly to provide by general law for the establishment of the Georgia Tax Court with state-wide jurisdiction. If such a resolution is not so ratified, then the amendments to this Code section shall not become effective and shall stand repealed on January 1, 2025. The constitutional amendment proposed in Ga. L. 2024, p. 1189 was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.

ARTICLE 3

DECREES

23-4-31. Power of court to mold and enforce decrees.

JUDICIAL DECISIONS

Purge condition not sufficiently definite. — Regarding a joint real estate venture to acquire and rent certain properties, because the purge condition in the first contempt order was not sufficiently definite and specific to allow the company to determine when the income needed to

be paid into the court’s registry to purge itself of the contempt, the trial court’s order was reversed. *MTN Investments, LLC v. D. Magen, LLC*, 369 Ga. App. 576, 894 S.E.2d 149, 2023 Ga. App. LEXIS 497 (2023).

23-4-33. (Effective until July 1, 2026.) Decree in will or contract matters; consent of guardian or guardian ad litem.

When it becomes impossible to carry out any last will and testament in whole or in part, and in all matters of contract, the judges of the superior courts, and the judge of the Georgia State-wide Business Court in matters of contract only, shall have power to render any decree that may be necessary and legal, provided that all parties in interest shall consent thereto in writing and there shall be no issue as to the facts or, if there is such an issue, that there shall be a like consent in writing that the judge presiding may hear and determine such facts, subject to a review on appeal, as in other cases. In all cases where minors are interested, the consent of the guardian at law or the guardian ad litem shall be obtained before the decree is rendered.

History.

Ga. L. 1865-66, p. 221, § 1; Code 1868, § 4155; Code 1873, § 4214; Code 1882, § 4214; Ga. L. 1882-83, p. 69, § 1; Civil

Code 1895, § 4855; Civil Code 1910, § 5428; Code 1933, § 37-1205; Ga. L. 2016, p. 883, § 3-8/HB 927; Ga. L. 2019, p. 845, § 3-6/HB 239.

Delayed effective date.
Code Section 23-4-33 is set out twice in this Code. This version is effective until

July 1, 2026. For version effective July 1, 2026, see the following version.

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History.

Ga. L. 1865-66, p. 221, § 1; Code 1868, § 4155; Code 1873, § 4214; Code 1882, § 4214; Ga. L. 1882-83, p. 69, § 1; Civil Code 1895, § 4855; Civil Code 1910, § 5428; Code 1933, § 37-1205; Ga. L. 2016, p. 883, § 3-8/HB 927; Ga. L. 2019, p. 845, § 3-6/HB 239; Ga. L. 2024, p. 888, § 2-10/HB 1267, effective July 1, 2026.

Delayed effective date.

Code Section 23-4-33 is set out twice in this Code. This version is effective July 1, 2026. For version effective until July 1, 2026, see the preceding version.

Amendments.

The 2024 amendment, effective July 1, 2026, in the first sentence, deleted “and” following “superior courts,” and inserted “, and the judge of the Georgia Tax Court”.

Editor’s notes.

Ga. L. 2024, p. 888, § 4-1(a)/HB 1267, not codified by the General Assembly, provides that the 2024 amendments to this Code section shall only become effective on July 1, 2026, upon the ratification of a resolution at the November, 2024, state-wide general election that amends the Constitution so as to authorize the General Assembly to provide by general law for the establishment of the Georgia Tax Court with state-wide jurisdiction. If such a resolution is not so ratified, then the amendments to this Code section shall not become effective and shall stand repealed on January 1, 2025. The constitutional amendment proposed in Ga. L. 2024, p. 1189 was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.

23-4-34. Interlocutory decrees and orders.

Law reviews.

For article, “Variations on a Theme: Georgia’s Evolving Test for Interlocutory

Injunctive Relief,” see 28 Ga. St. B.J. 17 (August 2022).