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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.
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Uniform Laws Annotated.
American Law Reports, First through Seventh Series.
American Law Reports, Federal.

Tables:

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In Volume 41A, an updated version of Table Fifteen 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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In a medical malpractice action, the denial of the medical center's motion to dismiss the patient's renewal action was upheld because the claims were not barred by the five-year statute of repose as that time period was tolled by the March 14, 2020 Judicial Emergency Order, and the patient paid the required court costs, attorney fees, and expenses for wasted work within a reasonable time. *Floyd Healthcare Mgmt. v. Golden*, 374 Ga. App. 641, 913 S.E.2d 765, 2025 Ga. App. LEXIS 105 (2025).

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In a medical malpractice action, the denial of the medical center's motion to dismiss the patient's renewal action was upheld because the claims were not barred by the five-year statute of repose as that time period was tolled by the March 14, 2020 Judicial Emergency Order, and the patient paid the required court costs, attorney fees, and expenses for wasted work within a reasonable time. *Floyd Healthcare Mgmt. v. Golden*, 374 Ga. App. 641, 913 S.E.2d 765, 2025 Ga. App. LEXIS 105 (2025).

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discretionary review. *Cook-Rose v. Waffle House, Inc.*, 320 Ga. 567, 910 S.E.2d 562, 2024 Ga. LEXIS 305 (2024).

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RESEARCH REFERENCES

ALR.

Application of Fed. R. Civ. Proc. 15(c)(1)(C) to Doe or unknown defendant substitutions after limitations period — post-Krupski, 81 A.L.R. Fed. 3d 7.

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9-3-25. Open accounts; breach of certain contracts; implied promise; exception.

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Attorney-client fee contracts. — In a suit wherein attorneys sued a client over

four years after services were rendered, the fees incurred more than four years before the attorneys filed suit had to be determined as those fees were time-barred under the applicable statutes of limitation, and the partial payments made by the client did not renew the statute of limitations because the payments were not acknowledged as payments toward the specific debt. *Anderson v. Kaye*, 371 Ga. App. 626, 901 S.E.2d 765, 2024 Ga. App. LEXIS 194 (2024).

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Presentation must be made within 12 months of accrual. — Landowners' claims were not barred by the running of the statute of limitation as the landowners' ante litem notice was timely for nuisance damage incurred within the 12-month period preceding its presentation, but the landowners could not recover damages incurred after presentation of the notice. *Columbia County v. Satcher*, 369 Ga. App. 608, 894 S.E.2d 181, 2023 Ga. App. LEXIS 501 (2023), vacated in part, 319 Ga. 633, 905 S.E.2d 583, 2024 Ga. LEXIS 177 (2024), vacated in part, 373 Ga. App. 19, 907 S.E.2d 341, 2024 Ga. App. LEXIS 382 (2024).

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Timing and observation of permanent nuisance. — Language from *Oglethorpe Power Corp. v. Forrister*, 289 Ga. 331 (2011) was held imprecise because it did not explain that the standard will not apply in all permanent nuisance cases as permanent nuisance cases vary in relation to when the alleged harm to a plaintiff's property caused by the nuisance becomes observable to the plaintiff. *Wise Bus. Forms, Inc. v. Forsyth County*, 317 Ga. 636, 893 S.E.2d 32, 2023 Ga. LEXIS 204 (2023).

9-3-30.1. Actions against manufacturers or suppliers of asbestos or material containing asbestos.

(a) Notwithstanding the provisions of Code Section 9-3-30 or any other law, every action against a manufacturer or supplier of asbestos or material containing asbestos brought by or on behalf of any person or entity, public or private; or brought by or on behalf of this state or any agency, department, political subdivision, authority, board, district, or commission of the state; or brought by or on behalf of any municipality, county, or any state or local school board or local school district to recover for:

- (1) Removal of asbestos or materials containing asbestos from any building owned or used by such entity;
- (2) Other measures taken to correct or ameliorate any problem related to asbestos in such building;
- (3) Reimbursement for such removal, correction, or amelioration related to asbestos in such building; or
- (4) Any other claim for damage to real property allowed by law relating to asbestos in such building

which might otherwise be barred prior to July 1, 1990, as a result of expiration of the applicable period of limitation, is revived or extended. Any action thereon shall be commenced no later than July 1, 1990.

(b) The enactment of this Code section shall not be construed to imply that any action against a manufacturer or supplier of asbestos or material containing asbestos is now barred by an existing limitations period.

(c) Nothing in this Code section shall be construed to revive, extend, change, or otherwise affect the applicable period of limitation for persons or entities not set forth and provided for in subsection (a) of this Code section.

(d) Nothing contained in this Code section shall be construed to have any effect on actions for personal injury or any other claim except as specifically provided in this Code section.

History.

Code 1981, § 9-3-30.1, enacted by Ga. L. 1988, p. 1996, § 1.

Editor's notes.

This Code section is set out in the supplement to correct a formatting issue.

9-3-31. Injuries to personalty.

RESEARCH REFERENCES

ALR.

Conduct constituting innocent or non-

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9-3-32. Accrual of actions for recovery of personal property or loss of timber; damages for conversion or destruction.

RESEARCH REFERENCES

ALR.

Application of Kingsley to acts or condi-

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9-3-33. Injuries to the person; injuries to reputation; loss of consortium; exception.

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One-year limitation period in home inspection contract upheld following death. — In an action against a home inspector arising from the plaintiff's husband dying when a retaining wall at the home previously inspected collapsed, the one-year limitation period in the home inspection contract was enforceable and barred the plaintiff's wrongful death claims as the one-year limitation period did not violate public policy or function as an impermissible exculpatory clause. *Omstead v. BPG Inspection, LLC*, 319 Ga. 512, 903 S.E.2d 7, 2024 Ga. LEXIS 146 (2024).

Federal civil rights actions. — Rejected college applicant's federal claims of intentional discrimination and retaliation were time-barred, applying Georgia's two-year statute of limitations for personal injury claims, because limitations began running when the applicant discovered sufficient facts to support the claims, regardless of when the applicant learned of a similarly situated comparator; further, the district court did not fail to consider equitable modification, a corollary of which is wrongful concealment of facts. *Zadoorian v. Gwinnett Tech. Coll.*, No. 22-14206, 2024 U.S. App. LEXIS 8634 (11th Cir. Apr. 10, 2024), cert. denied, 145 S. Ct. 987, 220 L. Ed. 2d 364, 2024 U.S. LEXIS 5061 (2024).

Running of Limitations

Tolling applied to tort action arising out of crime. — In plaintiff's suit alleging sexual assault and battery and

other claims, the trial court erred concluding that the court could not take judicial notice of the criminal proceedings against one of the defendants as the current Georgia Evidence Code permits courts to take judicial notice of public records from other courts and the plain language of O.C.G.A. § 9-3-99 contemplates extending the time in which a victim may file a tort action when there are pending criminal charges. *Perry v. Emory Healthcare Services Management, LLC*, 374 Ga. App. 41, 911 S.E.2d 229, 2025 Ga. App. LEXIS 2 (2025).

Failure to perfect service before running of limitations period. — Trial court's order dismissing plaintiff's personal injury complaint against the defendant was upheld because the plaintiff did not exercise diligence in perfecting service after the statute of limitations had run and offered no explanation or evidence to show diligence in perfecting service during the nearly four-month period after filing the complaint. *Surratt v. Metropolitan Atlanta Rapid Transit Authority*, 369 Ga. App. 411, 893 S.E.2d 807, 2023 Ga. App. LEXIS 469 (2023).

Tolling not shown. — Plaintiff's contention that the suit was timely because the two-year limitation period in O.C.G.A. § 9-3-33 was tolled by the provisions of O.C.G.A. § 9-3-99 failed and the trial court did not err in finding that the tolling statute did not apply, as the plaintiff was not a criminal victim to which § 9-3-99 applied but was the party cited as being at fault. *Toliver v. Dawson*, 370 Ga. App. 451, 896 S.E.2d 714, 2023 Ga. App. LEXIS 572 (2023).

RESEARCH REFERENCES

ALR.

Products liability: dishwashers, 79 A.L.R.7th 1.

Application of Fed. R. Civ. Proc. 15(c)(1)(C) to Doe or unknown defendant substitutions after limitations period — post-Krupski, 81 A.L.R. Fed. 3d 7.

Grounds for relief under Fed. R. Civ. Proc. 60(b)(1) for pro se plaintiffs, 82 A.L.R. Fed. 3d 7.

When does wrongful death claim accrue in maritime case under 46 U.S.C.A. § 30106, 83 A.L.R. Fed. 3d 7.

9-3-33.1. Actions for childhood sexual abuse.**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).

ARTICLE 3

LIMITATIONS ON RECOVERY FOR DEFICIENCIES
CONNECTED WITH IMPROVEMENTS TO
REALTY AND RESULTING INJURIES

9-3-51. Limitations on recovery for deficiency in planning, supervising, or constructing improvement to realty or for resulting injuries to property or person.

(a) No action to recover damages:

(1) For any deficiency in the survey or plat, planning, design, specifications, supervision or observation of construction, or construction of an improvement to real property;

(2) For injury to property, real or personal, arising out of any such deficiency; or

(3) For injury to the person or for wrongful death arising out of any such deficiency

shall be brought against any person performing or furnishing the survey or plat, design, planning, supervision or observation of construction, or construction of such an improvement more than eight years after substantial completion of such an improvement.

(b) Notwithstanding subsection (a) of this Code section, in the case of such an injury to property or the person or such an injury causing wrongful death, which injury occurred during the seventh or eighth year after such substantial completion, an action in tort to recover damages for such an injury or wrongful death may be brought within two years after the date on which such injury occurred, irrespective of the date of death, but in no event may such an action be brought more

than ten years after the substantial completion of construction of such an improvement.

(c) This Code section shall not apply to actions for breach of contract, including, but not limited to, actions for breach of express contractual warranties.

History.

Ga. L. 1968, p. 127, §§ 1, 2; Ga. L. 2020, p. 37, § 1/SB 451.

Editor’s notes.

This Code section is set out in the supplement to correct a formatting issue.

JUDICIAL DECISIONS

General Consideration

Statute of repose. — Based on the nature of a statute of repose, the court concluded that a statute of repose created a substantive right in being free from liability for a claim after a fixed period of time; thus, the defendant had a substan-

tive, vested right to be free from liability for the plaintiffs’ contract claims as set out in the pre-2020 version of O.C.G.A. § 9-3-51. *Southern States Chemical v. Tampa Tank & Welding*, 316 Ga. 701, 888 S.E.2d 553, 2023 Ga. LEXIS 115 (2023).

ARTICLE 4

LIMITATIONS FOR MALPRACTICE ACTIONS

RESEARCH REFERENCES

ALR.

Liability of cruise ship operator for medical negligence, 77 A.L.R.7th 5.

Malpractice of nurse practitioners, 80 A.L.R.7th 3.

9-3-70. “Action for medical malpractice” defined.

JUDICIAL DECISIONS

Actions against chiropractors. — Given the statutory definition of “chiropractic” and the scope of practice afforded to chiropractors, the Court of Appeals of Georgia concludes that chiropractors are authorized under Georgia law to provide “health treatment and care” to their pa-

tients, such that an action alleging professional negligence against a chiropractor meets the definition of an action for medical malpractice. *Fuller Life Chiropractic Center, P.C. v. Threadgill*, 370 Ga. App. 256, 896 S.E.2d 15, 2023 Ga. App. LEXIS 554 (2023).

9-3-71. General limitation.

JUDICIAL DECISIONS

ANALYSIS

- GENERAL CONSIDERATION
- APPLICATION OF TIMING PRINCIPLES
- SPECIFIC ACTIONS

General Consideration

Trial court must rule on whether novel constitutional question existed.

— In a medical malpractice action filed on behalf of a mentally incapacitated ward outside the two-year statute of limitations, the trial court did not distinctly rule on whether a novel constitutional question existed and it was necessary for the Georgia Court of Appeals to review the appeal first and determine if it disagreed with the trial court's rationale for granting respondents motions to dismiss. *Williams v. Regency Hosp. Co., LLC*, 318 Ga. 145, 897 S.E.2d 466, 2024 Ga. LEXIS 18, transferred, 373 Ga. App. 83, 907 S.E.2d 366, 2024 Ga. App. LEXIS 390 (2024).

Failure to determine if time was tolled due to COVID-19 emergency order. — While the renewal statute, O.C.G.A. § 9-11-41, did not create an exception to the medical malpractice's five-year statute of repose, remand was necessary to determine whether the statute of repose was otherwise tolled by the statewide judicial emergency order related to the COVID-19 pandemic. *Sangster v. McGillivray*, 373 Ga. App. 381, 908 S.E.2d 393, 2024 Ga. App. LEXIS 440 (2024).

Application of Timing Principles

Statute of repose not tolled by COVID-19 emergency order. — Five-year medical malpractice statute of repose was not tolled by the judicial COVID-19 emergency orders and, thus, the statute of repose expired before plaintiff voluntarily dismissed the plaintiff's action against the medical center, such that there was then no action pending against the medical center after the statute expired. *Golden v. Floyd Healthcare Mgmt., Inc.*, 368 Ga. App. 409, 890 S.E.2d 288, 2023 Ga. App. LEXIS 330 (2023), rev'd, 319 Ga. 496, 904 S.E.2d 359, 2024 Ga. LEXIS 152 (2024).

Statute of repose tolled by COVID-19 emergency order. — Because the March 14, 2020 emergency COVID order tolled O.C.G.A. § 9-3-71 before the latter would have barred plaintiff's claims in July 2021, the March 14 order did not deprive defendant of

vested rights in violation of due process. Therefore, the court concluded that the COVID emergency orders could be applied to toll § 9-3-71. *Golden v. Floyd Healthcare Management, Inc.*, 319 Ga. 496, 904 S.E.2d 359, 2024 Ga. LEXIS 152 (2024).

In a medical malpractice action, the denial of the medical center's motion to dismiss the patient's renewal action was upheld because the claims were not barred by the five-year statute of repose as that time period was tolled by the March 14, 2020 Judicial Emergency Order, and the patient paid the required court costs, attorney fees, and expenses for wasted work within a reasonable time. *Floyd Healthcare Mgmt. v. Golden*, 374 Ga. App. 641, 913 S.E.2d 765, 2025 Ga. App. LEXIS 105 (2025).

Medical malpractice action was time-barred.

Dismissal of a medical malpractice and wrongful death action was upheld because plaintiffs' complaint and amended complaint did not include an expert affidavit as required by O.C.G.A. § 9-11-9.1, and the subsequent filing was untimely. *Leggat v. Navicent Health, Inc.*, 369 Ga. App. 731, 893 S.E.2d 438, 2023 Ga. App. LEXIS 448 (2023).

Plaintiffs' claims were properly dismissed as barred by the two year statute of limitations under O.C.G.A. § 9-3-71(a) because plaintiffs' complaint alleged claims sounding in professional negligence, not ordinary negligence, based on the defendants' alleged failure to meet the applicable standard of care. *Williams v. Regency Hospital Company, LLC*, 373 Ga. App. 83, 907 S.E.2d 366, 2024 Ga. App. LEXIS 390 (2024).

Plaintiffs' medical malpractice action was untimely because it was not brought within two years of the date on which it first became apparent that the plaintiffs' symptoms were the result of chronic steroid use, that the defendants allegedly failed to correctly diagnose or treat by discontinuing the plaintiff's prescription. *Mohar v. Leguizamo*, 373 Ga. App. 230, 907 S.E.2d 923, 2024 Ga. App. LEXIS 409 (2024).

Dismissal of plaintiffs' renewal complaint as barred by the 5-year statute of

Application of Timing Principles (Cont'd)

repose was upheld because plaintiffs chose to voluntarily dismiss the complaint and file a renewal action outside the repose period. While defendants’ alleged fraud in concealing the cause of the IV infiltration (which occurred during surgery) and that the fraud could potentially toll the statute of repose under the doctrine of equitable estoppel, that doctrine did not apply since the fraud did not actually deter plaintiffs from timely filing their initial complaint. *Coleman v. Grenda*, 374 Ga. App. 384, 913 S.E.2d 1, 2025 Ga. App. LEXIS 61 (2025).

Specific Actions

Malpractice action against chiro-

practor. — Plaintiffs’ chiropractic malpractice action was subject to the five-year statute of repose applicable to actions for medical malpractice, and therefore because it was filed more than five years after the alleged negligent acts and omissions of defendants it was time-barred, because the statute of repose encompassed claims for damages resulting from injury to a plaintiff arising out of “health treatment or care” provided by a person authorized by law to perform such service, and professional negligence claims against chiropractors for injuries arising from their treatment and care of their patients fit within that definition. *Fuller Life Chiropractic Center, P.C. v. Threadgill*, 370 Ga. App. 256, 896 S.E.2d 15, 2023 Ga. App. LEXIS 554 (2023).

9-3-73. Certain disabilities and exceptions applicable.

JUDICIAL DECISIONS

Constitutionality.

Georgia Court of Appeals was bound by Georgia Supreme Court precedent in *Deen v. Stevens*, 287 Ga. 597, 698 S.E.2d 321, 2010 Ga. LEXIS 590 (2010); O.C.G.A. § 9-3-73(b), which eliminated the tolling of the statute of limitations for medical malpractice claims brought by mentally incompetent plaintiffs, did not violate the equal protection clause of the fourteenth amendment. *Williams v. Regency Hospital Company, LLC*, 373 Ga. App. 83, 907 S.E.2d 366, 2024 Ga. App. LEXIS 390 (2024).

Legal incompetents. — In a medical

malpractice action filed on behalf of a mentally incapacitated ward outside the two-year statute of limitations, the trial court did not distinctly rule on whether a novel constitutional question existed and it was necessary for the Georgia Court of Appeals to review the appeal first and determine if it disagreed with the trial court’s rationale for granting respondents motions to dismiss. *Williams v. Regency Hosp. Co., LLC*, 318 Ga. 145, 897 S.E.2d 466, 2024 Ga. LEXIS 18, transferred, 373 Ga. App. 83, 907 S.E.2d 366, 2024 Ga. App. LEXIS 390 (2024).

ARTICLE 5

TOLLING OF LIMITATIONS

9-3-90. Individuals under disability or imprisoned when cause of action accrues.

JUDICIAL DECISIONS

ANALYSIS

MINORS
LEGAL INCOMPETENTS

Minors

No tolling of statute of limitations.

Trial court properly dismissed a parent's personal injury suit against a city arising from a tree branch falling on a child on city property because O.C.G.A. § 36-33-5 was held not tolled by the tolling provision for minors in O.C.G.A. § 9-3-90(b), and the notice failed to comply with O.C.G.A. § 36-33-5(e) by providing the amount of the loss claimed was in excess of \$500,000 as such a statement was too indefinite. *Dates v. City of Atlanta*, 371 Ga. App. 824, 903 S.E.2d 289, 2024 Ga. App. LEXIS 226 (2024).

City of Atlanta v. Barrett, 102 Ga. App. 469, 472 (1960) and its progeny was disapproved because the time for filing an ante litem notice under O.C.G.A. § 36-33-5 is not subject to tolling under O.C.G.A. § 9-3-90(b) as the Supreme Court of Georgia has made clear in *Dept. of Pub. Safety v. Ragsdale*, 308 Ga. 210 (2020) that an ante litem notice is not a statute of limitation. *Dates v. City of Atlanta*, 371 Ga. App. 824, 903 S.E.2d 289, 2024 Ga. App. LEXIS 226 (2024).

Legal Incompetents

Using mental incapacity to toll statute of limitations.

Georgia Court of Appeals was bound by

Georgia Supreme Court precedent in *Deen v. Stevens*, 287 Ga. 597 (2010); O.C.G.A. § 9-3-73(b), which eliminated the tolling of the statute of limitations for medical malpractice claims brought by mentally incompetent plaintiffs, did not violate the equal protection clause of the fourteenth amendment. *Williams v. Regency Hospital Company, LLC*, 373 Ga. App. 83, 907 S.E.2d 366, 2024 Ga. App. LEXIS 390 (2024).

Trial court must rule on whether novel constitutional question existed.

— In a medical malpractice action filed on behalf of a mentally incapacitated ward outside the two-year statute of limitations, the trial court did not distinctly rule on whether a novel constitutional question existed and it was necessary for the Georgia Court of Appeals to review the appeal first and determine if it disagreed with the trial court's rationale for granting respondents motions to dismiss. *Williams v. Regency Hosp. Co., LLC*, 318 Ga. 145, 897 S.E.2d 466, 2024 Ga. LEXIS 18, transferred, 373 Ga. App. 83, 907 S.E.2d 366, 2024 Ga. App. LEXIS 390 (2024).

9-3-96. Tolling of limitations for fraud of defendant.

Law reviews.

For comment on *King v. King*, 316 Ga.

354, 888 S.E.2d 166 (2023), see 75 *Mercer L. Rev.* 1071 (2024).

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION APPLICATION

General Consideration

Tolling of intentional discrimination and retaliation. — Rejected college applicant's federal claims of intentional discrimination and retaliation were time-barred, applying Georgia's two-year statute of limitations for personal injury claims, because limitations began running when the applicant discovered sufficient facts to

support the claims, regardless of when the applicant learned of a similarly situated comparator; further, the district court did not fail to consider equitable modification, a corollary of which is wrongful concealment of facts. *Zadoorian v. Gwinnett Tech. Coll.*, No. 22-14206, 2024 U.S. App. LEXIS 8634 (11th Cir. Apr. 10, 2024), cert. denied, 145 S. Ct. 987, 220 L. Ed. 2d 364, 2024 U.S. LEXIS 5061 (2024).

Application

Statute of limitations tolled in scouting abuse case. — Because plaintiffs, sexual abuse victims, might be able to introduce evidence supporting fraud-based tolling under O.C.G.A. § 9-3-96 as to the plaintiffs' claims against defendants, churches that hired the scoutmaster who abused plaintiffs, for fraudulent misrepresentation, fraudulent concealment, failure to provide adequate security, failure to train, supervise, and monitor, failure to warn, and negligent retention, the trial court erred by dismissing the claims as time-barred. *McArthur v. Beech Haven Baptist Church*

of Athens, 368 Ga. App. 525, 890 S.E.2d 427, 2023 Ga. App. LEXIS 352 (2023).

Fraud not shown.

Appellant failed to show that any actions on the part of the appellees deterred the appellant from bringing the action in a timely manner because the appellant filed an initial complaint within two years of the motorcycle accident and, thus, could not claim that fraud prevented the appellant from discovering the cause of the motorcycle's malfunction. *Rocha-Cruz v. Ducati N. Am., Inc.*, 375 Ga. App. 100, 914 S.E.2d 394, 2025 Ga. App. LEXIS 131 (2025).

9-3-97.1. Tolling of limitations for medical malpractice.

(a) The periods of limitation for bringing an action for medical malpractice as provided in Code Sections 9-3-71 and 9-3-72 shall be tolled if:

(1) The injured person or his duly appointed attorney makes a request by certified or registered mail or statutory overnight delivery, return receipt requested, upon any physician, hospital, or other health care provider for medical records in their custody or control relating to such injured person's health or medical treatment which medical records the injured person is entitled by law to receive;

(2) The request, if made by an injured person's duly appointed attorney, has enclosed therewith a properly executed medical authorization authorizing release of the requested information to said attorney;

(3) Such request expressly requests that the medical records be mailed to the injured person or his attorney by certified or registered mail or statutory overnight delivery, return receipt requested and states therein that the requested records are needed by the injured person for possible use in a medical malpractice action;

(4) The injured person or his attorney has promptly paid all fees and costs charged by such physician, hospital, or other health care provider for compiling, copying, and mailing such medical records; and

(5) Such medical records or a letter of response stating that the provider does not have custody or control of the medical records has not been received by the injured person or his attorney within 21 days of the date of receiving such request.

Such periods of limitation shall cease to run on the twenty-second day following the day such request was received and shall resume on the

day following the date such medical records, or response stating that the provider does not have custody or control of the medical records, are actually received by such injured person or his attorney; provided, however, that such periods of limitation shall be tolled only once for any cause of action.

(b) Any action filed in reliance upon a tolling of the statute of limitations as authorized by this Code section shall contain in the complaint as first filed allegations showing that the plaintiff is entitled to rely upon the provisions of this Code section, and said complaint as first filed shall have attached thereto as exhibits copies of the request, medical release, and evidence of mailing and receipt by certified or registered mail or statutory overnight delivery.

(c) Notwithstanding any other provision of this Code section, no period of limitation shall be tolled for a period exceeding 90 days except as provided in this subsection. In the event the procedure set forth in subsection (a) of this Code section has been followed by an injured person but the requested records or a letter of response stating that the provider does not have custody or control of the medical records have not been received within 85 days, the injured person shall have the right to petition the court for an order tolling the period of limitation beyond the 90 days and requiring the delivery of the medical records originally requested or a letter of response stating that the provider does not have custody or control of the medical records.

(d) It is intended that the provisions of this Code section tolling the statute of limitations for medical malpractice under certain circumstances be strictly complied with and strictly construed.

History.

Code 1981, § 9-3-97.1, enacted by Ga. L. 1989, p. 419, § 2; Ga. L. 2000, p. 1589, § 4.

Editor's notes.

This Code section is set out in the supplement to correct a formatting issue.

9-3-99. Tolling of limitations for tort actions while criminal prosecution is pending.

JUDICIAL DECISIONS

Tolling applied to tort action arising out of crime, not just against alleged perpetrator. — In plaintiff's suit alleging sexual assault and battery and other claims, the trial court erred concluding that it could not take judicial notice of the criminal proceedings against one of the defendants as the current Georgia Evidence Code permits courts to take judicial notice of public records from other courts and the plain language of O.C.G.A.

§ 9-3-99 contemplates extending the time in which a victim may file a tort action where there are pending criminal charges. *Perry v. Emory Healthcare Services Management, LLC*, 374 Ga. App. 41, 911 S.E.2d 229, 2025 Ga. App. LEXIS 2 (2025).

Tolling not applied to plaintiff who caused accident. — Plaintiff's contention that the suit was timely because the two-year limitation period in O.C.G.A. § 9-3-33 was tolled by the provisions of

O.C.G.A. § 9-3-99 failed and the trial court did not err in finding that the tolling statute did not apply, as the plaintiff was not a criminal victim to which § 9-3-99

applied but was the party cited as being at fault. Toliver v. Dawson, 370 Ga. App. 451, 896 S.E.2d 714, 2023 Ga. App. LEXIS 572 (2023).

ARTICLE 6

REVIVAL

9-3-112. Payment or written acknowledgment equivalent to new promise.

JUDICIAL DECISIONS

Identification of acknowledged debt.

In a suit wherein attorneys sued a client over four years after services were rendered, the fees incurred more than four years before the attorneys filed suit had to be determined as those fees were time-barred under the applicable statutes of

limitation, and the partial payments made by the client did not renew the statute of limitations because they were not acknowledged as payments toward the specific debt. Anderson v. Kaye, 371 Ga. App. 626, 901 S.E.2d 765, 2024 Ga. App. LEXIS 194 (2024).

CHAPTER 4

DECLARATORY JUDGMENTS

Sec.		Sec.	
9-4-2.	(Effective until July 1, 2026.) Declaratory judgments authorized; force and effect.	9-4-5.	(Effective July 1, 2026.) Filing and service; time of trial; drawing of jury.
9-4-2.	(Effective July 1, 2026.) Declaratory judgments authorized; force and effect.	9-4-10.	(Effective until July 1, 2026.) Equity jurisdiction not impaired.
9-4-5.	(Effective until July 1, 2026.) Filing and service; time of trial; drawing of jury.	9-4-10.	(Effective July 1, 2026.) Equity jurisdiction not impaired.

9-4-1. Purpose and construction of chapter.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

APPLICATION

General Consideration

Limitations on declaratory judgments.

Dismissal of a retailer's declaratory judgment claim was upheld because the claim — seeking a determination that the county's practice of hiring a private law firm on a contingency fee basis in federal opioid litigation was improper and that its operations in the county did not constitute a public nuisance — were nonjusticiable as the retailer lacked standing and whether it would be again named as a defendant in the federal litigation was an impermissible basis for a declaratory action. *Publix Super Mkt. v. Rockdale County*, 375 Ga. App. 94, 913 S.E.2d 851, 2025 Ga. App. LEXIS 110 (2025).

Application

Declaratory judgment action not applicable to moot issue. — In a declaratory judgment action arising from a motor vehicle collision, a declaratory judgment

was unavailable since the rights of the parties had already accrued and there was no uncertainty as once judgment was entered in the underlying personal injury case, the declaratory judgment action regarding coverage became moot since the insurer's obligations were fixed. *First Acceptance Insurance Co. v. Watts*, 371 Ga. App. 244, 899 S.E.2d 849, 2024 Ga. App. LEXIS 141 (2024).

County redistricting. — In a suit challenging redistricting of a county's commission district boundaries, the plaintiffs had standing because community stakeholders can sue to enforce public duties and the county's duty to follow state law or home rule authority was a public duty, but the plaintiffs did not show uncertainty about future conduct necessary for declaratory relief as any past injury from voting in the wrong district did not show future uncertainty. *Cobb County v. Floam*, 319 Ga. 89, 901 S.E.2d 512, 2024 Ga. LEXIS 109 (2024).

9-4-2. (Effective until July 1, 2026.) Declaratory judgments authorized; force and effect.

(a) In cases of actual controversy, the respective superior courts of this state and the Georgia State-wide Business Court shall have power, upon petition or other appropriate pleading, to declare rights and other legal relations of any interested party petitioning for such declaration, whether or not further relief is or could be prayed; and the declaration shall have the force and effect of a final judgment or decree and be reviewable as such.

(b) In addition to the cases specified in subsection (a) of this Code section, the respective superior courts of this state and the Georgia State-wide Business Court shall have power, upon petition or other appropriate pleading, to declare rights and other legal relations of any interested party petitioning for the declaration, whether or not further relief is or could be prayed, in any civil case in which it appears to the court that the ends of justice require that the declaration should be made; and the declaration shall have the force and effect of a final judgment or decree and be reviewable as such.

(c) Relief by declaratory judgment shall be available, notwithstanding the fact that the complaining party has any other adequate legal or equitable remedy or remedies.

History.

Ga. L. 1945, p. 137, § 1; Ga. L. 1959, p. 236, § 1; Ga. L. 1982, p. 3, § 9; Ga. L. 2019, p. 845, § 3-1/HB 239.

Delayed effective date.

Code Section 9-4-2 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.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION
APPLICABILITY TO SPECIFIC CASES
2. MISCELLANEOUS

General Consideration

Determining when controversy justiciable.

Dismissal of a retailer’s declaratory judgment claim was upheld because the claim — seeking a determination that the county’s practice of hiring a private law firm on a contingency fee basis in federal opioid litigation was improper and that its operations in the county did not constitute a public nuisance — were nonjusticiable as the retailer lacked standing and whether it would be again named as a defendant in the federal litigation was an impermissible basis for a declaratory action. *Publix Super Mkt. v. Rockdale County*, 375 Ga. App. 94, 913 S.E.2d 851, 2025 Ga. App. LEXIS 110 (2025).

Applicability to Specific Cases

2. Miscellaneous

County redistricting. — In a suit challenging redistricting of a county’s

commission district boundaries, the plaintiffs had standing because community stakeholders can sue to enforce public duties and the county’s duty to follow state law or home rule authority was a public duty, but the plaintiffs did not show uncertainty about future conduct necessary for declaratory relief as any past injury from voting in the wrong district did not show future uncertainty. *Cobb County v. Floam*, 319 Ga. 89, 901 S.E.2d 512, 2024 Ga. LEXIS 109 (2024).

No declaratory judgment action when party seeks to determine propriety of other party’s actions. — Trial court erred by failing to dismiss the city’s declaratory judgment action against the county because the city merely sought to determine the propriety of the county’s actions in assessing taxes at an airport owed by the county and not of its own. *DeKalb County v. City of Chamblee*, 369 Ga. App. 503, 894 S.E.2d 59, 2023 Ga. App. LEXIS 482 (2023).

9-4-2. (Effective July 1, 2026.) Declaratory judgments authorized; force and effect.

(a) In cases of actual controversy, the respective superior courts of this state and the Georgia State-wide Business Court and the Georgia Tax Court shall have power, upon petition or other appropriate pleading, to declare rights and other legal relations of any interested party petitioning for such declaration, whether or not further relief is or could be prayed; and the declaration shall have the force and effect of a final judgment or decree and be reviewable as such.

(b) In addition to the cases specified in subsection (a) of this Code section, the respective superior courts of this state and the Georgia State-wide Business Court and the Georgia Tax Court shall have power, upon petition or other appropriate pleading, to declare rights and other legal relations of any interested party petitioning for the declaration, whether or not further relief is or could be prayed, in any civil case in which it appears to the court that the ends of justice require that the declaration should be made; and the declaration shall have the force and effect of a final judgment or decree and be reviewable as such.

(c) Relief by declaratory judgment shall be available, notwithstanding the fact that the complaining party has any other adequate legal or equitable remedy or remedies.

History.

Ga. L. 1945, p. 137, § 1; Ga. L. 1959, p. 236, § 1; Ga. L. 1982, p. 3, § 9; Ga. L. 2019, p. 845, § 3-1/HB 239; Ga. L. 2024, p. 888, § 2-6/HB 1267, effective July 1, 2026.

Delayed effective date.

Code Section 9-4-2 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 “and the Georgia Tax Court” in subsections (a) and (b).

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, authorizing the establishment of the state-wide Georgia Tax Court, was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.

9-4-5. (Effective until July 1, 2026.) Filing and service; time of trial; drawing of jury.

A proceeding instituted under this chapter shall be filed and served as are other cases in the superior courts of this state or in the Georgia State-wide Business Court; provided, however, that a proceeding instituted in the probate court pursuant to paragraph (1) of subsection (a) of Code Section 15-9-127 shall be filed and served in the manner provided for proceedings in the probate courts of this state in Chapter 11 of Title 53. A proceeding instituted under this chapter may be tried at any time designated by the court not earlier than 20 days after the service thereof, unless the parties consent in writing to an earlier trial. If there is an issue of fact that requires a submission to a jury, the jury may be drawn, summoned, and sworn either in regular term or specially for the pending case.

History.

Ga. L. 1945, p. 137, § 4; Ga. L. 2019, p. 845, § 3-2/HB 239; Ga. L. 2020, p. 377, § 2-5/HB 865.

Delayed effective date.

Code Section 9-4-5 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.

9-4-5. (Effective July 1, 2026.) Filing and service; time of trial; drawing of jury.

A proceeding instituted under this chapter shall be filed and served as are other cases in the superior courts of this state or in the Georgia State-wide Business Court or the Georgia Tax Court; provided, however, that a proceeding instituted in the probate court pursuant to paragraph (1) of subsection (a) of Code Section 15-9-127 shall be filed and served in the manner provided for proceedings in the probate courts of this state in Chapter 11 of Title 53. A proceeding instituted under this chapter may be tried at any time designated by the court not earlier than 20 days after the service thereof, unless the parties consent in writing to an earlier trial. If there is an issue of fact that requires a submission to a jury, the jury may be drawn, summoned, and sworn either in regular term or specially for the pending case.

History.

Ga. L. 1945, p. 137, § 4; Ga. L. 2019, p. 845, § 3-2/HB 239; Ga. L. 2020, p. 377, § 2-5/HB 865; Ga. L. 2024, p. 888, § 2-7/HB 1267, effective July 1, 2026.

Delayed effective date.

Code Section 9-4-5 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” in the first sentence 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, authorizing the establishment of the state-wide Georgia Tax Court, was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.

9-4-8. When court may refuse declaratory judgment.

JUDICIAL DECISIONS

Declaratory judgment inappropriate when issues moot. — In a declara-

tory judgment action arising from a motor vehicle collision, a declaratory judgment

was unavailable since the rights of the parties had already accrued and there was no uncertainty as once judgment was entered in the underlying personal injury case, the declaratory judgment action re-

garding coverage became moot since the insurer's obligations were fixed. *First Acceptance Insurance Co. v. Watts*, 371 Ga. App. 244, 899 S.E.2d 849, 2024 Ga. App. LEXIS 141 (2024).

9-4-10. (Effective until July 1, 2026.) Equity jurisdiction not impaired.

Nothing in this chapter is intended to impair the equity jurisdiction of the superior courts of the state or of the Georgia State-wide Business Court.

History.

Ga. L. 1945, p. 137, § 10; Ga. L. 2019, p. 845, § 3-3/HB 239.

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

Delayed effective date.

Code Section 9-4-10 is set out twice in this Code. This version is effective until

9-4-10. (Effective July 1, 2026.) Equity jurisdiction not impaired.

Nothing in this chapter is intended to impair the equity jurisdiction of the superior courts of the state or of the Georgia State-wide Business Court or the Georgia Tax Court.

History.

Ga. L. 1945, p. 137, § 10; Ga. L. 2019, p. 845, § 3-3/HB 239; Ga. L. 2024, p. 888, § 2-8/HB 1267, effective July 1, 2026.

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, authorizing the establishment of the state-wide Georgia Tax Court, was approved by a majority of the qualified voters voting at the general election held on November 5, 2024.

Delayed effective date.

Code Section 9-4-10 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” at the end 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

CHAPTER 5
INJUNCTIONS

9-5-8. Grant of injunctions in discretion of court; power to be exercised cautiously.

JUDICIAL DECISIONS

ANALYSIS

APPLICATION

Application

Injunction not granted on doctor’s suit for defamation and tortious interference. — In a doctor’s suit against his former employer asserting, inter alia, defamation and tortious interference with business relationships, the trial court did not abuse the court’s discretion in denying the doctor’s request for an injunction as

the doctor failed to establish a substantial threat of irreparable injury or a likelihood of prevailing on the merits, given potential issues of federal preemption, failure to exhaust administrative remedies, and state peer review immunity laws. *Lightfoot v. Wellstar Health System, Inc.*, 374 Ga. App. 216, 912 S.E.2d 107, 2025 Ga. App. LEXIS 26 (2025).

CHAPTER 6
EXTRAORDINARY WRITS

ARTICLE 2
MANDAMUS

9-6-21. Not a private remedy; enforcement of officer’s discretionary acts.

JUDICIAL DECISIONS

Commanding public officials to act. — Trial court properly granted mandamus ordering respondents to repair and maintain a road as part of the county road system as the condition of the road had become impassable for ordinary traffic and fell below the statutory standard requiring county roads to be maintained for

ordinary travel and while counties had discretion to prioritize road repairs, the county did not have discretion to indefinitely fail to repair roads altogether. *Stevens v. Bluff Holdings, LLC*, 373 Ga. App. 886, 910 S.E.2d 632, 2024 Ga. App. LEXIS 497 (2024).

9-6-28. Appeal.**JUDICIAL DECISIONS**

Default judgment warranted. — In a quo warranto action challenging respondents' eligibility to serve on city council, alleging the respondents did not meet residency requirements, the trial court did not err in striking the respondents' answers and entering default judgments

based on their willful discovery violations, including failing to attend depositions, giving evasive testimony, and spoliating evidence. *Cooper v. Pollard*, 370 Ga. App. 550, 897 S.E.2d 469, 2023 Ga. App. LEXIS 573 (2023), *aff'd*, No. S25A0278, 2025 Ga. LEXIS 40 (Ga. Mar. 4, 2025).

ARTICLE 4**QUO WARRANTO****9-6-60. For what purpose quo warranto may issue; who may bring action.****JUDICIAL DECISIONS****ANALYSIS****GENERAL CONSIDERATION
APPLICATION****General Consideration**

Quo warranto not appropriate vehicle to challenge constitutionality of statute district attorney had power to apply. — Trial court erred by issuing a writ of quo warranto finding that the district attorney impermissibly acted in a judicial capacity by using the power under O.C.G.A. § 42-8-66(a) to deny petitioner resentencing as a first offender because quo warranto was not the permissible vehicle for challenging the constitutionality of the statute. *Edwards v. Smith*, 369 Ga. App. 128, 892 S.E.2d 566, 2023 Ga. App. LEXIS 417 (2023).

Application

Default judgment warranted. — In a quo warranto action challenging the respondents' eligibility to serve on city council, alleging the respondents did not meet residency requirements, the trial court did not err in striking the respondents' answers and entering default judgments based on the respondents' willful discovery violations, including failing to attend

depositions, giving evasive testimony, and spoliating evidence. *Cooper v. Pollard*, 370 Ga. App. 550, 897 S.E.2d 469, 2023 Ga. App. LEXIS 573 (2023), *aff'd*, No. S25A0278, 2025 Ga. LEXIS 40 (Ga. Mar. 4, 2025).

Disqualification from public office. — Trial court did not err by determining that a quo warranto proceeding was not a proper vehicle for petitioner's to assert their claim that respondent was disqualified from serving as lieutenant governor under U.S. Const. amend. XIV, § 3 based on certain documents he executed in connection with the 2020 presidential election while serving as a state senator because O.C.G.A. § 9-6-60 does not authorize disqualification based on alleged misconduct. *Lightle v. Jones*, 375 Ga. App. 88, 914 S.E.2d 322, 2025 Ga. App. LEXIS 123 (2025).

A quo warranto action is note the proper vehicle to seek the disqualification of state officeholders base on allegations of misconduct. *Lightle v. Jones*, 375 Ga. App. 88, 914 S.E.2d 322, 2025 Ga. App. LEXIS 123 (2025).

9-6-64. How issues of law determined; time for final determination; appeal; application to issues of fact.

JUDICIAL DECISIONS

Default judgment warranted. — In a quo warranto action challenging respondents’ eligibility to serve on city council, alleging the respondents did not meet residency requirements, the trial court did not err in striking the respondents’ answers and entering default judgments based on the respondents’ willful discov-

ery violations, including failing to attend depositions, giving evasive testimony, and spoliating evidence. *Cooper v. Pollard*, 370 Ga. App. 550, 897 S.E.2d 469, 2023 Ga. App. LEXIS 573 (2023), *aff’d*, No. S25A0278, 2025 Ga. LEXIS 40 (Ga. Mar. 4, 2025).

CHAPTER 7
AUDITORS

9-7-1. Duties of auditor.

JUDICIAL DECISIONS

Appointment improper.
In a case involving the dissolution of a partnership, the order awarding \$75,093.62 to the auditor was vacated and remanded for further consideration because there was nothing in the order to indicate whether the lump sum award

was for the entirety of the work performed, including the period after the court reversed the order of the auditor’s appointment. *A&M Hospitalities, LLC v. Alimchandani*, 373 Ga. App. 704, 908 S.E.2d 741, 2024 Ga. App. LEXIS 470 (2024).

9-7-22. Auditor’s fees.

JUDICIAL DECISIONS

Inadequate determination of lump sum award. — In a case involving the dissolution of a partnership, the order awarding \$75,093.62 to the auditor was vacated and remanded for further consideration because there was nothing in the order to indicate whether the lump sum

award was for the entirety of the work performed, including the period after the court reversed the order of the auditor’s appointment. *A&M Hospitalities, LLC v. Alimchandani*, 373 Ga. App. 704, 908 S.E.2d 741, 2024 Ga. App. LEXIS 470 (2024).

CHAPTER 9
ARBITRATION

Article 1
General Provisions

PART 2
INTERNATIONAL COMMERCIAL ARBITRATION
CODE

Sec.
9-9-32. Appointment of arbitrators;
immunity from liability.

RESEARCH REFERENCES

ALR.
Liability and regulation of food or gro-
cery delivery app, 79 A.L.R.7th 3.

ARTICLE 1
GENERAL PROVISIONS

RESEARCH REFERENCES

ALR. Arbitration against entity in privity with plaintiff as barring action in court under doctrine of claim preclusion, 73 A.L.R.7th 4.

PART 1
ARBITRATION CODE

RESEARCH REFERENCES

ALR.
Trust and estate dispute resolution act,
74 A.L.R.7th 3.

9-9-3. Effect of arbitration agreement.

RESEARCH REFERENCES

ALR. Unconscionability of arbitration provi- sion in real estate transaction, 87 A.L.R.7th 4.

9-9-4. Application to court; venue; service of papers; scope of court’s consideration; application for order of attachment or preliminary injunction.

JUDICIAL DECISIONS

No express provision for method to serve subsequent application. — Seller’s argument that the buyers failed to follow the filing and service requirements of the Georgia Arbitration Code, O.C.G.A. § 9-9-1 et seq., in their application to confirm lacked merit because the buyers’ motion to confirm was filed after the seller had moved to confirm and thus it was a subsequent application and there was no express provision for the method of service of a subsequent application for confirmation. *Nawkaw Props. v. Patel*, No. A22A0247, No. A22A0248, 2022 Ga. App. LEXIS 559 (Ga. Ct. App. June 30, 2022).

Confirmation of arbitration award proper. — In a dispute between stockholders, the Fulton Superior Court in Georgia did not err in confirming the arbitration award due to improper venue because a civil action was initiated in Gwinnett County in 2017 wherein a motion to compel arbitration was filed, thus, Gwinnett County was the only proper venue for the claimants’ petition. *Def. Prods. & Servs. Group v. Kinney*, 368 Ga. App. 617, 889 S.E.2d 381, 2023 Ga. App. LEXIS 280 (2023).

9-9-9. Power of subpoena; enforcement; use of discovery; opportunity to examine documents; compensation of witnesses.

RESEARCH REFERENCES

ALR.

Substitute service of subpoena on individual third party under Fed. R. Civ. P. 45(b)(1), 79 A.L.R. Fed. 3d 3.

9-9-11. When award changed; application for change; objection thereto; time for disposition of application.

JUDICIAL DECISIONS

Construction. — Most natural way to read O.C.G.A. § 9–9–11 is that the time to file a petition to confirm an arbitration award must start at the time the arbitration panel issues its final, changed award — that is, the code section provides that changed awards are subject to the same time rules as normal awards. *Xie Law Offices, LLC v. Luo*, 369 Ga. App. 509, 894 S.E.2d 51, 2023 Ga. App. LEXIS 483 (2023).

Motion to confirm arbitration award timely. — Trial court did not err by concluding that plaintiff timely moved to confirm the arbitration award because

the time to file a motion to confirm began to run from the time the parties received the changed award on July 26, 2021, and plaintiff’s motion to confirm was timely filed within one year of that date on July 26, 2022. *Xie Law Offices, LLC v. Luo*, 369 Ga. App. 509, 894 S.E.2d 51, 2023 Ga. App. LEXIS 483 (2023).

Modification of arbitration award proper. — Change to the arbitration award by adding a provision that defendants were all jointly and severally liable for the damages was proper because it did not alter the legal effect or the merits of the award and it corrected an imperfec-

tion in a matter of form. Xie Law Offices, LLC v. Luo, 369 Ga. App. 509, 894 S.E.2d 51, 2023 Ga. App. LEXIS 483 (2023).

9-9-12. Confirmation of award by court.

JUDICIAL DECISIONS

Motion to confirm arbitration award timely. — Trial court did not err by concluding that plaintiff timely moved to confirm the arbitration award because the time to file a motion to confirm began to run from the time the parties received the changed award on July 26, 2021, and plaintiff’s motion to confirm was timely filed within one year of that date on July 26, 2022. Xie Law Offices, LLC v. Luo, 369 Ga. App. 509, 894 S.E.2d 51, 2023 Ga. App. LEXIS 483 (2023).

Confirmation of arbitration award

proper. — In a dispute between stockholders, the Fulton Superior Court in Georgia did not err in confirming the arbitration award due to improper venue because a civil action was initiated in Gwinnett County in 2017 wherein a motion to compel arbitration was filed, thus, Gwinnett County was the only proper venue for the claimants’ petition. Def. Prods. & Servs. Group v. Kinney, 368 Ga. App. 617, 889 S.E.2d 381, 2023 Ga. App. LEXIS 280 (2023).

9-9-13. Vacation of award by court; application; grounds; rehearing; appeal of order.

JUDICIAL DECISIONS

ANALYSIS

GROUNDS
 APPLICATION

Grounds

Grounds for vacation of arbitration award. — Trial court did not err by vacating the final arbitration award because the arbitrator imperfectly executed their authority as the award failed to fully resolve a significant dispute regarding the escrow account as required by the parties’ settlement agreement. Weathers, II v. Weathers, 372 Ga. App. 504, 904 S.E.2d 689, 2024 Ga. App. LEXIS 318 (2024).

Failure to show prejudice. — In an appeal from the grant of a petition to confirm an arbitration award, the appellate court did not reach the issue of whether the new arbitrator erred in prohibiting a principal of the appellant from participating in the hearing through the form of cross-examination because the appellant failed to articulate any prejudice it suffered as a result. Docs of CT, LLC v. Biotek Services, LLC, 369 Ga. App. 804,

894 S.E.2d 634, 2023 Ga. App. LEXIS 532 (2023), *aff’d*, No. S24G0435, 2025 Ga. LEXIS 109 (Ga. May 28, 2025).

While the communications between the new arbitrator and the appellee’s counsel, which excluded the appellant, was improper, the appellant failed to articulate how it was prejudiced thereby, which was a necessary showing for entitlement to vacatur. Docs of CT, LLC v. Biotek Services, LLC, 369 Ga. App. 804, 894 S.E.2d 634, 2023 Ga. App. LEXIS 532 (2023), *aff’d*, No. S24G0435, 2025 Ga. LEXIS 109 (Ga. May 28, 2025).

Confirmation of arbitration award proper. — In a dispute between stockholders, the Fulton Superior Court in Georgia did not err in confirming the arbitration award due to improper venue because a civil action was initiated in Gwinnett County in 2017 wherein a motion to compel arbitration was filed, thus, Gwinnett County was the only proper

Grounds (Cont'd)

venue for the claimants' petition. *Def. Prods. & Servs. Group v. Kinney*, 368 Ga. App. 617, 889 S.E.2d 381, 2023 Ga. App. LEXIS 280 (2023).

Application

Decision within arbitrators' authority. — Trial court did not err by compelling arbitration because the issue of whether the ex-husband's actions breached the encumbrance provision of the parties' arbitration agreement was a matter for the arbitrator to decide, as the agreement provided that the arbitrator would decide anything related to the dissolution of the marriage. *Nix v. Scarbrough*, 369 Ga. App. 850, 894 S.E.2d 658, 2023 Ga. App. LEXIS 539 (2023).

Application of law in arbitrator's decision. — Ex-wife failed to make a concrete showing of deliberate disregard of the law by the arbitrator because there was no issue raised before the arbitrator about the joinder of third parties such that she then deliberately disregarded the law and there was no merit to the ex-wife's contention that the arbitrator ignored the Georgia statutory child support guidelines in calculating child support by using net income rather than gross in-

come. *Nix v. Scarbrough*, 369 Ga. App. 850, 894 S.E.2d 658, 2023 Ga. App. LEXIS 539 (2023).

Facts did not support vacation of award, etc. — In a construction dispute, vacating an arbitration award in favor of the property owner was reversed because it could not be determined from the face of the arbitration award what law the arbitrator applied or that the arbitrator deliberately ignored the applicable law; therefore, in the absence of a hearing transcript of the arbitration proceedings, the trial court was without authority to vacate the award. *Lang Enters. LTD. v. Alcue Props. & Interiors*, 368 Ga. App. 88, 889 S.E.2d 210, 2023 Ga. App. LEXIS 266 (2023).

No statutory ground for vacating award. — Trial court properly confirmed the arbitration award against an in-house attorney, as the attorney failed to establish any statutory ground for vacating the award under O.C.G.A. § 9-9-13(b) since the attorney invited any error by naming the alleged bogus entities in the demand letter, agreeing they were proper parties, and seeking damages against some of them; therefore, their alleged lack of standing was not a statutory ground for vacating the award. *Smith v. Blackhall Real Estate*, 373 Ga. App. 177, 908 S.E.2d 1, 2024 Ga. App. LEXIS 403 (2024).

PART 2

INTERNATIONAL COMMERCIAL ARBITRATION CODE

9-9-32. Appointment of arbitrators; immunity from liability.

(a) No person shall be precluded by reason of nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(b) The parties shall be free to agree on a procedure to appoint the arbitrator or arbitrators, subject to the provisions of subsections (d) and (e) of this Code section.

(c) If the parties do not agree on the procedure to appoint the arbitrator or arbitrators:

(1) In an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30

days of their appointment, the appointment shall be made, upon request of a party, by the court specified in Code Section 9-9-27; or

(2) In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator within 30 days, the arbitrator shall be appointed, upon request of a party, by the court specified in Code Section 9-9-27.

(d) Where, under an appointment procedure agreed upon by the parties:

(1) A party fails to act as required under such procedure;

(2) The parties, or two arbitrators, are unable to reach an agreement expected of them under such procedure; or

(3) A third party, including an institution, fails to perform any function entrusted to it under such procedure,

any party may request the court specified in Code Section 9-9-27 to take the necessary measure, unless the arbitration agreement on the appointment procedure provides other means for securing the appointment.

(e) A decision on a matter entrusted by subsection (c) or (d) of this Code section to the court specified in Code Section 9-9-27 shall not be subject to appeal. The court, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the arbitration agreement and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

(f) An arbitrator shall not be liable for:

(1) Anything done or omitted in the discharge or purported discharge of arbitral functions, unless the act or omission is shown to have been in bad faith; or

(2) Any mistake of law, fact, or procedure made in the course of arbitration proceedings or in the making of an arbitration award.

(g) Subsection (f) of this Code section shall apply to an employee or agent of an arbitrator and to an appointing authority, arbitral institution, or person designated or requested by the parties to appoint or nominate an arbitrator or provide other administrative services in support of the arbitration.

History.

Code 1981, § 9-9-32, enacted by Ga. L. 2012, p. 961, § 1/SB 383; Ga. L. 2017, p. 774, § 9/HB 323.

Editor’s notes.

This Code section is set out in the supplement to correct a formatting issue.

CHAPTER 10

CIVIL PRACTICE AND PROCEDURE GENERALLY

Article 7

Continuances

Sec.

9-10-150.

Grounds for continuance and stay — Attendance of party or attorney in General Assembly; writing requirement; considerations.

Article 8

Argument and Conduct of Counsel

Sec.

9-10-184.

Limitations on counsel on arguing damages; remedial measures for violations; conduct of voir dire as to damages.

ARTICLE 1

GENERAL PROVISIONS

9-10-13. Effect of judgment on party vouched into court.

JUDICIAL DECISIONS

ANALYSIS

APPLICATION

Application

Employer at least partially at fault for employee’s injuries. — Railroad company could be able to establish an employer was at least partially at fault for the employee’s injuries and thus required under the parties’ agreement to indemnify the company for at least a portion of the

settlement and expenses incurred in the employee’s litigation because O.C.G.A. § 9-10-13 did not preclude the company from introducing evidence of the employer’s fault. *CSX Transp., Inc. v. Gen. Mills, Inc.*, 82 F.4th 1315, 2023 U.S. App. LEXIS 26504 (11th Cir. 2023).

ARTICLE 2
VENUE

PART 1
GENERAL PROVISIONS

9-10-31. Actions against certain codefendants residing in different counties; pleading requirements; application.

JUDICIAL DECISIONS

Court without jurisdiction to enter judgment against nonresident where resident discharged. — In a wrongful death action, the trial court properly denied the motion to transfer venue because the consent judgment recognized liability

of the nursing home, the resident joint tortfeasor, which preserved venue over the non-resident joint tortfeasor, and there was no collusion shown. *Sobowale v. Smith*, 372 Ga. App. 694, 906 S.E.2d 321, 2024 Ga. App. LEXIS 349 (2024).

ARTICLE 4
PERSONAL JURISDICTION OVER NONRESIDENTS

9-10-91. Grounds for exercise of personal jurisdiction over non-resident.

JUDICIAL DECISIONS

ANALYSIS

GROUND FOR JURISDICTION OVER NONRESIDENTS

- 1. TRANSACTING BUSINESS
- 2. TORTIOUS ACTS WITHIN STATE

Grounds for Jurisdiction over Nonresidents

1. Transacting Business

Cause of action arising from business transaction satisfies minimum contact requirement. — In a contract case involving the sale of allegedly defectively installed windows, the seller transacted business in Georgia through its relationship with its local dealer/franchisee, thus, minimum contacts were established for specific personal jurisdiction. *Latium USA Trading, LLC v. Smith*, 371 Ga. App. 347, 899 S.E.2d 324, 2024 Ga. App. LEXIS 88 (2024).

No jurisdiction absent business transaction giving rise to liability.

Trial court erred in denying defendant's

motion to dismiss for lack of personal jurisdiction because defendant did not “transact any business” in Georgia within the meaning of Georgia’s long-arm statute, when it merely provided a site-specific service outside of Georgia to Georgia residents who solicited defendant’s services. Mailing invoices to Georgia residents and communicating electronically with them regarding services rendered out of state was insufficient to establish personal jurisdiction. *Cascade Aircraft Management, LLC v. Velazco*, 374 Ga. App. 397, 913 S.E.2d 4, 2025 Ga. App. LEXIS 59 (2025).

2. Tortious Acts Within State

Prerequisites for exercise of jurisdiction. — In companion actions regard-

**Grounds for Jurisdiction over
Nonresidents (Cont'd)**
2. Tortious Acts Within State (Cont'd)

ing an alleged nuisance caused by the increased volume of water flowing from an uphill property onto a downhill property, the trial court failed to properly exercise the court’s discretion to add MAB2 as a

party under the applicable rules, and it improperly relied on allegations instead of evidence in determining personal jurisdiction over the MAB Managers under Georgia’s long-arm statute. *MAB Monroe, LLC v. Mayfield Self Storage, LLC*, 374 Ga. App. 98, 911 S.E.2d 467, 2025 Ga. App. LEXIS 12 (2025).

9-10-94. Service.

JUDICIAL DECISIONS

Service on nonresident invalid. — Record was entirely devoid of evidence showing that the Camden County, Georgia process server was appointed, certified, or otherwise qualified in accordance with the Fla. Stat. Ann. § 48.021, so as to legally empower him to personally serve the father in Florida. Therefore, the

purported service on the father in Florida was not made by someone authorized to make service in Florida as required by Georgia and so service on the father of the mother’s motion for contempt was deficient. *Stewart v. Stewart*, 369 Ga. App. 256, 893 S.E.2d 163, 2023 Ga. App. LEXIS 436 (2023).

ARTICLE 7
CONTINUANCES

9-10-150. Grounds for continuance and stay — Attendance of party or attorney in General Assembly; writing requirement; considerations.

(a) A member of the General Assembly who is a party to or the attorney for a party to a case; any member of the Office of Legislative Counsel, including the legislative counsel and persons provided for under subsection (d) of Code Section 28-4-3, appearing on behalf of the General Assembly or any member, officer, or staff thereof in a case; any individual or member of the office provided for in Code Section 28-4-5.1, appearing on behalf of the General Assembly or any member, officer, or staff thereof in a case; or any member of the staff of the Lieutenant Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Speaker Pro Tempore of the House of Representatives, or the chairperson of the Judiciary Committee or Special Judiciary Committee of the Senate or of the Judiciary Committee or Judiciary, Non-civil Committee of the House of Representatives who is the lead counsel for a party to a case pending in any trial or appellate court or before any administrative agency of this state, shall be granted a continuance and stay of the case. The continuance and stay shall apply to all aspects of the case, including, but not limited to, the filing and serving of an answer to a complaint, the making of any discovery or motion, or of any response to any

subpoena, discovery, or motion, and appearance at any hearing, trial, or argument. Unless a shorter length of time is requested by the member, the continuance and stay shall last for the seven days prior to the regular or extraordinary session of the General Assembly; the length of any regular or extraordinary session of the General Assembly; during the first three weeks following any recess or adjournment, including an adjournment sine die of any regular or extraordinary session; and the entirety of any day during the calendar year on which a legislative committee for which the member serves or is staff holds a scheduled meeting, the member attends a national legislative conference or board meeting, the member attends a caucus meeting, or the member attends a meeting of a study committee of the General Assembly. Notwithstanding any other provision of law, rule of court, or administrative rule or regulation, the time for doing any act in the case which is delayed by the continuance provided by this Code section shall be automatically extended by the same length of time as the continuance or stay covered.

(b)(1) For such other times not provided for in subsection (a) of this Code section, a member of the General Assembly who is a party to a case or the lead counsel for a party to a case may request a continuance or stay as the member of the General Assembly certifies to the court that his or her presence elsewhere is required by his or her duties with the General Assembly. The certification by the member of the General Assembly shall be in writing and shall state with particularity the nature of the General Assembly duties that require the continuance or stay. Opposing counsel, a party to the case, or the court on its own motion shall have ten days from receipt of the request for a continuance or stay to object to the request by stating with particularity the grounds upon which it is determined that such stay or continuance will cause significant harm to the rights of a party or would otherwise be detrimental to the interest of justice. The court upon receipt of the objection, or on its own motion, shall consider the following in determining whether to grant or deny the continuance or stay:

- (A) The length of time that the case has been pending;
- (B) The length of delay that such stay or continuance will cause in the resolution of the case;
- (C) The nature of the General Assembly duties that require the continuance or stay; and
- (D) Such other factors that the court determines to be relevant in determining the harm to the rights of the parties or the interest of justice in the granting or denial of the request for a continuance or stay.

(2) Absent a ruling by the court denying the continuance or stay certified by the member under paragraph (1) of this subsection, such continuance or stay shall be considered granted as a matter of law.

History.

Ga. L. 1905, p. 93, § 1; Civil Code 1910, § 5711; Code 1933, § 81-1402; Ga. L. 1952, p. 26, § 1; Ga. L. 1973, p. 478, § 1; Ga. L. 1977, p. 760, § 1; Ga. L. 1991, p. 376, § 1; Ga. L. 1996, p. 112, § 1; Ga. L. 2002, p. 403, § 1; Ga. L. 2006, p. 494, § 1/HB 912; Ga. L. 2009, p. 303, § 18/HB 117; Ga. L. 2019, p. 777, § 1/HB 502; Ga. L. 2024, p. 922, § 4-7/SB 341, effective May 6, 2024.

Amendments.

The 2024 amendment, effective May 6, 2024, in the first sentence of subsection (a), inserted “or any member, officer, or staff thereof” and inserted “any individual or member of the office provided for in Code Section 28-4-5.1, appearing on behalf of the General Assembly or any member, officer, or staff thereof in a case;”.

ARTICLE 8

ARGUMENT AND CONDUCT OF COUNSEL

9-10-184. Limitations on counsel on arguing damages; remedial measures for violations; conduct of voir dire as to damages.

(a) As used in this Code section, the term:

(1) “Economic damages” means pecuniary damages recoverable in tort for bodily injury or wrongful death, including, but not limited to, damages for past and future medical expenses; costs of rehabilitation; costs of therapy; loss of wages; loss of income; loss of earning capacity; loss of services performed by the injured or deceased person as a result of the injury or death, including domestic and other necessary services performed without compensation; and funeral or burial expenses.

(2) “Noneconomic damages” means all damages recoverable in tort for bodily injury or wrongful death other than economic damages, including, but not limited to, damages for physical or emotional pain, discomfort, anxiety, hardship, distress, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, injury to reputation, and in wrongful death cases, the noneconomic elements of the full value of life.

(b) Except as otherwise provided in subsection (c) of this Code section, in the trial of any action to recover damages for bodily injury or wrongful death, counsel shall not argue the worth or monetary value of noneconomic damages, and counsel shall not, in the hearing of the jury or any prospective juror, elicit any testimony regarding, or make any reference to, any specific amount or range of amounts of noneconomic damages, the measure of such damages being the enlightened conscience of an impartial jury.

(c)(1) In the trial of any action to recover damages for bodily injury or wrongful death, counsel for any party shall be allowed to argue the worth or monetary value of noneconomic damages only after the close of evidence and at the time of such party's first opportunity to argue the issue of damages, provided that such argument shall be rationally related to the evidence of noneconomic damages and shall not make reference to objects or values having no rational connection to the facts proved by the evidence.

(2) If counsel is entitled to the opening and concluding arguments, then counsel shall not be allowed to argue the worth or monetary value of noneconomic damages during such counsel's concluding argument unless counsel has argued the worth or monetary value of noneconomic damages during such counsel's opening argument, and such counsel shall not argue a different worth or monetary value of noneconomic damages in concluding arguments than was argued in such counsel's opening argument.

(d) If counsel elicits any testimony, or makes any argument or reference, prohibited by this Code section in the hearing of the jury or one or more prospective jurors, the court shall take remedial measures as provided in Code Section 9-10-185 or shall, with respect to prospective jurors, excuse the prospective jurors.

(e) Nothing in this Code section shall be construed to prohibit counsel from asking prospective jurors during voir dire whether they could return a verdict that does not award any damages or a verdict in excess of some unspecified amount, provided that such question is supported by the evidence.

History.

Ga. L. 1960, p. 174, § 1; Ga. L. 2025, p. 19, § 1/SB 68, effective April 21, 2025.

Effective Dates.

This Code section became effective April 21, 2025.

Amendments.

The 2025 amendment, effective April 21, 2025, rewrote this Code section.

Cross references.

Right to individual examination of jury panel, § 15-12-133.

Questions on voir dire, § 15-12-164.

Voir dire, Ga. Unif. Super. Ct. 10.1.

Voir dire, Ga. BCR 12-1.

9-10-186. Opening and closing arguments.

JUDICIAL DECISIONS

Right to open and conclude arguments to the jury. — Trial court did not err by refusing to allow defendant to open and close final arguments under O.C.G.A. § 9-10-186 because by reading from plaintiff's expert's blog post, defendant

introduced evidence and thereby lost the defendant's right to open and close final arguments. *Sandler v. Coger*, 373 Ga. App. 373, 908 S.E.2d 399, 2024 Ga. App. LEXIS 445 (2024).

