

## CIVIL LAW SUITS

### **Where should I file my case? (MAG 10)**

You must file your case in the county in which the Defendant (the party you are suing) resides. This requirement is referred to as "venue."

#### **5A. Individuals**

For an individual, venue is the county of the person's legal residence.

#### **5B. Businesses**

The proper venue for a business Defendant is determined by the type of business. For a sole proprietorship, the suit should be brought in the county in which the owner of the business resides. For a partnership, the suit should be brought in the county in which at least one of the owners resides. For a corporation, the suit should be brought in the county which the corporation has designated with the Secretary of State as its registered office.

#### **5C. Multiple Defendants**

For multiple Defendants, you can file your case in any county in which venue would be proper for at least one of the Defendants, if they are jointly and severally liable.

#### **5D. Out of State Parties**

For a party which lives outside the State of Georgia, or a corporation from outside the State of Georgia, your case should be filed in the county in which the transaction or occurrence giving rise to the claim took place.

### **Who may file a claim or have a claim filed against them? (MAG 10)**

The party who files a claim is referred to as the "Plaintiff." The party who is sued is referred to as the "Defendant." A claim must designate the proper Plaintiff(s) and Defendant(s). The determination of the proper party will depend on whether the party is a person or a business and how that business is set up. Failure to name the proper parties may result in a defective judgment.

#### **4A. Individuals**

If the party is a person, you should designate that party by his or her legal name. For example "John Doe."

#### **4B. Minors**

If the party is a minor (under the age of 18), the proper party depends upon whether the minor is the Plaintiff or the Defendant. A minor may not be a Plaintiff directly but must sue through the minor's parent or legal guardian. For example "John Doe, a

minor, by Joe Doe, next best friend." A minor may be sued directly or through the minor's parent or legal guardian.

#### **4C. Businesses**

If the party is a business, you must name the proper legal entity. The proper legal entity is determined by how the business is set up. You can contact the Georgia Secretary of State at (404) 656-2817 to get information on a corporation.

#### **4D. Sole Proprietorships**

A sole proprietorship is a business owned by one person which is not in the form of a corporation. The person may or may not use a trade name in the operation of the business. In either case, the proper party is the individual owner. For example "John Doe, individually and d/b/a John's Garage."

#### **4E. Partnerships**

A partnership is a business owned by two or more persons which is not in the form of a corporation. The proper parties are the actual partners. For example "John Doe and Jane Doe, individually and d/b/a John's and Jane's Garage."

#### **4F. Corporations**

A corporation is a legal entity separate and distinct from its owners. The proper party is the legal name of the corporation. For example "John's Garage, Inc." You can get information on corporations from the Georgia Secretary of State by calling (404) 656-2817. You should determine the correct legal name of the corporation, the county in which its registered office is located, and the name and address of the Registered Agent.

#### **What if I file a case in the wrong court? (MAG 10)**

If you file a case in Magistrate Court over which the Court does not have jurisdiction or where venue is improper, the case will be transferred to a court that does have jurisdiction. An order will be entered transferring the case to the appropriate court. The order may contain a requirement that you pay a transfer fee within twenty (20) days. There is no additional fee for transfer of the case to a Magistrate Court in another county. There is a fee for the transfer of a case to State Court or Superior Court. Failure to pay the transfer fee will result in a dismissal of the case.