

Summons (MAG 10-17)

Purpose of form:

O.C.G.A.15-10-48 requires the defendant be given the statutory notice set forth in this code section for all magistrate court civil cases. This statutory notice is contained within this document, entitled MAG 10-17 Summons.

Our statement of claim form, MAG 10-01, contains this statutory notice. Therefore, if a plaintiff files a statement of claim using form MAG 10-01, then this document is **not** needed.

This form must be attached to all other civil complaints, or statement of claims, which do not otherwise contain the statutory notice required by O.C.G.A. 15-10-48.

MAGISTRATE COURT OF FULTON COUNTY, GEORGIA

Case No: _____

Plaintiff(s) Name, Address

Vs

NOTICE AND SUMMONS

Defendant(s) Name, Address

(This form is used when the Plaintiff drafts a separate Complaint, rather than using the Statement of Claim form)

To: All Defendant(s)

You are hereby notified that the above named Plaintiff has made a claim and is requesting judgment against you in the sum of \$ _____.

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

If you choose to file your answer orally, it MUST BE IN OPEN COURT IN PERSON and within the 30 day period. **NO TELEPHONE ANSWERS ARE PERMITTED.**

If you file an answer, the court will hold a hearing on this claim at the _____, at a time to be scheduled after your answer is filed. (Answer & Counterclaim forms are available at the Magistrate Clerk's office. Answers & counterclaims should be mailed to Clerk, Magistrate Court, _____).

You may come to court with or without an attorney. If you have witnesses, books, receipts, or other writings bearing on this claim, you should bring them to court at the time of your hearing. If you want witnesses or documents subpoenaed, see a staff person in the Clerk's office for assistance.

If you have a claim against the Plaintiff, you should notify the court and immediately file a written answer and counterclaim.

If you admit to the Plaintiff's claim but need additional time to pay, you must come to the hearing in person and tell the court your circumstances.

Filed this ____ day of _____, 20__.

Magistrate or Deputy Clerk of Court

INSTRUCTIONS

IF YOUR CASE GOES TO TRIAL

You must be prepared and **ON TIME**. Bring all of your witnesses, documents, photographs, etc. to court with you. If you are late, you may automatically lose your case and you may not have an opportunity to present your side of the issue. If you must be late, contact the court well in advance during normal business hours so that the calendar can be properly marked.

The following may help you in preparing your claim or defense:

- All parties shall notify the Clerk of Court in writing of any address change.
- All court notices come by regular mail. If your address changes, you may miss your court appearance & lose your case.
- I will bring the following to court to prove my case:
- Written contracts, leases, IOUs, notes, etc.
- Letters and/or papers relating to the case
- Bills or estimates (The person(s) who prepared the bills or estimates should accompany you to court)
- Canceled checks
- Photographs
- Witnesses (Should accompany you. Notarized statements are NOT accepted as evidence at a trial.)
- Other evidence
- I have witnesses who have firsthand knowledge of my case. They have not heard evidence from someone else. [NOTE: Impartial witnesses who have no stake in the outcome of the case are generally more believable]
- I need to get a subpoena (order to appear) from the Clerk of Court for some witnesses to make certain that they appear.
- I need to get subpoenas for the production of documents.
- This case involves damage to property (for example, a car, the home, etc.)
- I can describe the damage in detail and I have repair bills, written estimates of damage or repair, or other reliable evidence to help support **my opinion of the value of the property before and/or after** the damage. [NOTE: a case involving damages must always be proved by LIVE TESTIMONY]. Bring/subpoena the person to court who prepared any estimates.
- I can describe the condition of the property before the damage and I have determined what it was worth then. I have a Bluebook guide or newspaper ads to help prove my opinion. I can describe with reasonable certainty the cost of repairs. I have researched the law as to the correct measure of damages.

FOR PLAINTIFF:

- The party I have named is liable to me. (There is not another person or corporation who is not named who really owes the money to me. Just because a person is an officer/registered agent of a corporation does not make that person liable.)
- I can prove the amount of the complaint. I have not asked for more money than is really owed me.

FOR DEFENDANT:

- I filed an answer to the Plaintiff's claim on time.
- I do not owe the money because someone else is legally responsible.
- I do not owe the Plaintiff anything for some other reasons.
- The Plaintiff is suing for more than the damage.
- The Plaintiff owes me money and I have set forth my counter claim in the answer with a dollar amount. A counterclaim must be proven in the same way as the Plaintiff's claim.
- I owe most or all of the money the Plaintiff claims but I need more time to pay it. I need to set up a payment plan. I will try to work this out with the plaintiff before court. Otherwise, I will tell the judge I need a payment plan at the court date.

NOTE: The Magistrate Court attempts to use simple procedures but is subject to the same rules of law and evidence as any other court. You may wish to seek legal advice from an attorney if the importance of your case warrants it. **You have the responsibility for presenting your case and this form gives only general advice which may not be adequate in your case.**