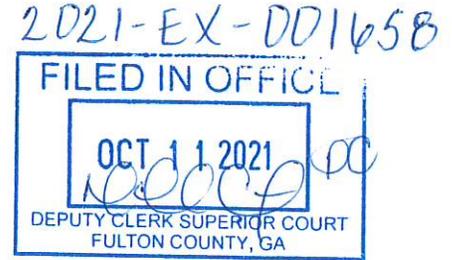


IN THE MAGISTRATE COURT OF FULTON COUNTY
STATE OF GEORGIA

IN RE:
***Abandoned Motor Vehicle
Internal Operating Policy and
Procedure 2021-1015***

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STANDING ORDER ON ABANDONED MOTOR VEHICLES

Each year on average, Plaintiff Companies file over 5,000 Abandoned Motor Vehicle (“AMV”) cases in the Magistrate Court of Fulton County. From March 13, 2020 through July 26, 2020, the Magistrate Court of Fulton County operated under strict guidelines where the Court accepted and STAYED all AMV filings pursuant to an Order Declaring Statewide Judicial Emergency, issued by the Supreme Court of Georgia due to the COVID-19 Pandemic affecting the State. During the Statewide Judicial Emergency, litigants continued to file approximately 150-300 new cases a month, as well as numerous motions on 2019 and 2020 cases. The Statewide Judicial Emergency Order “suspended, tolled, extended, and otherwise granted relief from any deadlines or other time schedules or filing requirements imposed by otherwise applicable statutes, rules, regulations, or court orders, whether in civil or criminal cases or administrative matters.”¹

The Magistrate Court of Fulton County opened slowly under priorities consistent with the Statewide Judicial Emergency and COVID 19-related safety protocols. In 2020, companies filed a total of 5,180 AMV cases in this Court. To date, 3,523 of the 2020

¹ Order Declaring Statewide Judicial Emergency (Amended), filed March 14, 2020 into the Supreme Court of Georgia in the Administrative Minutes.

cases are closed. As of October 1, 2021, companies filed 3,975 AMV in this Court in 2021 and the Court has closed 1,631 matters. Upon review of the open 2020 and 2021 AMV cases on the Court's docket, the Court identified common deficiency issues and areas of non-compliance with the controlling statutes for AMV cases, specifically O.C.G.A. §40-11-19 and O.C.G.A. §40-11-19.1. These ongoing deficiencies hinder the Court's efforts to dispose of AMV cases. This standing order addresses these repeated issues and clarifies the documents required by statute for compliance.

To benefit petitioners, ensure the timely movement and resolution of AMV cases, and promote efficiency in the management of AMV cases, the Magistrate Court of Fulton County adopts the following procedure, effective October 15, 2021. Pursuant to Uniform Rules of Magistrate Court Rule 1.2(C), the Court ORDERS that the following standing order and internal operating procedures shall apply to any AMV action filed on or after October 15, 2021.

The statutory process of filing an AMV matter requires first a filing of the Petition for Abandoned Motor Vehicle Lien Foreclosure and then a Motion to Foreclose the Lien. This two-part process (initial petition and motion for order) mandates service and notification of known owners, unknown owners, and lien holders, as the factual situation authorizes. The Court requires strict compliance with O.C.G.A. §40-11-19 and O.C.G.A. §40-11-19.1 to grant the foreclosure of an abandoned motor vehicle petition. All past practices and allowances are prohibited.

The initial filing must include:

- 1) The Petition for Abandoned Motor Vehicle Lien Foreclosure, signed and notarized (form provided by Council of Magistrate Court Judges);

- 2) Proof of compliance with O.C.G.A. §40-11-19, including a copy of the statutory notice that was mailed to all owners and evidence of certified mailing or hand delivery that is compliant with the statute OR evidence of publication, if notice was achieved by advertisement²; and
- 3) A copy of owner information obtained under O.C.G.A. §40-11-15 or O.C.G.A. §40-11-16.

The second filing of the motion must contain the following:

- 1) The Motion for Order to Foreclose Lien;
- 2) A copy of the oath or affirmation page of the petition that was filed with a copy of the standardized answer form that was mailed by certified mail to the identified owners; and
- 3) Proof of the certified mailing or compliance with advertising.

THEREFORE, copies of the item mailed to owners must be filed with the Court.

If copies of what was mailed are not filed with the Court, the Petition will be denied and the party will have ten (10) days to cure the defect. Parties will have one opportunity to submit evidence required by statute to demonstrate notice and service compliance. In addition, all statutory time requirements must be followed. Failure to follow statutory notice requirements will result in dismissal and no storage fees will be awarded.

WHEREFORE, if a petition is denied under O.C.G.A. § 40-11-19.1(d) the party may refile a petition within 6 months of the date of the denial order, if time remains in the statutory period. Motions for reconsideration³ after the effective date of this Order shall be summarily denied, and petitioner must refile if the foreclosure of lien is not granted.

² "The Company must serve known owners via certified mail or statutory overnight delivery, return receipt requested, with a copy of the claim and the answer form. OCGA § 40-11-19.1 (b) (1). Electronic proof of delivery shall be accepted. ... B. If the notice under OCGA § 40-11-19 was satisfied by advertisement, or signed proof that the notification letter required by OCGA § 40-11-19.1 (b) (1) has not been returned after ten days of such mailing or is returned as unclaimed, the company has 60 days to place advertisement once a week for two weeks in the newspaper of general circulation or legal organ where action has been filed. OCGA § 40-11-19.1 (b)(2)" C. If owners become known while advertisement is running, notice must be sent as provided in OCGA § 40-11-19.1 (b) (1). OCGA § 40-11-19.1 (b) (3)."

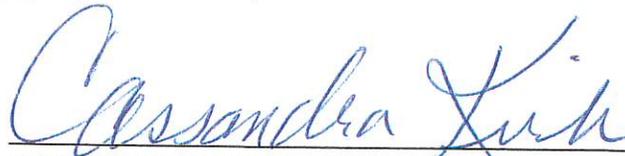
³ Uniform Rules of Magistrate Court Rule 38. Motions may be denied without a hearing based upon the record of the court. Parties and attorneys are reminded that the Georgia Civil Practice Act does not govern proceedings in Magistrate Court.

WHEREFORE, in consideration of the judicial administration, resources of the Court, and in the interest of the parties and general public to move cases to a point of conclusion expeditiously and with the intent to provide due process to all parties, it is evident to the Court that the orderly conduct of its business requires the establishment of an automatic Standing Order to clarify and address recurring issues with Abandoned Motor Vehicle cases,

IT IS THEREFORE ORDERED that any Abandoned Motor Vehicle Petition and Motion filed shall comply fully with this order, consistent with the requirement of the Official Code of Georgia pertaining to abandoned motor vehicles.

IT IS THEREFORE FURTHER ORDERED that the Clerk of Magistrate Court is directed to assess all costs required for civil cases, pursuant to O.C.G.A. §15-10-80 and O.C.G.A. § 36-15-9, to each of these filings.

SO ORDERED this 11 day of October, 2021.



CASSANDRA KIRK, CHIEF MAGISTRATE JUDGE
Magistrate Court of Fulton County