

DISPOSSESSORY ACTIONS IN THE
WALKER COUNTY MAGISTRATE COURT

As with civil claims there are several things you should know before filing a dispossessory, we will not be able to cover them all in this information sheet but in an effort to assist you in filing and representing your claim we offer the following general information.

We are a **COURT** and not a **COLLECTOR** and are required by law to be impartial. We cannot tell you what to say or how to file your claim or the probability of winning or losing. In a dispossessory action the court can issue a Writ of Possession, which is an order to remove the person and their property from the landlord's property. Also a monetary judgement may be issued if the defendant was properly served (personal or notorious) or if the defendant submits himself or herself to the jurisdiction of the court. A judgement gives the authority to attach property of the losing party, such as garnishment of wages or bank accounts, or personal property such as a vehicle, to mention a few.

Grounds for dispossession are 1) Holding over and beyond the terms, or (2) Non-Payment of Rent when Due, or (3) Tenant at Will, or (4) Tenant at Sufferance, whether under contract of rent or not.

A Demand For Possession must be made before a Dispossessory may be filed. A demand may be verbal or in writing. An agreement by a tenant to vacate the premises does not eliminate the necessity of demanding possession of the property.

If you have decided to file there will be a charge of \$69.00 when you file, **(this is for filing and service of the summons, there will be an additional cost of \$25.00 for each additional defendant)**. The Walker County Magistrate Court has jurisdiction over persons residing in Walker County and property in Walker County.

After you file your claim it will be given to the Walker County Sheriff's department to be served. When the defendant is served they will mail a copy of the service to you. The defendant has 7 days from the day of service in which to file an answer. If an answer is filed we will mail you a copy of the answer and a date for trial. **You should bring any evidence and witnesses with you to the trial. If you need witnesses subpoenaed, let the court know in plenty of time to serve them prior to trial.** Motions for continuance of a trial date are required to be in writing and at least 24 hours prior to trial. At trial, the burden is on you to prove your case. You may come with or without an attorney.

If the defendant does not file an answer within the 7 days you are entitled to a Judgement by Default (if properly served) and a Writ of Possession. You are required to file a written motion with the court requesting this to be done. (The attached forms may be used for this purpose). If a Writ of Possession is issued you must contact the Sheriff's office and set up a time so they can be at the property when **YOU** set out the defendant and their property. **(The Sheriff's officer is there ONLY to see that no trouble arises while you are moving the defendant out)**. If you rent a lot and are seeking to have a mobile home removed, the defendant will have an additional 10 days after the Writ is issued to make arrangements to move the mobile home.

Should the claim be settled before judgement you should request in writing that the case be dismissed. If the claim is settled after judgement you should notify the court in writing that the case has been settled so we can record this in the docket book.

Mailing Address: Walker County Magistrate Court
102 Napier St.
LaFayette, GA 30728 706-638-1217 fax 706-638-1218