

**Judicial Council of Georgia  
Access to Justice  
Committee**

**Wednesday August 19, 2020  
12:00 p.m. – 1:30 p.m.**

**Join Zoom Meeting**

<https://georgiacourts-gov.zoom.us/j/98847067972>

**Meeting ID: 988 4706 7972**

One tap mobile +16465588656,,98847067972# US (New York) +13017158592,,98847067972# US (Germantown)

Find your local number: <https://georgiacourts-gov.zoom.us/j/98847067972>

- I. Welcome and Introductions** – 10 minutes
- II. Written Reports**  
Summary of May 13, 2020

*SAVE THE DATES – Upcoming Events*

**Equal Justice Virtual Conference, August 11-13, 2020**

[https://www.americanbar.org/groups/probono\\_public\\_service/ejc/2020-virtual-equal-justice-conference/](https://www.americanbar.org/groups/probono_public_service/ejc/2020-virtual-equal-justice-conference/)

**Upcoming A2J Committee Meetings, November 13, 2020 from 12 noon to 1:30 p.m.**

**A2J Committee Project and Community Updates**

- III. New Standing Committee Update** - 4 minutes, Justice Bethel
- IV. SRL Forms Working Group Update** - 2 minutes, Vicky Kimbrell
- V. Notice of Appeal Issue** – 10 minutes, Judge Doyle and Judge Rickman

- VI. Deaf and Hard of Hearing Working Group Update** - 5 minutes, Dr. William Simmons or Tabitha Ponder.
- VII. SCRA Bench Card** - 2 minutes, Karlise Grier
- VIII. Pilot Project Update** - 2 minutes Nancy Long or Gerald Williams
- IX. Free Legal Record Restriction/Expungement Clinic** - 3 minutes, Tabitha Ponder
- X. Self Help Toolkit Update** - 2 minutes, Cassandra Kirk
- XI. Old Business**
- XII. New Business**

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**Judicial Council of Georgia  
Access 2 Justice Committee  
Wednesday, May 13, 2020  
12:00 noon – 1:30 p.m.**

**Zoom.us**

<https://zoom.us/j/99889703328?pwd=WUJJa3U4bkZ6MkFqWm9KVGkwRkVFUT09>

**Meeting ID: 998 8970 3328**

**Password: 001887**

**Present:** Justice Bethel; Judge Verda Colvin; Judge Sara Doyle; Judge Cassandra Kirk; Judge Clarence Cuthpert; Judge Ethan Pham; Judge Jason Thompson; Judge Maureen Wood; Honorable Bill Adams; Tabitha Ponder; Sharri Edenfield; Jana Edmondson Cooper, JoAnna Smith; Nicki Vaughan; Vicky Kimbrell; Traci Kelly; Terrica Ganzy; Karlise Grier; Nancy Long

**Other present:** Latoinna Lawrence, Michelle Barclay; Noelle Lagueux-Alvarez; LaShawn Murphy; Paula Myrick; Gerald Williams; John Botero; Tiffanie Robinson

### **I. Welcome and Introductions**

The meeting began at 12:00 noon. Roll call was taken by Tabitha Ponder and Latoinna Lawrence.

### **II. Save the Dates**

Justice Bethel discussed our first online record restrictions clinic and how this is very exciting. On May 19, Tabitha will push out information that everyone can share in their communities. The upcoming A2J meetings are scheduled: August 13th and November 13th. These meetings may still be virtual/remote meetings pertaining the circumstances.

### **III. Law Library Proposal/New Standing Committee Update**

Discussions on the update for the law library proposal and a new standing committee that grew out of the chief justices State of the Judiciary was discussed. They are going to have a committee. We will keep the legal self-help centers and access to resources, under the blanket of law libraries for the time being, while examining what we do across all 159 counties of Georgia today and try to translate that into a system that can be modeled. There may be different models in higher density population communities. The dual benefit to the individual is being able to access court system. When you have people coming to court who need help, they are able to access it quickly and efficiently. Their ability to process through the court system skyrockets. We welcome input from stakeholders and from the A2J Committee in terms of what direction you would see that taking, but we're going to start gathering data.

#### **IV. SRL Forms Working Group Update**

The Forms Working Group committee got together and looked at all the forms received from Bibb County Superior Court. They will pull together four or five sets of forms. Divorce with custody, divorce without custody, legitimation and an answer packet. A few of the changes were made, suggested by the committee. The forms will be submitted to Latoinna Lawrence to perform edits. At the next meeting they are going to look at creating a website format. Judge McBurney of Fulton County and the southern judicial site have very easily accessible websites. They will look at these formats to figure out where to get the most effective and easily navigated website for the forms.

#### **V. Deaf and Hard of Hearing Working Group Update**

The Deaf and Hard of Hearing card was produced. There were questions to whether we were able to reach out to a few partners in the community and Georgia Tech partnered with us to get this translation done along with the ADA Office. The cost is about \$1,000 and they will put in 50% of the cost. The braille has already been ordered. We've also made a few updates to the Deaf and Hard of Hearing bench card. We asked for 159 copies for at least one Braille card in each county, they may create 160 copies and keep one at the ADA's office. The card is still known as Deaf and Hard of Hearing but can also be used as Best Practices with Persons with Disabilities. This is also a great supplement to the Judicial ADA guidance that was updated and shared in October 2017. For more in depth, guidance and information, we still encourage everyone to utilize the handbook, which is still available on our website. There was also discussion on using closed captioning for accessibility issues. Karlise Grier has a contact vendor that she used for closed captioning during a meeting and she will pass that information to Tabitha Ponder.

#### **VI. Pilot Project Update**

Gerald Williams introduced himself from the law library in Albany, Georgia's Self-Help Center. Nancy Long provided the Pilot Project updates. There was a correction to be made on the minutes from February 19, 2020: Last year, we served over 10,000 people, the exact number was 14,600 people. They are working updating and receiving state of the art technology for the self-help center. They want chat, zoom, lawyers to equal to Justice and they have with lawyers for equal justice. They have their own attorney on board and it's working out nicely. The pandemic has kind of slowed things a little, but it's great for administrative work. They are still giving people packages, packets and answering questions. They have learned a lot about peach court and how to navigate people through peach court. They have two boards that combined four things to Judge Hodges, they are working with their city commissioners and they have a plan of action to become very self-sufficient.

#### **VII. Free Legal Record Restriction/Expungement Clinic**

We are still partnering with our same collaborators, which is Georgia Justice Project and the State Bar. They have been very instrumental and helping us keep pushing this project along. We have successfully

hosted two townhall meetings, for the general public. We have also reached out to lawyers across the state, some of which agreed to volunteer or work for low bono pay with the clinic on June 19th. Georgia Justice Project also trained lawyers for us. All of this took place in a virtual setting. We have done about three webinars so far, and on June 19th, we will have the actual clinic. If anyone wants to be a part of it, please reach out to Tabitha Ponder. We would like to try to hold the virtual clinics at least twice a month. Hopefully in the future, we will be able to conduct the clinics in person. Justice Bethel asked if Sharri Edenfield can send out a blast email to lawyers to see if they can help. Sharri agreed, she knows that Bert Hummel will take the reins as the President in June 2020. Hummel is interested in low Bono pro bono opportunities for lawyers. The State Bar staff and Stephanie Wilson would be able to help distribute that to a listserv. Justice Bethel also spoke about a clinic that was scheduled for the first week in March that we had to cancel. We did reach out to the participants in Dalton, and some of them are re-registered. Sarah Anderson is stepping in to help. She has helped us reach out to the churches in Dalton.

### **VIII. Self-Help Resources Toolkit/PSA Videos/State Bar Funding and Old Business Updates**

Judge Cassandra Kirk gave updates on the Self-Help Resources Toolkit. We are looking to spend about \$1500 dollars in grant funds that Tabitha and Latoinna secured from the Georgia civil justice foundation. We are happy to report we have the updates from the Middle Georgia Justice as well as Southwest Georgia Legal Self-Help Center. These two updates need to be updated in the book. They have been forwarded to Latoinna and we are in the works of adding those additions to our self-help toolkit. Judge Pham discussed working on his project dealing with the unauthorized practice of law in immigrant communities. He and others were able to produce five PSA essays in five different languages Vietnamese, Chinese, Korean, Spanish and English. The Solicitor General of Gwinnett County teamed up with the Gwinnett County Sheriff's Office and the DHS office. They planned to hold a press conference to push these videos out, but the pandemic hit and put everything on hold. He is hopeful once the pandemic is over, we will circle back and hold the press conference. They did post the videos on their respective Facebook pages. The video in Vietnamese has been viewed over 40,000 times. Judge Pham is trying to reach out to some members of the Georgia State Bar to help push the videos out. The videos PSA were emailed to Tabitha Ponder; they will be sent to the entire A2J Committee via email at the end of this committee meeting. Michelle Barclay discussed the State Bar Funding update. There was talk about getting permanent funding for the contact attorney position. There was a conversation with the other judges, and we thought it was a good idea to get an active practitioner, someone who takes cases and very close to the legal community. So, we opted for a contractor. We have partnered with the State Bar of Georgia and the state paid for half of that contract and the State Bar of Georgia paid for the other half, because the State Bar of Georgia also had an Access to Justice Committee (called Justice for All). The decision to combine these two committees was agreed upon and we will take the strategic plan for Justice for All. Unfortunately, the State Bar of Georgia made up a series of cuts to their budget for the contract that we have. We had a conversation with Dawn Jones, who is the incoming president and asked if we would be allowed to make a proposal about what cuts need to be made. Dawn welcomed that proposal. The proposal was made to the Senate and asked for the same amount that we got last year. Now we are waiting to hear back from the State Bar. We are in hiatus right now, but we

are fine until July and beyond that because we still have our own funding. We didn't not receive the State Bar hearing of funding. The State Bar Funding is \$40,000.

### **IX. New business**

Judge Pham donated blood with the American Red Cross. One of the ladies there recognized him, then he realized he is truly active in the immigrant community. She asked if he could host a blood drive in Gwinnett County for the immigrant community. He will hold a blood drive Saturday May 23, and Monday, May 25. During this pandemic, there's a shortage of blood, so he decided it's for a good cause. He is not asking for monetary donations. All are welcome to donate if you do or do not live in Gwinnett County. Regarding the Deaf and Hard of Hearing card, Joanna made the statement that all people who are low vision or visually impaired read braille. If it is meant to be a resource for people with low vision, or visually impaired, we should provide a large print version. JoAnna is happy to work with Tabitha. Per Tabitha, while working with Georgia State, we change the type of font and increased the font size. The new version will be reviewed by JoAnna and she will let Tabitha know what she thinks.

The meeting was adjourned at 12:34 p.m.

## Instructions for Complaint for Divorce Without Minor Children

*Hello:*

If you want to file for Divorce without an attorney and you do not have any children under 18 years old, you can use this form: Complaint for Divorce Without Minor Children.

Usually, you file for divorce in the County where your spouse lives. In the first blank fill in the SUPERIOR COURT OF \_\_\_\_\_ COUNTY – State of Georgia. Sometimes you can file where you live, if it has been less than six months since your spouse moved out of your marital home or if your spouse now lives out of state.

You are the Plaintiff or Petitioner. Your spouse is the Defendant or Respondent. Leave the Civil Action Number blank until you file. The Clerk will then give you a civil action number. Put in your name in the next blank: My name is: \_\_\_\_\_.

Paragraph 1) The first paragraph talks about Subject Matter Jurisdiction or where your case must be filed. For the court to be able to hear your case you must have lived in Georgia for at least the past six months. If not, your spouse must have lived in Georgia for at least the past six months. Just check one box - a or b.

Paragraph 2) talks about Venue: Venue is usually in the county where your spouse lives. Check only one box.

- a) The Defendant is a resident of \_\_\_\_\_ County (the County where your spouse lives now.)
- b) If your spouse has moved from your county within the past six months, you can file in that county for six months after you separate. In the first box, put the name of the county where s/he lives now. But, in the second box put the county where you two lived together and you still live.
- c) If your spouse agrees that you can file in your county, you must attach a form called an Acknowledgement that your spouse must sign in front of a notary.
- d) If your spouse lives out of state, but you live in Georgia, you can still get a divorce.\* You can get a divorce if your spouse
  - (1) has lived in Georgia before or,
  - (2) Your spouse was never a resident of Georgia or,
  - (3) Your spouse agrees that the case can be heard in Georgia and signs an Acknowledgment of Service, Venue, and Jurisdiction.

\*In this case, the Court can award a divorce, but may not be able to decide everything, like divide some property or debts that you got during the marriage.

Paragraph 3) Service of Process means that the Defendant, your spouse, usually must get a copy of the divorce papers. (a) The spouse can sign a form acknowledging s/he got a copy of the complaint. Or the Sheriff's Office can deliver a copy of the

papers to her/his home or work. Fill in the home and work address of your spouse. If your spouse lives out of state, you can send a copy of the Complaint to the Sheriff's office in the county in the other state and ask them to deliver the Complaint to your spouse. Usually, the Sheriff will charge you to deliver a copy of your Complaint.

(c) if you do not know where your spouse is you can still file for divorce. You must show you tried to find your spouse before you can file for divorce. You can ask his family, friends, or look on social media to find your spouse. If you cannot find where your spouse is, you will have to file Motion for Publication and an Affidavit of Due Diligence saying you tried to find your spouse. \*See form Motion and Affidavit in this packet.

Paragraph 4) Fill in the date you married your spouse in (a). [OR if you were married by common law before January 1, 1997, then you can fill in the date prior to January 1, 1997 when you started holding yourself out as married.]

Paragraph 5) Fill in the date you were separated from your spouse.

Paragraph 6) Check the box next to paragraph 6 if you signed a Settlement Agreement. A Settlement Agreement is a document that says you and your spouse agree that you should get divorced and agree on the terms of the divorce. Both you and your spouse must sign the Settlement Agreement in front of a Notary. Then you can file it with the Complaint. (See the form Settlement Agreement)

Paragraph 7) Check (a) if you don't have children under 18 together.

Check (b) if you have minor children – If you have minor children, you need another Divorce Complaint form. Stop here and get another form.

Paragraph 8) Alimony. Check box (a) or (b) or (c).

Check box (a) if you are asking the court to award alimony because you depend on your spouse for your support. Check (b) if you are not asking for alimony. Box (c) means that the Court does not have jurisdiction over your spouse – for example, he lives out of state and has never lived in Georgia.

Paragraph 9) If you have property, check one box. Dividing property, like real estate, pensions, or investments can get very complicated.

Check (a) if you have already divided the property you got during your marriage and you both are satisfied with the division. Check (b) if you and your spouse do not have any property you got during the marriage, so you do not need the court to divide it. Check (c) if you have property you got during the marriage and you want the court to divide the property. You should describe the property like: a house at: \_\_\_\_\_ (address); other real estate located at \_\_\_\_\_; a mobile home: model: \_\_\_\_\_ year: \_\_\_\_\_; pensions: \_\_\_\_\_; cars/trucks: \_\_\_\_\_;

furniture \_\_\_\_\_; bank accounts/or other investments: \_\_\_\_\_;  
or other property: \_\_\_\_\_ You can also list these on  
separate pages and attach them to this Complaint. Or check (d) the Court cannot  
divide property because, for example, the spouse is out of state or you haven't  
been able to get jurisdiction of your spouse.

10) Joint or Marital Debts: (Check only (a), (b), or (c).

Check (a) if you do not have joint debts. Check (b) if you want the court to divide  
the debts, including the Creditor-who you owe the debt to, the amount you owe,  
and which person should pay the debt. Check (c) if the Court does not have  
jurisdiction to divide the debts.

11) If you have been the victim of domestic violence and you are afraid, you can ask  
the Court for a Restraining Order telling your spouse to stay away from you.

12) If you want the court to change your name back to what it was before you were  
married, check this box, and put in the former name you want the court to give  
back to you.

13) The grounds for Divorce are in Georgia law. You can check a, b, c, d, or e if you  
have another ground that is in the Georgia law. Most divorces in Georgia are  
filed because the marriage is irretrievably broken. That means one party says  
that the marriage is broken and there is no hope of getting back together. If you  
choose to file based on cruel treatment, you must be able to prove the cruel  
treatment at trial and you should explain the cruel treatment here. You only need  
one ground, but you can put in as many as apply and that you can prove at trial.

Lastly, you will ask the court for Relief - What do you want the court to do in this divorce  
case?

Check (a) – You want a divorce. (b) If you have a Settlement Agreement you  
want included by the court in your divorce, check box b. If you asked for alimony  
above, you check box (c). If you asked the court to divide marital property or  
marital debts, check boxes (d) or (e). If your spouse was violent and you want a  
restraining order, check box (f). If you want your name changed back to what it  
was before you were married, check box (g).

Box (h) asks the court to schedule a Rule Nisi or a Hearing to hear your facts,  
your case, and what you want the court to do in this divorce. Check the last box  
to cover anything else the court might find it should do.

You must date and sign this form, the Complaint. Fill in your name, address, and phone  
number.

You will take the Complaint, along with the other forms you have completed to the  
Superior Court Clerk's office where you are filing for divorce. You must file a

Verification with this form, which swears that everything in this complaint is true. The Verification form must be signed and notarized.

Disclaimer:

Script for General Civil and Domestic Relations Case Filing Instructions AND the General Civil Domestic Relations Case Disposition Form. The General Civil and Domestic Relations Case Filing form will be filed at the beginning of the case with your complaint. The General Civil Domestic Relations Case Disposition Form will be filed at the end of the case with the Final Divorce Judgment Order.

*Hello:*

This video is about TWO forms that every divorce case must have: The General Civil and Domestic Relations Case Filing Instructions and the General Civil Domestic Relations Case Disposition Form. These two forms are online at: [https://www.gasupreme.us/wp-content/uploads/2017/12/CivilDomestic\\_Filing\\_Disposition\\_Form\\_Version\\_1.1.18\\_Fillable.pdf](https://www.gasupreme.us/wp-content/uploads/2017/12/CivilDomestic_Filing_Disposition_Form_Version_1.1.18_Fillable.pdf)

Form 1. The General Civil and Domestic Relations Case Filing form. This form must be filled in and filed at the beginning of the case when you file your divorce complaint.

The first page is the instructions. The second page is the form you must fill in and complete.

Step 1 – Check the Superior Court box – Write in the name of the County you are filing your divorce in.

Step 2 – Fill in your name as the Plaintiff / Petitioner. Fill in your spouse’s name as the Defendant.

Step 3 – Check the Self-Represented box.

Step 4 – Check the Dissolution/Divorce/Separate Maintenance/Alimony in the box on the right.

Step 5. You would not check this box unless this divorce case is related to another case that is currently in court between you and your spouse. Put in the case numbers if you have/had another related case with you and your spouse.

Step 6 – Check this box if the information you are filing, including the financial attachments have a social security number, Tax ID number, a bank account or bank account number or the date of birth included in one of the papers. (Usually, the last four digits of the SS# or the tax ID are sufficient.

Step 7 – Check this box if you need foreign language or sign-language interpretation and write in the language interpretation you need.

Step 8 – Check this box if you need any help because of a disability and explain what type of help you need.

Form 2. General Civil Domestic Relations Case Disposition Form - [https://www.gasupreme.us/wp-content/uploads/2017/12/CivilDomestic\\_Filing\\_Disposition\\_Form\\_Version\\_1.1.18\\_Fillable.pdf](https://www.gasupreme.us/wp-content/uploads/2017/12/CivilDomestic_Filing_Disposition_Form_Version_1.1.18_Fillable.pdf)

This form must also be filled in and filed at the end of the case – along with the judge’s final order. This is the third and fourth page on the Supreme Court forms website. The third page is an instruction page. You must complete the fourth page and file it after the case is over?

Step 1 – Check the Superior Court box – Write in the name of the County you are filing your divorce in.

Step 2 – Fill in your name as the Plaintiff/ Petitioner - Fill in your spouse's name as the Defendant.

Step 3 – Fill in your name as the Reporting Party.

Step 4 - Check the Self-Represented Box if you did not have a lawyer.

Step 5 – Check the Self-Represented Box if your spouse did not have an attorney. If s/he had an attorney, you can write in the attorney's name and Bar number. This number should be listed on any papers the attorney sent you.

Step 6 – The Manner of Disposition box – usually will be Bench/Non-Jury Trial

Step 7 – You will usually check this box because you did not have a lawyer

Step 8 – Check if the court ordered an Interpreter for you, your spouse, or a witness. If not, leave it unchecked.

Step 9 - Check this box if you went to a mediation or alternative dispute resolution process. Most courts today refer people to an ADR meeting.

| <b>Term</b>  | <b>Definition</b>   |
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| Acknowledgement of Service<br>(Acknowledges Service) | A declaration by a person, usually by signing a document, that they have received the documents that were given to them. This does not mean that the person agrees with the documents, what the documents say, or what the lawsuit is about. It only means that they properly received the documents. |
| Affidavit  | A written or printed statement made under oath and signed. The signature is made by the person to say that what is written or printed is accurate.  |
| Alimony  | A scheduled payment made by one spouse to the other. It is usually made by the higher earning spouse. This payment may be made every other week, every other month, or at another scheduled time.   |
| Alternative Dispute Resolution<br>(ADR)              | A set of steps that parties can take to settle their dispute outside of a courtroom. Usually, the steps are overseen by a neutral person, such as a mediator. Most of the time, ADR is not binding until a judge has signed off on it.  |
| Answer   | This is a formal, written statement made by the person being sued (defendant or respondent) in a civil case. The answer is made in response to the complaint. In the answer, the defendant can respond to and/or deny the allegations made by the plaintiff in the complaint.                         |
| Bar Number   | The number assigned to an attorney by the State Bar. The State Bar oversees attorneys in that state.  |
| Bench Trial<br>(same as Non-Jury Trial)              | A trial without a jury. In this kind of trial, the judge serves as the fact-finder.   |
| Case Number<br>(Civil Action Number)                 | The number assigned by the Clerk to the case, so that documents can be properly organized. This can usually be found on the first page of any court document.   |
| Civil Case<br>(e.g. general civil case)              | A case that is not criminal in nature. This is usually between two people, instead of being between the government and a person. In these cases, the judge and jury are not considering whether someone has broken a law.   |
| Clerk of Court<br>(e.g. Clerk of Superior Court)     | A court officer who oversees all the administrative functions of the court. This is the person or office where any court documents will be sent to.   |
| Complaint  | A document that begins a civil lawsuit. In the complaint, the plaintiff (or petitioner) writes  |

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|  | down the facts and reason for why they are starting their lawsuit.   |
| Consent Agreement                              | When both parties agree to sign an order without the judge holding a hearing. This can include any issues in the divorce, such as alimony, child support, use of the home, etc.  |
| Creditor                                       | Someone who is owed money. The creditor can file a lawsuit to try and get partial or full payment of the debt.   |
| Custodian                                      | Someone who has physical custody of the child/children. This can be a parent, a family member, a guardian, etc.  |
| Defendant                                      | The person or party who did not start the lawsuit. They may be the person being sued, the person who did not file the divorce papers, someone who is accused of committing a crime, etc.   |
| Deposition                                     | A meeting before the court hearing, done outside of the courtroom, when someone answers questions under oath. This is a type of discovery.   |
| Discovery<br>(e.g. deposition)                 | The process in the beginning stages of a lawsuit where a party can ask questions or request documents in order to be informed of facts known by the other party in the lawsuit, or a third party (someone not directly involved in the lawsuit). |
| Disposition                                    | The result of a hearing before a judge.  |
| Dissolution of Marriage                        | When the parties (spouses) are returned to the state of unmarried persons, or as they were before the marriage took place.   |
| Divorce  | When the parties separate according to law, divide their property, decide whether payments will be made to a spouse, determine custody of the children (if there are any), and set up a visitation schedule.                                     |
| Domestic Relations Case                        | A case that deals with issues of the family. This could be divorce, modifying child support, etc.  |
| Entry<br>(e.g. Entry of Order)                 | The way that a judge's decision becomes official and begins affecting the parties. The order is signed by the judge and it is filed with the county clerk.   |
| Filing   | When your document is taken by the clerk of court and is placed into the file or record for your case.   |
| Final Divorce Judgement<br>(Final Disposition) | When the judge has signed the order which grants the parties a divorce.  |
| First Class Mail                               | This regular mail system is used to deliver Court documents to the other party. You can send   |

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|                       | documents by First Class Mail at a Post Office.  |
| Guardian Ad Litem     | This person is appointed by the Court. They represent the best interests of the child/children. They will never be the parent of the child. They are usually an attorney, but do not have to be.         |
| Hearing               | This is a meeting where both parties get to explain their side of the story to the Judge. The parties will explain why the Judge should or should not do something.                                      |
| Joint Debts           | Debts that were cosigned by both the parties.  |
| Jurisdiction          | This is the broad term used to describe whether the court can legally hear the case or not. It includes the location of the courthouse and whether that specific court can hear that type of case.       |
| Legal Custody         | The parent with legal custody has the right to make major decisions for a child. This may include health care, school, etc.  |
| Married by Common Law | This only applies if the parties were never officially married, the parties told everyone that they were married, the parties lived together, and all of this occurred before 1997.                      |
| Marital Debts         | Debts that were taken on by one or both of the parties during the marriage.  |
| Marital Property      | Property that was acquired during the marriage. This is not limited to houses. It may include cars, salaries and money, and others. It does not include gifts and inheritances.                          |
| Marital Residence     | The house that the married couple lived in. This would not include a weekend house.  |
| Minor Children        | Children who are under the age of 18.  |
| Moral Turpitude       | Any act or behavior that would go against the accepted moral standings of the community.   |
| Motion                | A request by either party that the court take action in a pending case.  |
| Non-Custodial Parent  | The parent who does not have primary, physical custody of a child. The child/children do not spend the majority of their time with this parent. A non-custodial parent may still have visitation rights. |
| Notary                | A person licensed by the state to certify documents.   |
| Order                 | A decision made by the judge that will require someone to do certain things or actions.  |
| Party                 | Someone who is directly involved in the case. In a divorce, the parties would be the two married   |

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|  | spouses. The children of the marriage would not be parties, even though they will be discussed in the case.   |
| Pending Case                             | A case that has not been finished yet. No final judgment or order has been entered by the Judge.  |
| Petition for Divorce                     | A document that begins a divorce proceeding. This is filed by the plaintiff/ petitioner.  |
| Petitioner                               | This is very similar to a plaintiff. They begin the court case. The petitioner usually “petitions” the court to do something.   |
| Physical Custody                         | This is the legal right for one parent, guardian, or other person to have the children live with them.  |
| Plaintiff<br>(Self-represented Litigant) | This is similar to a petitioner. They begin a court case.   |
| Poverty                                  | An amount of money below the poverty line. This line is set by the Federal Poverty Guidelines.  |
| Pro Se                                   | A person who files a court action or responds to a court action without being represented by an attorney.   |
| Proper County                            | This is usually the county in which the parties lived while they were married. If they now live in different counties, the best county is usually where the party who does not file the action lives. |
| Proposed Order                           | An order that has been written, but has not been signed by the judge, yet.  |
| Relief                                   | A legal remedy. This may include child support, alimony, visitation, etc.   |
| Resident                                 | The place where you live the majority of the time.  |
| Respondent                               | This is similar to a defendant. This is the person who responds to a petitioner.  |
| Restraining Order                        | This is an order by the court to restrain someone from doing something. It is usually used to keep someone from getting near someone else.  |
| Rule Nisi                                | A hearing held by the court to determine something on a temporary basis.  |
| Separated/ Separation                    | The date on which the parties no longer shared the same bedroom or home.  |
| Separation Agreement                     | This is the agreement that the parties can enter before the final hearing if they agree on most issues. This may include custody issues, child support, visitation, property disputes, etc.           |
| Service                                  | When a party receives legal papers, they are “served” those documents.  |
| Summons                                  | A legal document that tells someone that they   |

|                                     |   |
|-------------------------------------|---|
|                                     | need to be at the courthouse on a specified date and time. They are “summoned” to the courthouse.   |
| Subject Matter Jurisdiction         | This is a term used to describe whether the court can hear the “subject” of that case. For example, a small claims court would not hear a murder trial.   |
| Superior Court                      | The highest trial court in Georgia. These courts hear family law issues and criminal law cases.   |
| True Copy                           | The real version of a document. In order to ensure that it is real, the Clerk of Court will put a seal of the Court on the document.  |
| Verification<br>(Verification Form) | The document that is signed by the plaintiff/ petitioner and is included in the complaint. This shows that the plaintiff/ petitioner swears that the facts in the complaint are correct and true.   |
| Venue                               | This term describes whether the location of the court is proper and the best location to hear the case. For example, a courthouse in Cobb County would not always hear a case from Fulton County.   |
| Waiver of Service                   | This is a document signed by the defendant/ respondent that shows that they have received a copy of the complaint/ petition. It is signed by the defendant/ respondent to show that they received that document, but it does not mean that the defendant/ respondent agrees with what the complaint/ petition says. |

# Servicemembers Civil Relief Act

## **Application of the SCRA—SCRA §§ 3911, 3912**

**Proceedings:** Any civil judicial or administrative proceedings in the United States, including federal and state courts and administrative agencies; does not include criminal cases.

**Individuals:** Active duty personnel in the Armed Forces (including reserves called to active duty); National Guard members called to active service for more than 30 consecutive days; commissioned officers of the Public Health Service or NOAA; in limited cases, dependents of SMs (Service Members); holders of power of attorney for SMs; SMs absent for lawful cause or because of sickness, wounds, or leave.

## **Procedural Protections**

**Protections against Default Judgments: SCRA § 3931** If the SM/A is not present, before entering a default judgment the court shall require *n* to file an affidavit of non-military service. Generally, a default judgment is not appropriate if *n* has failed to do so. If the court enters a default without requiring an affidavit, the default is voidable, but not void.

**Required Affidavit:** The *n*'s written affidavit shall state whether the *A* is a SM with supporting facts. If then cannot determine whether the *A* is a SM, the affidavit shall so state.

**Bond:** the court may require *n* to post a bond if it cannot determine whether *A* is a SM before entering default. The bond must sufficiently indemnify the *A*/SM against any loss or damage suffered because of the judgment, should that judgment be set aside.

**Appointing an Attorney:** if the *A* is a SM, the court must appoint an attorney before entering default. Failure to appoint an attorney makes the judgment voidable but not void. An appointed attorney's actions in the case shall not waive the SM's defenses or bind the SM.

**Stay of Default:** on its own motion or on motion of a SM's attorney, the court may stay a default for at least 90 days if it determines either a defense exists that cannot be presented without the SM's presence or the SM's attorney could not make contact to determine if a meritorious defense exists.

**Setting Aside Default:** SM may petition to vacate a default if:  
1) it was entered during or within 60 days after the end of service;  
2) the SM files the request no later than 90 days after the end of military service; and 3) the SM proves their ability to make a defense was materially affected by military service and the SM has a meritorious defense. Vacating a default under the SCRA will not impair a right or title acquired by a bona fide purchaser for value under the default.

## **Stays of Proceedings: SCRA § 3932**

Where the SM has notice of a proceeding and is either the *n* or *A*, SM may apply for a stay at any stage before final judgment.

Covered proceedings include all civil, administrative, and child custody proceedings in which, at the time of filing an application, the SM 1) is in military service or has not completed military service for more than 90 days; and 2) has received notice of the proceeding.

**Initial 90 Day Stay:** if the SM makes a proper request, the tribunal must stay the proceeding for at least 90 days. The

application must include: 1) the date by which the SM can appear; 2) a statement from the SM's commanding officer that the SM's military duties prevent appearance and leave is not available at that time.

**Exceptions to Mandatory Grant of Initial Stay:** 1) courts may decline to grant a stay when a SM attempts to use the Act to gain an unfair advantage. 2) In custody cases, some courts have declined to apply a stay to a temporary custody agreement, holding these agreements are less prejudicial.

**Stays After Initial 90-Day Stay:** a SM may apply for an extension of the mandatory 90-day stay and must show military duties continue to have material effect on the SM's ability to appear. Unlike initial stays, the court has discretion to deny an extended stay and to determine its length. The SM may request an extended stay as part of the initial stay application or if it appears the SM will remain unavailable to prosecute or defend the action.

**Appointing an Attorney:** if the court denies a request for a stay under this provision, the court shall appoint an attorney to represent the SM in the action or proceeding.

## **Procedural Protections in Child Custody Cases: SCRA § 3938**

**Temporary Custody Orders Based on Deployment:** If a court enters a temporary custody order based solely upon a deployment or anticipated deployment of a parent who is a SM, the court must require the temporary order to expire no later than the time justified by the deployment. For definition of "deployment," see Guide, p. 20.

## **Substantive Protections**

### **Court-Ordered Eviction: SCRA § 3951**

A SM or dependents may not be evicted during service without a court order, but only if the property is occupied primarily as a residence and if the rent does not exceed an amount set in the SCRA.

**Personal Property (Distress):** SMs/dependents who are eligible for protection against eviction also have protection against the seizure of personal property as security for the payment of rent/arrearages during active service.

**Stay of Eviction:** on its own motion, the court may stay eviction proceedings for 90 days. The court must do so if the SM/dependents file a request stating their ability to pay the agreed rent is materially affected by military service.

**Lease Term Adjustments:** as an alternative to a stay, the court may adjust lease obligations to preserve the interests of all parties. If it grants a stay under the SCRA permits, the court may also provide the landlord or other owner such relief.

### **Residential Lease Terminations: SCRA § 3951**

SMs/dependents may terminate, without penalty, leases for premises occupied or intended to be occupied for residential, professional, business, or agricultural purposes. The SM must have entered the lease before military service began; or the SM must have received orders for a permanent change of station or orders for deployment for a period of at least ninety (90) days. The termination may occur at any time after these events; SM does not need to show that ability to perform under the lease is materially affected by military service.

SM or dependents must provide the lessor with written notice of termination and a copy of the SM's orders. The SM must pay all lease payments through the date of termination on a prorated basis. The lessor must refund any advance rent paid and may not impose an early termination charge. SM must pay all other charges in accordance with the lease's terms.

For month-to-month leases, termination is effective 30 days after the date on which the next rental payment is due. For all other leases, termination is effective on the last day of the month following the month of written notice.

The responsibility of a co-lessee who is a dependent to perform under a lease ends with the SM's obligation.

Georgia law limits the liability for SMs to (1) "30 days' rent after written notice and proof of the assignment are given to the landlord; and (2) costs of repairing damage to the premises caused by an act or omission of the tenant."

### **Mortgages: SCRA § 3953**

A sale, foreclosure, or seizure of the property of a SM or dependent for breach of a mortgage or trust-deed obligation is prohibited unless made pursuant to court order or pursuant to a written waiver from the SM-debtor. This protection applies only to obligations that 1) originated before the debtor's military service and for which debtor is still obligated; 2) are secured by a mortgage, trust deed, or other security in the nature of a mortgage; and 3) have been the subject of sale, foreclosure, or seizure during or within 1 year after active service.

*Stays:* if the SM or dependents apply for relief and prove their ability to comply with the mortgage is materially affected by military services, the court must grant a stay as long as justice requires. The court may also equitably adjust the mortgage obligation after a hearing and on its own motion.

### **Termination of Cellular Contracts: SCRA § 3956**

SMs who receive relocation orders for 90 days or more to a location that does not support their current cellular phone contract may terminate that contract if it was entered before receiving the orders. The SM must deliver notice (written or electronic) and must include a copy of the SM's orders with that notice.

### **Interest Rate Cap: SCRA § 3937**

The SCRA provides SMs with a 6% interest rate cap on debts incurred prior to active duty, including credit cards, automobile, ATV, boat and other vehicle loans, mortgages, home equity loans, and student loans. The 6% cap is not self-executing. SMs must provide creditors with written notice and a copy of military orders detailing military service, not later than 180 days after the end of service. Upon receiving notice, creditors must retroactively implement the 6% interest rate to the date military service commenced, not the date of notice.

### **Tax Protections: SCRA § 5001**

*Residency:* A SM and their spouse do not lose or acquire residency status for tax purposes due to presence in a state solely for compliance with military orders.

*Property Tax:* the SCRA provides relief to SMs from tax assessments that fall due and remain unpaid before or during military service. This protection applies to taxes for personal

property and real property occupied for dwelling, professional, business, or agricultural purposes by a SM, their dependents, or employees. It also prevents assessment of additional penalties or interest above 6% for nonpayment of taxes.

### **Insurance Protections**

The SCRA prevents a SM's loss of health, life, or professional liability insurance coverage if called to active duty. Note: Georgia law diverges from the SCRA, allowing for a provision in an accident policy to exclude coverage because of the insured's connection with or entry into military service.

*Health Insurance, SCRA §4024:* SMs may have health insurance policies immediately reinstated upon return from active duty. They must apply for reinstatement within 120 days after release from active military duty.

*Life Insurance, SCRA § 3971:* for SMs on active duty, life insurers may not decrease coverage or require additional premiums, except age-based increases in term policies. A life insurance policy must have been in place for at least 180 days before military service to be eligible for this protection.

*Professional Liability Insurance, SCRA § 4023:* SMs who engage in health-care, legal services, or other professions identified by the Secretary of Defense may suspend their professional liability insurance policies upon written request to the insurance carrier.

*Auto Insurance, O.C.G.A. § 33-24-45:* Georgia law prohibits an auto insurer from non-renewal of a policy because of a person's military service.

### **Anticipatory Relief: SCRA § 4021**

Although rarely invoked, the SCRA allow a SM to apply to a court for relief from any obligation incurred before military service or from taxes falling due before or during military service, if the SM anticipates a breach or default will occur because of their service. SMs can initiate a declaratory action to prevent legal action against them either during military service or within 180 days after the end of service.