

THE DOUGLAS COUNTY MAGISTRATE COURT

WHO MAY FILE A CLAIM OR HAVE A CLAIM FILED AGAINST THEM?

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 an unsatisfactory judgment.

Individuals - If the party is a person, you should designate that party by his or her legal name.

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

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. You can also check with the Douglas County Business License Office at (770) 920-7348 to find out who owns the business.

Sole Proprietorship - A sole proprietorship is a business owned by one person that 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. Example: "John Doe, individually and d/b/a John's Garage."

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

Corporation - A Corporation is a legal entity separate and distinct from its owners. The proper party is the legal name of the corporation. Example: "John's Garage, Inc." You can obtain information on a corporation 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.

HOW DO I FILE MY CASE?

To start the process of filing a small claims case, you must first fill out a Statement of Claim Form. On this form, you will enter the name and address of the person or corporation you are suing, state the exact amount of money you are suing for, and explain why you are suing. You may represent yourself, act as an agent for your corporation, or you may sue on behalf of a minor should you be the guardian. However, you cannot represent someone else if you are not an attorney. Remember that you must sue a corporation in the county where it is doing business or where it is incorporated. You may also sue a corporation in the county where the registered agent is located. (The registered agent is a party that may be served for the corporation.)