

COMPLAINT FOR CUSTODY BY A THIRD PARTY

HOW A THIRD PARTY GAINS CUSTODY OF A CHILD OR CHILDREN

If you are related to the children as follows: grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, sibling, adoptive parent, then the Court can award custody to you if it finds that is in the best interests of the child(ren). The law which applies to this situation is O.C.G.A. § 19-7-1(b.1), which provides:

(b.1) Notwithstanding subsections (a) and (b) of this Code section or any other law to the contrary, in any action involving the custody of a child between the parents or either parent and a third party limited to grandparent, great-grandparent, aunt, uncle, great aunt, great uncle, sibling, or adoptive parent, parental power may be lost by the parent, parents, or any other person if the Court hearing the issue of custody, in the exercise of its sound discretion and taking into consideration all the circumstances of the case, determines that an award of custody to such third party is for the best interest of the child or children and will best promote their welfare and happiness. There shall be a rebuttable presumption that it is in the best interest of the child or children for custody to be awarded to the parent or parents of such child or children, but this presumption may be overcome by a showing that an award of custody to such third party is in the best interest of the child or children. The sole issue for determination in any such case shall be what is in the best interest of the child or children.

If you are not related to the children as listed above, the decision concerning child custody is governed by the “parental rights and fitness doctrine,” which holds that the parent(s) will lose custody only if the parents have already lost parental control by statute (O.C.G.A. § 19-7-1(b)), or, in exceptional cases, if they are proved to be unfit.

This is extremely difficult to prove, and you are strongly encouraged to retain an attorney.

O.C.G.A. § 19-7-1(b) provides:

(b) Parental power shall be lost by:

- (1) Voluntary contract releasing the right to a third person;
- (2) Consent to the adoption of the child by a third person;
- (3) Failure to provide necessities for the child or abandonment of the child;
- (4) Consent to the child's receiving the proceeds of his own labor, which consent shall be revocable at any time;
- (5) Consent to the marriage of the child, who thus assumes inconsistent responsibilities; or
- (6) Cruel treatment of the child.

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**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

COMPLAINT FOR CHANGE OF CUSTODY

Now comes the Plaintiff, _____, and states his/ her Complaint for Change of Custody against _____, Defendant, and shows as follows:

1.

Jurisdiction and venue (Choose a, b or c)

a) Defendant is a resident of _____ County, Georgia and is subject to the jurisdiction of this Court. He/ She may be served with a copy of this complaint at:

_____.

b) Defendant has signed an Acknowledgement of Service.
 c) Defendant is a resident of _____ County, _____ (state) and has signed an acknowledgement of service and has waived venue and personal jurisdiction.

2.

Plaintiff's relationship to the children (choose a or b)

a) Plaintiff is related to the children in one of the categories listed in O.C.G.A. § 19-7-1(b.1), so that the decision concerning child custody is governed by the "best interests of the child" standard:

1. Grandparent

- 2. Great-grandparent
- 3. Aunt
- 4. Uncle
- 5. Great Aunt
- 6. Great Uncle
- 7. Sibling
- 8. Adoptive parent

b) Plaintiff is not related to the child in one of the categories listed in O.C.G.A. § 19-7-1(b.1), so that the decision concerning child custody is governed by the “parental rights and fitness doctrine,” which holds that the parent(s) will lose custody only if the parents have already lost parental control by statute (O.C.G.A. § 19-7-1(b)), or, in exceptional cases, if they are proved to be unfit. The Plaintiff is/ is not related to the children as follows: _____
 (list how you are related to the children, or how you know them, e.g, cousin, step-parent, neighbor, etc.).

3.

Children affected by this action

There is/are _____(how many) minor child(ren) affected by this action:
 Name: _____ DOB: _____
 Name: _____ DOB: _____
 Name: _____ DOB: _____
 Name: _____ DOB: _____

4.

Current custody arrangement (choose a or b)

- a) The Defendant presently has legal custody of the minor child(ren), _____, age(s) _____, by virtue of a Final Order and decree of divorce in Civil Action No. _____, entered on the ____ day of _____, 20____, in the Superior Court of _____ County, Georgia.
- b) The Defendant presently has legal custody of the minor child(ren),

_____,
age(s) _____ by virtue of an Order of
legitimation in Civil Action No. _____, entered on the ____ day of
_____, 20____.

c) The Defendant mother presently has legal custody of the minor child(ren),
_____,
ages _____, by operation of law
(O.C.G.A. § 19-7-25) because the children were born out-of-wedlock and the father has
never legitimated the children in Court according to the requirements of O.C.G.A. § 19-7-
22.

5.

Child(ren)'s Mother

The mother of the child(ren) is/was _____.
She is still living/ deceased. Her parental rights are still in place/ have been
terminated by an Order in case number _____ (civil action
file number)/ have been lost by operation of law (O.C.G.A. § 19-7-1(b)). She has
 has not been paying child support as ordered. She has has not been visiting the
child. Her address is: _____
_____.

6.

Child(ren)'s Father

The father of the child(ren) is/was _____.
The father is still living/ deceased. He was was not married to the mother. [If
unmarried to mother, he did did not legitimate the child(ren) in Court following the
requirements of O.C.G.A. §19-7-22]. His parental rights are still in place/ have been
terminated by an Order in case number _____ (civil action
file number)/ have been lost by operation of law (O.C.G.A. § 19-7-1(b)). He has has
not been paying child support as ordered. He has has not been visiting the child. The
father's address is _____
_____.

7.

Child(ren)'s Past Living Arrangements

For the past five years, the child(ren) lived at the following addresses with the following persons:

Address	Dates	Lived With

8.

Other actions affecting the children (Choose a or b)

(Please tell the Court about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption.)

a) Plaintiff asserts that he/ she has not participated as a party or a witness or in any other capacity in any other litigation concerning the children named above, and knows of no proceeding concerning the minor children in this or any other state. No person other than the parties to this action has physical custody of the minor children or any claim to custody or visitation with the minor children.

b) The minor children have been involved in the following actions:

County/State/Court	Type of Custody Action	Date Filed	Status
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

9.

Other Parties with a Custody Claim (Choose a or b)

a) I know of no other person, not a party to this proceeding, who has physical custody of the children or claims to have custody or visitation rights with respect to the minor children.

b) The following persons who are not a party to this proceeding have custody or visitation rights with the minor children:

Name	Claim
_____	_____
_____	_____
_____	_____

10.

Why plaintiff seeks custody of the child(ren) (Choose a, b, or c)

a) Plaintiff seeks custody of the child(ren) because it is in the best interests of the children to be raised by Plaintiff (**This may only be checked by someone who is related to the child(ren) as follows: grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, sibling, adoptive parent**). Plaintiff seeks custody of the child(ren) because:

b) Plaintiff seeks custody of the child(ren) because the parents have already lost parental control by operation of law (O.C.G.A. § 19-7-1(b).). Plaintiff seeks custody of the children because:

c) Plaintiff seeks custody of the child(ren) because the parent(s) can be proved to be unfit. Plaintiff seeks custody of the children because:

11.

Existence of a custody modification agreement (choose a or b)

- a) The Plaintiff and the Parent(s) have signed a custody modification agreement.
- b) The Plaintiff and the Parent(s) have not signed a custody modification agreement.

12.

Child Support Amount

Please go to <https://csconlinecalc.georgiacourts.gov/frontend/web/index.php> and complete the Child Support Worksheet

The Plaintiff asks that _____ shall pay, as support of the minor child(ren), the sum of \$ _____* per week/ bi-weekly/ month, starting on _____, and continuing per week/ bi-weekly/ month thereafter until each respective child reaches the age of eighteen (18), or so long as the child is enrolled in and attending secondary school (not to exceed age twenty (20)), marries, dies, or becomes otherwise emancipated. The child support obligation shall be reduced as follows as each child becomes emancipated:

*This amount was derived from line 13 of the Child Support Worksheet, which is attached hereto as Exhibit 1.

13.

Child Support Method of Payment (Check a or b)

a) Plaintiff asks that all payments of child support shall be paid directly to the Plaintiff at the following address:

- b) Plaintiff asks that all payments of child support shall be paid directly to the Plaintiff by the employer of _____, via an Income Deduction Order.
- c) Plaintiff asks that all payments of child support shall support enforcement pursuant to an Income Deduction Order.

14.

Health Insurance

The Plaintiff asks that _____ shall be required to maintain a policy of medical, dental, and hospitalization insurance for the benefit of the minor child(ren) for so long as the child support obligation set forth herein exists. The Plaintiff asks that costs not covered under the insurance policy shall be divided as follows:

The Plaintiff asks that _____ shall provide him / her with an insurance identification card or such other acceptable proof of insurance coverage and shall cooperate with the Plaintiff in submitting claims under the policy.

WHEREFORE, Plaintiff requests:

- (a) that process issue and Defendant and the child(ren)'s parents be served with a copy of Plaintiff's Summons and Complaint for Change of Custody;
- (b) that Plaintiff be awarded immediate temporary and permanent custody of the minor child(ren);
- (c) that the Court issue an Order for child support; and
- (d) for such other and further relief as the Court deems just and equitable.

Plaintiff *pro se*

Address: _____

Telephone Number(s): _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
_____,)	
)	
Defendant.)	

VERIFICATION

Personally appeared before the undersigned notary public duly authorized in the State of Georgia to administer oaths, _____, who, after being duly sworn, deposes and states that s/he is the Plaintiff in the instant action and that the facts contained in her attached Complaint for Change of Custody are true and correct to the best of her knowledge, information, and belief.

This _____ day of _____, 20_____.

Plaintiff *pro se*

Sworn to and subscribed before me

This _____ day of _____, 20_____.

Notary Public
My Commission Expires:_____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
)	
)	
Defendant.)	

PLAINTIFF’S AFFIDAVIT REQUIRED BY O.C.G.A. § 19-9-69

State of Georgia
County of _____

Personally before the undersigned officer authorized to administer oaths appeared _____, who, being duly sworn, does state on oath the following:

1.

That Affiant, _____, is the plaintiff named in the above- styled action.

2.

The above-styled action concerns the custody of:

Name: _____ DOB: _____ Sex: _____

Name: _____ DOB: _____ Sex: _____

Name: _____ DOB: _____ Sex: _____

Name: _____ DOB: _____ Sex: _____

3.

The present address of the child(ren) is:
_____.

4.

For the past five years, the children lived at the following addresses with the following persons:

Address	Dates	Lived With

5.

The child(ren) presently live/lives with _____.

6.

Other Cases Concerning the Child(ren) (Choose a or b)

(The Court wants to know about the following types of actions: custody, visitation, family violence, protective orders, termination of parental rights, and adoption.)

a) Plaintiff asserts that he/ she has not participated as a party or a witness or in any other capacity in any other litigation concerning the children named above, and knows of no other proceeding concerning the minor children in this or any other state. No person other than the parties to this action has physical custody of the minor children or any claim to custody or visitation with the minor children.

b) The minor children have been involved in the following actions:

<u>County/State/Court</u>	<u>Type of Custody Action</u>	<u>Date Filed</u>	<u>Status</u>
_____	_____	_____	_____

<u>County/State/Court</u>	<u>Type of Custody Action</u>	<u>Date Filed</u>	<u>Status</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

7.

Others with a Custody/Visitation Claim (Choose a or b)

- a) I know of no other person, not a party to this proceeding, who has physical custody of the children or claims to have custody or visitation rights with respect to the minor children.
- b) The following persons who are not a party to this proceeding have custody or visitation rights with the minor children:

<u>Name</u>	<u>Claim</u>
_____	_____
_____	_____
_____	_____

Affiant/Plaintiff

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public
My Commission Expires: _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)
)
Plaintiff,)
)
v.)
)
_____)
)
Defendant.)

Civil Action No. _____

ELECTION OF _____, A MINOR CHILD

This Affidavit is given by _____ who, after being duly sworn before an officer authorized in the State of Georgia to administer oaths, states the following:

1.

My name is _____, and I am the son or daughter of _____ and _____. I was born on _____ and am currently ____ years old.

2.

I sign this Affidavit to inform the Court that I wish to live and elect to live with my _____ (state relationship), _____ (state name) on a permanent and full-time basis. I understand that my _____ (state relationship) may ask the Court to be made my custodial parent and desire that he be designated as my legal custodian.

3.

I wish my _____ [non-custodial parent(s)] to have reasonable visitation rights.

4.

I hereby affirm that I have given this Affidavit under oath and that the statements contained herein are true and accurate.

5.

I have made this election voluntarily and not because of any pressure or duress or because of any problems made known to me by either of my parents or any other person.

Affiant

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public
My Commission Expires:_____.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
)
_____,)
)
Defendant.)

CUSTODY AGREEMENT

This is an agreement by and between _____, (hereinafter referred to as "Plaintiff"), _____, (hereinafter referred to as "Father"), and _____, hereinafter referred to as "Mother."

WHEREAS, the parties desire to settle between themselves all questions regarding child custody, visitation, child support, and all other rights and obligations arising out of their former marital relationship:

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

1.

Non-interference with parental relationships

The parties agree that the welfare of the child(ren) is of paramount importance and each agrees to foster and encourage a feeling of affection between themselves and the child(ren). Neither party shall do anything to hamper the natural development of the children's love and respect for the other party.

2.

Legal and physical custody (Check a, b, or c)

a) The Plaintiff/ Father/ Mother (choose one) shall have the temporary and permanent legal and physical custody of the minor child(ren).

b) The Plaintiff and Father/ Mother shall share joint legal custody of the minor child (ren). The parties shall share decision-making concerning the children;

however, the Plaintiff / Father/ Mother shall have the right to make the final decision in the event the parties cannot agree.

Primary physical custody of the minor child (ren) shall be with the Plaintiff/ Father/ Mother as follows:

Secondary physical custody shall be with the Plaintiff/ Father/ Mother as follows:

c) The Plaintiff and Father/ Mother shall share joint legal custody and joint physical custody of the minor child (ren).

Physical custody shall be shared by the parties as follows:

The parties shall share decision making concerning the child (ren); however, in the event the parties cannot decide, the Plaintiff/ Father/ Mother shall have the final decision concerning

3.

Visitation Schedule (Choose a or b)

a) The Father/ Mother shall have the right of visitation with the minor children as follows:

- b) The visitation schedule is attached hereto and incorporated herein.
- 4.

Cooperation and consultation

- This Agreement cannot provide for every possible detail with respect to the custody of the Child(ren). In that regard, the parties agree to cooperate and consult with each other so as to carry out visitation in a manner conducive to the best interests of the Child(ren). No party shall attempt to influence any of the Child(ren) not to love and respect the parents or the Plaintiff. Each party agrees to keep the other informed as to the health and whereabouts of the Child(ren) while having custody of or visitation with the child(ren).
- 5.

Change of residence

- In the event of any change of residence on the part of any party herein so long as the custody and visitation provisions of this Agreement are in effect, said party changing his or her residence shall notify the other parties at least one month in advance of the intent to change residence and of the location of the new residence and shall furnish to him or her the complete new address and, as soon as determined, the new telephone number at the new residence. Said notification shall be in writing with a copy of said writing retained by the other

CHILD SUPPORT

Please go to <http://www.georgiacourts.org/csc/> and complete the Child Support Worksheet.

6.

Child support amount

- _____ shall pay to the Plaintiff, as support of the minor child(ren), the sum of \$ _____* per week/ bi-weekly/ month, starting on _____, and continuing per week/ bi-weekly/ month thereafter until each respective child reaches the age of eighteen (18), or so long as the child is enrolled in and attending secondary school (not to exceed age twenty (20)), marries, dies, or becomes otherwise emancipated. The child support obligation shall be reduced as follows as each child becomes emancipated:

*This amount was derived from line 13 of the Child Support Worksheet, which is attached hereto as Exhibit 1.

7.

Child support method of payment (Check a or b)

a) All payments of child support shall be paid directly to the Plaintiff at the following address:

No Income Deduction Order will be entered into at this time. However, whenever, in violation of the terms of this Agreement, there shall have been a failure to make the support payments due hereunder so that the amount unpaid is equal to or greater than the amount payable for one (1) month, the payments required to be made may be collected by the process of continuing garnishment for support. In the event Father/ Mother fails to pay any child support obligation in this Agreement on a timely fashion on any three (3) occasions in any twelve (12) month period, the parties agree that an income deduction Order shall then be entered.

b) All payments of child support shall be paid directly to the Plaintiff by the employer(s) of the parent(s) pursuant to income deduction Order(s).

c) All payments of child support shall be paid to Georgia Child Support Enforcement pursuant to an Income Deduction Order.

8.

Health insurance

The Plaintiff/ Father/ Mother shall maintain a policy of medical, dental, and hospitalization insurance for the benefit of the minor child(ren) for so long as the child support obligation set forth herein exists. Costs not covered under the insurance policy shall be divided between Father and Mother as follows:

The Plaintiff/ Father/ Mother shall provide the Plaintiff/ Father/ Mother with an insurance identification card or such other acceptable proof of insurance coverage and shall cooperate with the Plaintiff/ Father/ Mother in submitting claims under the policy.

BINDING AGREEMENT

9.

Voluntary agreement

The parties acknowledge that they have entered into this Agreement freely and voluntarily and that it is not the result of any duress or any undue influence.

10.

Entire agreement

This Agreement constitutes the entire understanding of the parties. There are no representations, warranties, covenants, or undertaking other than those expressly set forth herein.

Plaintiff *pro se*

Sworn to and subscribed before me
this ____ day of _____, 20____.

Notary Public, State of Georgia
My Commission Expires: _____

Sworn to and subscribed before me
this ____ day of _____, 20____.

Mother *pro se*

Notary Public, State of Georgia
My Commission Expires: _____

Father *pro se*

Sworn to and subscribed before me
this ____ day of _____, 20____.

Notary Public, State of Georgia
My Commission Expires: _____

Exhibit “_____”

VISITATION SCHEDULE

The non-custodial parent is _____.

The custodial parent is _____.

The non-custodial parent shall be entitled to exercise reasonable visitation with the minor child with the following minimum provisions:

- A. On every 1st, 3rd, and 5th Friday at 6:00 p.m. until the following Sunday at 6:00 p.m.;
- B. During even numbered years (2008, 2010, etc.), the non-custodial parent shall have the right of visitation on the holidays delineated below:
 - 1. Martin Luther King’s Birthday
 - 2. Memorial Day
 - 3. Labor Day
 - 4. Thanksgiving
 - 5. Second week of Christmas Vacation from 2:00 p.m. on December 25 until New Year’s Eve.
- C. During odd numbered years (2009, 2011, etc.) the non-custodial parent shall have the right of visitation on the holidays delineated below:
 - 1. New Year’s Day
 - 2. Easter or Spring Break
 - 3. July 4th
 - 4. Halloween
 - 5. First Week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- D. During even numbered years (2008, 2010, etc.), the custodial parent shall have the minor child on the holidays delineated below:
 - 1. New Year’s Day
 - 2. Easter or Spring Break
 - 3. July 4th
 - 4. Halloween
 - 5. First week of Christmas vacation, including Christmas Day until 2:00 p.m. on December 25.
- E. During odd numbered years (2009, 2011, etc.), the custodial parent shall have the right of visitation on the holidays delineated below:
 - 1. Martin Luther King’s Birthday
 - 2. Memorial Day
 - 3. Labor Day
 - 4. Thanksgiving
 - 5. Second week of Christmas vacation from 2:00 p.m. on December 25 until New Year’s Eve.
- F. The Mother shall have the minor child on Mother’s Day.
- G. The Father shall have the minor child on Father’s Day.
- H. The non-custodial parent shall have the right to visit with the minor child for two consecutive weeks in the summer between June 15 and August 15. During this period, the custodial parent shall have the minor child on the first (1st) weekend from 6:00 p.m. Friday until 6:00 p.m. Sunday. The non-custodial parent shall give the custodial parent a minimum of thirty (30) days written notice of the intent to exercise this visitation.
- I. Holiday visitation shall take precedence over week-end visitation.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
_____)	
)	
Defendant.)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing **Complaint for Change of Custody** upon the following counsel for party OR party by delivering or causing to be delivered by hand a copy of same as follows:

[Name and address of counsel of record, or of parties if no counsel of record.]

and upon the following counsel for party OR party by depositing or causing to be deposited a copy of same in the United States mail in an envelope with sufficient postage thereon addressed as follows:

[Name and address of counsel of record, or of parties if no counsel of record.]

This _____ day of _____, 20____.

Plaintiff *pro se*

Address: _____

Telephone number(s): _____

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
)	
Defendant.)	

ACKNOWLEDGMENT OF SERVICE AND SUMMONS

The undersigned Defendant hereby acknowledges service of the above Summons and Complaint for Custody by a Third Party and states that he/she has received a copy of said Complaint, and Defendant hereby waives any further service of process.

This the _____ day of _____, 20_____.

Defendant *pro se*

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public
My Commission Expires:_____.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
_____)	
)	
Defendant.)	

**DEFENDANT’S ACKNOWLEDGEMENT OF SERVICE
AFFIDAVIT OF WAIVER OF VENUE AND PERSONAL JURISDICTION**

I, _____, the named Defendant in the above-styled case, after being duly sworn do hereby depose and say that I am a resident of _____ County, _____ (state), and that the Plaintiff in the above-styled case is a resident of _____ County, Georgia. I affirm that I have received a copy of said Petition/Complaint, and I hereby waive any and all further notice, service, and issuance of process.

After being duly informed that I have a constitutional right to a trial by Judge or jury on the above matter in the county of my residence, and with that knowledge, I hereby expressly waive my right to venue in the county of my residence, and consent to venue and personal jurisdiction in the County of this Superior Court.

This _____ day of _____, 20____.

Affiant

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public
My Commission Expires:_____.

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
_____)	
)	
Defendant.)	

RULE NISI

The within and foregoing Complaint having been read and considered, the same is allowed and ordered filed.

Let the Defendant be served with a copy of this Complaint and Order thereon and let the Defendant show cause before the Honorable _____, at _____ o'clock __.M., on the _____ day of _____, 20____, then and there to be heard, why the prayers of the Plaintiff's Complaint should not be granted.

This _____ day of _____, 20____.

JUDGE, Superior Courts
Southern Judicial Circuit

In the Superior Court of _____ County, Georgia

_____ , Plaintiff)	
)	
vs.)	Civil Action No. _____
)	
_____ , Defendant)	
)	

DOMESTIC RELATIONS FINANCIAL AFFIDAVIT OF PLAINTIFF

1. AFFIANT'S NAME: _____ Age _____
 Spouse's Name: _____ Age _____
 Date of Marriage: _____ Date of Separation _____

Names and birth dates of children for whom support is to be determined in this action:

<u>Name</u>	<u>Date of Birth</u>	<u>Resides with</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Names and birth dates of affiant's other children:

<u>Name</u>	<u>Date of Birth</u>	<u>Resides with</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. SUMMARY OF AFFIANT'S INCOME AND NEEDS

(a) Gross monthly income (from item 3A)	\$ _____
(b) Net monthly income (from item 3C)	\$ _____
(c) Average monthly expenses (item 5A)	\$ _____
Monthly payments to creditors	+ _____
Total monthly expenses and payments	

to creditors (item 5C) \$ _____

(subsections (d) & (e) deleted)

3. A. AFFIANT'S GROSS MONTHLY INCOME (complete this section or attach Child Support Schedule A)

(All income must be entered based on monthly average regardless of date of receipt.)

Salary or Wage \$ _____
ATTACH COPIES OF 2 MOST RECENT WAGE STATEMENTS

Commissions, Fees, Tips \$ _____

Income from self-employment, partnership, close corporations, and independent contracts (gross receipts minus ordinary and necessary expenses required to produce income) ATTACH SHEET ITEMIZING YOUR CALCULATIONS \$ _____

Rental Income (gross receipts minus ordinary and necessary expenses required to produce income) ATTACH SHEET ITEMIZING YOUR CALCULATIONS \$ _____

Bonuses \$ _____

Overtime Payments \$ _____

Severance Pay \$ _____

Recurring Income from Pensions or Retirement Plans \$ _____

Interest and Dividends \$ _____

Trust Income \$ _____

Income from Annuities \$ _____

Capital Gains \$ _____

Social Security Disability or Retirement \$ _____

Benefits Workers' Compensation Benefits \$ _____

Unemployment Benefits \$ _____

Judgments from Personal Injury or Other Civil Cases \$ _____

Gifts (cash or other gifts that can be converted to cash) \$ _____

Prizes/Lottery Winnings \$ _____

Alimony and maintenance from persons not in this case \$ _____

Assets which are used for support of family \$ _____

Fringe Benefits (if significantly reduce living expenses) \$ _____

Any other income (do NOT include means-tested
Public assistance, such as TANF or food stamps) \$ _____

GROSS MONTHLY INCOME \$ _____
(prior section B deleted)

B. Affiant's Net Monthly Income from employment
(deducting only state and federal taxes and FICA) \$ _____

Affiant's pay period (i.e., weekly, monthly, etc.) _____

Number of exemptions claimed _____

4. ASSETS

(If you claim or agree that all or part of an asset is non-marital, indicate the non-marital portion under the appropriate spouse's column and state the amount and the basis: pre-marital, gift, inheritance, source of funds, etc.).

Description	Value	Separate Asset of the Husband	Separate Asset of the Wife	<u>Basis of the Claim</u>
Cash	\$ _____	_____	_____	_____
Stocks, bonds	\$ _____	_____	_____	_____
CD's/Money Market Accounts	\$ _____	_____	_____	_____
Bank Accounts (list each account):				
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
_____	\$ _____	_____	_____	_____
Retirement Pensions, 401K, IRA, or Profit Sharing	\$ _____	_____	_____	_____
Money owed you:	\$ _____	_____	_____	_____
Tax Refund owed you:	\$ _____	_____	_____	_____

Real Estate:

home:	\$	_____	_____	_____	_____
debt owed:	\$	_____			
other:	\$	_____	_____	_____	_____
debt owed:	\$	_____			
Automobiles/Vehicles:					
<u>Vehicle 1:</u>	\$	_____	_____	_____	_____
debt owed:	\$	_____			
<u>Vehicle 2:</u>	\$	_____	_____	_____	_____
debt owed:	\$	_____			
Life Insurance (<u>net</u> cash value):	\$	_____	_____	_____	_____
Furniture/furnishings:	\$	_____	_____	_____	_____
Jewelry:	\$	_____	_____	_____	_____
Collectibles:	\$	_____	_____	_____	_____
Other Assets:	\$	_____	_____	_____	_____
_____	\$	_____	_____	_____	_____
_____	\$	_____	_____	_____	_____
_____	\$	_____	_____	_____	_____
Total Assets:	\$	_____	_____	_____	_____

5. A. AVERAGE MONTHLY EXPENSES

HOUSEHOLD

Mortgage or rent payments	\$	_____	Cable TV	\$	_____
Property taxes	\$	_____	Misc. household and grocery Items	\$	_____
<u>Homeowner/Renter</u> Insurance	\$	_____	Meals outside the home	\$	_____
Electricity	\$	_____	Other	\$	_____
Water	\$	_____	AUTOMOBILE		

Garbage and Sewer	\$ _____	Gasoline and oil	\$ _____
Telephone:		Repairs	\$ _____
<u>residential line:</u>	\$ _____	Auto tags and license	\$ _____
<u>cellular telephone:</u>	\$ _____	Insurance	\$ _____
Gas	\$ _____	<u>OTHER VEHICLES</u> (boats, trailers, RVs, etc.)	
Repairs and maintenance:	\$ _____	Gasoline and oil	\$ _____
Lawn Care	\$ _____	Repairs	\$ _____
Pest Control	\$ _____	<u>Tags and license</u>	\$ _____
		<u>Insurance</u>	\$ _____

CHILDREN'S EXPENSES

AFFIANT'S OTHER EXPENSES

Child care (<u>total monthly cost</u>)	\$ _____	Dry cleaning/laundry	\$ _____
School tuition	\$ _____	Clothing	\$ _____
<u>Tutoring</u>	\$ _____	Medical, dental, <u>prescription</u> (<u>out of pocket/uncovered expenses</u>)	\$ _____
Private lessons (e.g., music, dance)	\$ _____	Affiant's gifts (special holidays)	\$ _____
School supplies/expenses	\$ _____	Entertainment	\$ _____
Lunch Money	\$ _____	Recreational Expenses (e.g., fitness)	\$ _____
Other Educational Expenses (list)		Vacations	\$ _____
_____	\$ _____	Travel Expenses for Visitation	\$ _____
_____	\$ _____	Publications	\$ _____
Allowance	\$ _____	Dues, clubs	\$ _____
Clothing	\$ _____	Religious and charities	\$ _____
Diapers	\$ _____	Pet expenses	\$ _____
Medical, dental, prescription (<u>out of pocket/uncovered expenses</u>)	\$ _____	Alimony paid to former spouse	\$ _____
Grooming, hygiene	\$ _____	Child support paid <u>for other</u> <u>children</u>	\$ _____

Gifts from children to others \$ _____ Date of initial Order: _____
 Entertainment \$ _____ Other (attach sheet) \$ _____
 Activities (including extra-curricular, school, religious, cultural, etc.) \$ _____
 Summer Camps \$ _____
OTHER INSURANCE
 Health \$ _____
 Child(ren)'s portion: \$ _____
 Dental \$ _____
 Child(ren)'s portion: \$ _____
 Vision \$ _____
 Child(ren)'s portion: \$ _____
 Life \$ _____
 Relationship of Beneficiary: _____
 Disability \$ _____
 Other(specify): \$ _____
TOTAL ABOVE EXPENSES \$ _____

B. PAYMENTS TO CREDITORS

Plaintiff/Defendant
(please check one)

To Whom:	Balance Due	Monthly Payment	Joint
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL MONTHLY PAYMENTS TO CREDITORS: \$ _____

C. TOTAL MONTHLY EXPENSES:

\$ _____

This _____ day of _____, 20_____.

Affiant

Notary Public

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

_____,)
)
Plaintiff,)
)
v.) Civil Action No. _____
)
_____,)
)
Defendant.)

**FINAL JUDGMENT AND DECREE
MODIFICATION OF CUSTODY**

The custody of the minor children is modified as follows:

Legal Custody is awarded to: _____.

Physical Custody is awarded to: _____.

On the grounds that:

The Court incorporates the custody agreement, signed by the parties, into this Order. Visitation is awarded as follows:

Based on the evidence presented, including the Child Support Worksheet, Schedules "A" through "E," incorporated by reference, and specifically the Child Support Worksheet and

Schedule "E" attached hereto, and where applicable, Special Interrogatories also attached hereto, the Court finds as follows:

1. Children for whom support is being determined:

Child	Date of Birth

2. (a) For purposes of Calculating Child Support, the Court Orders that the Custodial Parent shall be _____.

(b) For purposes of Calculating Child Support the Court Orders that the Non-custodial Parent shall be _____.

(c) The Court finds that the amount of the Non-custodial Parent's parenting time as set forth in the Order of Visitation is _____ days.

3. (a) The Court finds as set on Schedule "A," the gross income of the father is \$_____

(b) The Court finds as set on Schedule "A," the gross income of the Mother is \$_____

4. (a) The Court finds as set on the "Child Support Worksheet" and Schedule "B," the Non-custodial Parent's Adjusted Income is \$_____

(b) The Court finds as set on the "Child Support Worksheet" and Schedule "B," the Custodial Parent's Adjusted Income is \$_____

(c) The Court finds as set on the "Child Support Worksheet" and Schedule "B," the Parties' Total Adjusted Income \$_____

5. The Court finds as set by the "Child Support Obligation Schedule Table" and as listed on the "Child Support Worksheet" the Basic Child Support Obligation is \$_____

6. (a) The Court finds as set on the "Child Support Worksheet," the Basic Child Support Obligation for the Custodial Parent is: \$_____

_____ %

(b) The Court finds as set on the “Child Support Worksheet,” the Basic Child Support Obligation for the Non-custodial Parent is:

\$ _____

_____ %

7. The Court finds that health insurance that provides for the health care needs of the child is/ is not reasonably available at a reasonable cost. If provided, it will be provided by _____.

8. (a) The Court finds as set on the “Child Support Worksheet” and Schedule “D,” the Presumptive Amount of Child Support for the Custodial Parent is

\$ _____

(b) The Court finds as set on the “Child Support Worksheet” and Schedule “D,” the Presumptive Amount of Child Support due to the Non-custodial Parent is

\$ _____

(c) The Court finds as set on the “Child Support Worksheet” and Schedule “D,” the Presumptive Amount of Child Support due to the Custodial Parent is

\$ _____

9. The Court finds that the child receives benefits under Title II of the Federal Social Security Act on the obligor’s account and the amount the child receives on a monthly basis is

\$ _____

10. The Court has considered the existence of special circumstances and as set forth on the “Child Support Worksheet” and Schedule “E,” has found the following special circumstances marked with an [“X”] to be present in this case.

Note: Refer to Schedule “E” and, where applicable, “Special Interrogatories” attached hereto for an explanation for the reasons for the deviation, how the application of the Presumptive Amount of Child Support would have been unjust and how the best interest of the child for whom support is being determined will be served by a deviation from the Presumptive Amount of Child Support.

- _____ A. High Income
- _____ B. Low Income
- _____ C. Other Health-Related Insurance
- _____ D. Life Insurance
- _____ E. Child and Dependent Care Tax Credit
- _____ F. Travel Expenses

- _____ G. Alimony
- _____ H. Mortgage
- _____ I. Permanent Plan or Foster Care Plan
- _____ J. Extraordinary Expenses
- _____ K. Parenting Time
- _____ L. Non-Specific Deviations (Other)

11. (a) The Court finds as set on the “Child Support Worksheet” the Final Amount of Child Support for the Custodial Parent is \$_____

(b) The Court finds as set on the “Child Support Worksheet” the Final Amount of Child Support for the Non-custodial Parent is \$_____

(c) The Court finds as set on the “Child Support Worksheet” the Final Amount of Child Support the Non-custodial Parent shall Pay the Custodial Parent is \$_____

12. (a) The Court finds as set on the “Child Support Worksheet” that the Custodial Parent’s allocated Uninsured Health Care Expenses based on their pro rata responsibility is \$_____ %

(b) The Court finds as set on the “Child Support Worksheet” that the Non-custodial Parent’s allocated Uninsured Health Care Expenses based on their pro rata responsibility is \$_____ %

The Non-custodial parent, _____, shall pay Child Support for each of the _____ minor child(ren) at \$_____ per month, for a total of \$_____ per month to the Custodial parent, starting _____, and continuing until each minor child reaches the age of majority, dies, marries, becomes emancipated, whichever first occurs, provided however, the Court, in the exercise of its sound discretion, directs (or does not direct) the Non-custodial Parent to continue to pay child support for a Child who has not previously married or become emancipated, who is enrolled in and attending a secondary school, and who has attained the age of majority before completing his or her secondary school education, until that child graduates from high school, or until the child attains _____ years of age (not to exceed 20 years), whichever first occurs.

As each child becomes ineligible for child support, the total amount owed shall be reduced by \$_____, which is _____%.

_____ shall be required to maintain a health insurance policy for the benefit of the minor children. Any health-care costs which are not covered by health insurance shall be divided as follows:

_____ shall furnish to _____ health insurance card(s) and the parties shall cooperate in filing health insurance claims.

Each party is hereby restrained and enjoined from molesting or harrassing the other party.

SO ORDERED, this _____ day of _____, 20_____.

JUDGE, Superior Courts
Southern Judicial Circuit

**IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA**

)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
)	
)	
Defendant.)	

INCOME DEDUCTION ORDER

The above-styled matter was heard by the Court on _____, 20____. The _____ was properly served and present and represented by counsel. This Court having entered an Order requiring the _____ to pay child support to the _____, this Income Deduction Order is entered pursuant to O.C.G.A. § 19-6-32(a.1)(1).

- Defendant shall pay child support of \$ _____ weekly bi-weekly semi-monthly monthly with the next payment due on _____, 20_____.
- Defendant shall pay \$ _____ weekly bi-weekly semi-monthly monthly with the next payment due on _____, 20__.
- The total amount to be withheld is \$ _____ weekly bi-weekly semi-monthly monthly. This amount shall be made payable to _____ and forwarded within two (2) business days of each payment date. Payments shall be made by cash, cashier's check, or money order, personally or by mailing it to: _____.

The maximum amount to be deducted shall not exceed the amounts allowed under § 303(b) of the Consumer Credit Protection Act, 15 U. S. C. § 1673(b), as amended. This Order applies to current and subsequent employers and periods of employment, and may only be contested on the grounds of mistake of fact regarding the amount of support owed pursuant to a support Order, the arrearage, or the identity of the obligor. The obligor shall notify the _____ within seven (7) days of any change of address, employer or employer's address. A copy of this Order shall be served on the obligor and the employer.

Other: _____

This Order shall become effective immediately upon signing and shall remain in full force and effect until modified, suspended, or terminated by Order of this Court.

SO ORDERED this ____ day of _____, 20_____.

JUDGE, Superior Courts
Southern Judicial Circuit

Date

Notice To: Employer or any other person, private entity, Federal or State Government, or any unit of local government providing or administering income due to Defendant

Re: Income Deduction Order

DATE: _____

Attached you will find an Income Deduction Order. Please read this Order carefully and follow the instructions as written. If you have any questions you should contact your attorney. Employers are required by law to deduct from income due and payable an employee the amount designated by the Court to meet support obligations. Income includes wages, salary, bonuses, commissions, compensation as an independent contractor, workers' compensation, disability benefits, annuities and retirement benefits, pensions, dividends, royalties, or any other payment to an employee. Failure to deduct the amount designated by the Court makes the employer liable for the amount that should have been deducted, plus costs, interest and reasonable Attorney's fees.

Payments must begin no later than the first pay period after fourteen (14) days following the postmark of the notice. You are required to forward to the person or entity specified in the Income Deduction Order within two (2) days after each payment date the amount deducted from the employee's income and a statement as to whether the amount forwarded totally or partially satisfies the periodic amount specified in the Income Deduction Order.

This deduction has priority over all other legal processes under Georgia law pertaining to the same income and the payment required by the Income Deduction Order. It is a complete defense against any claims of the employee or the employee's creditors as to the sum paid.

Employers must continue to deduct the child support amount and send it to the person or entity specified in the Income Deduction Order until further notice by the Court or until the income is no longer provided to the employee. In the event the income is no longer provided, the employer is required to notify the person or entity specified in the Income Deduction Order immediately of such and to give the employee's last known address and to provide a name and address of any new employer of this employee if known. **FAILURE TO DO THIS WILL RESULT IN A CIVIL PENALTY BEING IMPOSED, NOT TO EXCEED \$250.00 FOR THE FIRST VIOLATION OR \$500.00 FOR A SUBSEQUENT VIOLATION.**

Employers may not discharge an employee by reason of the entry of an Income Deduction Order. If an employee is discharged because of this reason, **A FINE OF NOT MORE THAN \$250.00 FOR THE FIRST VIOLATION AND \$500.00 FOR A SUBSEQUENT VIOLATION WILL BE IMPOSED AGAINST THE EMPLOYER.**

Employers should contact their attorney if more than one Income Deduction Order is received against the same employee.

Employers may send a single payment if multiple employees have Income Deduction Orders to pay to the same depository provided the amount attributed to each employee is identified.

An employer may collect up to \$25.00 against the employee's income to reimburse for the administrative costs of the first income deduction and up to \$3.00 for each subsequent income deduction.