

Rule 17 Appendix A. Suggested Responses to FAQs From *Pro Se* Litigants

Current as of August 31, 2017

Table of Contents ([click on a section to jump to that section; press CTRL+HOME to return here](#))

A. GENERAL QUESTIONS	6
1. ISSUES THAT ARE COMMON TO ALL TYPES OF CASES.....	6
<i>a. Assistance from Clerks</i>	6
<i>b. Attorneys (Recommending One)</i>	6
<i>c. Communication with Judges</i>	6
<i>d. Judicial Decisions</i>	7
<i>e. Legal Research</i>	7
<i>f. Scheduling & Court Appearances</i>	7
1. Do I have to be in court today?.....	7
2. Can I reschedule (continue) my hearing to a later date?	8
3. My car won't start, so I can't get to the hearing today. Can you tell the judge?	8
<i>g. Sealed Records</i>	8
B. CIVIL CASES	8
1. GENERAL CIVIL MATTERS	8
<i>a. Filing a Petition</i>	8
1. How long do I have to file my petition?	8
2. How do I serve my petition on the opposing party?	8
3. \$___ (county specific) seems like a high filing fee? Why is it so steep?	8
4. In what county [or state] do I file my case? (How do I know where venue lies?)	9
<i>b. Answering a Petition</i>	9
1. How do I file an answer?.....	9
2. A petition was filed on me ___ days ago, now here I am to make my appearance.	9
3. A petition was filed on me more than ___ days ago. Can I still file an answer?	9

<i>c. Bankruptcy</i>	10
<i>d. Collection/Enforcement of Judgments (Liens, etc.)</i>	10
1. Are there any liens on my property?	10
2. How do I collect my judgment?	10
<i>e. Eviction: Dispossession Actions</i>	10
<i>f. Name Change</i>	10
<i>g. Real Estate Issues</i>	11
<i>h. Dismissals</i>	11
2. DOMESTIC ABUSE	11
<i>a. Process</i>	11
How do I get a restraining order against someone?	11
Other restraining orders	11
B. APPOINTMENT OF ATTORNEY	11
1. <i>Will the County Attorney represent me?</i>	12
2. <i>Can you appoint an attorney for me?</i>	12
3. <i>What other legal assistance can be provided for me?</i>	12
3. DOMESTIC: DISSOLUTIONS, MODIFICATIONS AND SUPPORT	12
<i>a. Filing & Modification Issues</i>	12
1. How do I file a divorce?	12
<i>b. Child Support</i>	12
1. How do I get my ex-spouse to pay child support?	12
2. Can I get my ex-spouse's wages garnished for not paying child support?	12
<i>c. Custody & Visitation</i>	12
4. PROBATE	13
1. <i>Can I file my own guardianship and conservatorship?</i>	13
2. <i>Do you have my will?</i>	13
5. SMALL CLAIMS	13

<i>a. Filing a Small Claim Case</i>	13
1. How do I file a small claim?	13
2. Whom do I file against?	13
3. Do I have a case against this guy?	13
4. I live in Georgia and the defendant lives in ANOTHER STATE. Where do I file?	13
5. I live in this county and the person I want to sue lives in ANOTHER COUNTY in Georgia. Where do I file?	13
6. Once I file my claim, how long before I go to court?	13
7. My case was dismissed a year ago. Can I refile?	14
8. Will you mail me thirty small claims forms?	14
<i>b. Answering a Small Claim Petition</i>	14
1. I received a small claim notice in the mail. What do I do now?	14
2. How do I file a counterclaim?	14
<i>c. Bankruptcy & Its Impact</i>	14
<i>d. Collecting on a Judgment</i>	15
1. Once a judgment is obtained, how long before I get my money? Can I have the defendant arrested until he/she pays?	15
2. How do I obtain garnishment?	15
3. How do I find out where the defendant works?	15
4. I tried an execution, but it didn't work. What do I do now?	15
5. How do I stop a garnishment?	15
6. Why can't the judge just put the defendant in jail?	15
7. Can the defendant make installment payments on the judgment?	15
8. The other party paid me just the judgment and not court costs. How do I collect the court costs?	16
<i>e. Landlord & Tenant Cases</i>	16
1. Does a three day "notice to quit" include weekends and holidays?	16
2. Other questions about dispossessory cases	16
<i>f. Satisfying & Releasing the Judgment</i>	16
1. I paid my judgment in full and the plaintiff has not released it. How do I get the judgment released?	16

2. I paid my judgment so why don't you satisfy it?.....	16
C. CRIMINAL AND TRAFFIC CASES	16
1. GENERAL CRIMINAL MATTERS.....	16
<i>a. Appeals</i>	16
<i>b. Attorneys</i>	17
1. How do I get an appointed attorney?	17
2. Why do I have to reimburse the state for court-appointed attorney fees?	17
3. Why can't I have a court-appointed attorney?.....	17
<i>c. Bond</i>	17
1. How do I get a friend out of jail (out on bond)?	17
2. When will I get my bond money back?	17
<i>d. Charges & Charging Issues</i>	17
1. What have I been charged with?	17
2. It wasn't my car so why did I get a ticket for _____?.....	18
<i>e. Complaints (Regarding Police Officers)</i>	18
<i>f. Court Costs</i>	18
1. Why are my court costs so high?	18
2. Why do I have to pay court costs when I didn't go to court?	18
3. Why are there so many surcharges on my fine?	18
<i>g. Fines</i>	18
1. When do I have to pay my fine?	19
2. Why won't you take my check?	19
3. Will you give me an extension to pay my fine?	19
4. What do the police do with all the money I pay?	19
<i>h. Guilty Plea</i>	19
<i>i. License Suspension</i>	19
<i>j. Notices-Missed Court Dates</i>	19
1. I missed my court date. What happens now?.....	19

2. I've moved since the matter began. What do I do now?	20
<i>k. Records & Warrants</i>	20
1. Why won't you do a record check for me?	20
2. This isn't supposed to be on my record. Why is it showing up?	20
3. Is there a warrant out for my arrest?	20
<i>l. Sentences: Outcomes & Options</i>	20
1. What will my sentence be?	20
2. Am I going to jail?	20
3. How do I get probation?	20
EXHIBIT A	21

A. General Questions

1. Issues that are common to all types of cases

a. Assistance from Clerks

I have asked you several questions and you won't answer them. Why aren't you more helpful?

The clerk should **politely** advise that, first, many questions require the clerk to explain or interpret the law or how the law would apply in the litigant's case. This constitutes legal advice, and **the law prohibits clerks from providing legal advice to litigants**. Second, if a litigant misunderstands a statement by a clerk, or a clerk gives an incorrect answer to a question and the litigant loses his or her case as a consequence the litigant might blame the clerk. For these reasons, clerks must refrain from answering many questions that people ask and refer people to competent legal counsel.

b. Attorneys (Recommending One)

What attorney should I call to handle my case? Who would be good?

Clerks are not allowed to recommend specific attorneys or law firms. Parties should contact the **Georgia Lawyer Referral Program (see Exhibit A)** . Parties may also check the yellow pages in the phone book or ask their friends for a recommendation. The local bar association may also have an attorney referral service.

c. Communication with Judges

Can I talk to a judge?

Clerks must be cautious about allowing people to talk to a judge because judges must avoid **ex parte** contacts with litigants. [For guidance on this issue, *see Guideline F.*] The clerk should ask for the person's name and why she or he needs to talk to the judge.

If the issue is unrelated to any case before the court, the clerk should refer the question to the judge, if available.

If the issue involves an **emergency scheduling matter** (e.g., request for a continuance due to car problems on the morning of a hearing), the clerk should write down the request and contact the judge in a manner that has been set by the Chief Magistrate. The Clerk cannot tell the litigant whether the request will be granted.

If the issue involves a **non-emergency request for a continuance**, most judges require the request to be submitted in writing. (This might vary by county or judge.) But the clerk should refer the question to the judge, if available.

If the person wants to talk to a judge about issues under litigation, the judge usually cannot allow such communication unless all parties involved in the case are present (i.e., at a hearing). If the person wants to give the judge information pertinent to a case or wants the judge to take some *action* related to a case, the person must: 1) put the request *in writing*; 2) file it in the clerk's office; and 3) provide copies to the other parties in the case. (See *Guideline F.2*).

Georgia has a specific Warrant Application procedure when non-law enforcement litigants seek the arrest of other persons. The procedure for such warrant applicants shall be set by the Chief Magistrate and may involve direct contact between a litigant and a judge in an *ex parte* fashion.

d. Judicial Decisions

What will the judge say?

Clerks may not speculate on what a judge might say or do. Clerks should avoid telling anyone what a judge "usually does" or otherwise guessing what may happen in any individual matter as the facts may dictate an unusual or extraordinary result.

e. Legal Research

Georgia's statutes (laws passed by the state legislature) are in the official Code of Georgia (also known as the Georgia Code). The Georgia Magistrate Court Rules contain the procedures that litigants must follow in Georgia's Magistrate courts. Your county law library should have copies of these volumes. Every Georgia county has a law library. ****Many legal materials are available on the internet. However, the clerk cannot verify the authenticity or accuracy of any website. It is always ultimately the litigant's responsibility to determine that they have researched the most recent law or case.**

Further, in some circumstances a litigant might have to examine decisions by the Georgia Supreme Court or Georgia Court of Appeals to see how these courts have interpreted the laws and rules. A person might have to go to a law library to find up-to-date research materials on appellate court decisions. Ask a librarian for assistance with these materials.

It can be difficult to know and understand all the laws and procedures that might apply in a particular case. If a person is uncertain about the laws or procedures involved in the case, the person should consult an attorney.

f. Scheduling & Court Appearances

1. Do I have to be in court today?

The clerk may review whatever notice the party has to determine whether the party must appear in court and where the hearing (if any) will be held.

2. Can I reschedule (continue) my hearing to a later date?

Only the judge can continue a hearing. If the party files a written request with the clerk and provides a copy of the request to the other parties (or the prosecuting attorney in a criminal case), the judge will consider the request. (See Guidelines F & 1C above for guidance on emergency scheduling requests.)

3. My car won't start, so I can't get to the hearing today. Can you tell the judge?

The answer to this question depends on local custom. Some clerk's offices will convey a message regarding case scheduling to a judge, but others prefer that the party speak directly to the judge.

g. Sealed Records

Can I see my sealed file? (e.g., adopted person seeking information)

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matter. All information concerning adoptions can be found in the Superior Court, not the Magistrate Court. Matters involving juvenile matters may be found in the Juvenile Court. Any records sealed by Magistrate Court are addressed within Uniform Magistrate Court Rule 6.

B. Civil Cases

1. General Civil Matters

a. Filing a Petition

1. How long do I have to file my petition?

The party should consult an attorney concerning the relevant statute of limitations.

2. How do I serve my petition on the opposing party?

The clerk may point out the various means of service that are set out in Georgia law. The inquirer should consult an attorney to determine the proper means of service for the party's particular case.

3. \$____ (county specific) seems like a high filing fee? Why is it so steep?

Filing fees are set by the legislature, not by the court or clerk's office. There are several agencies who are partially or fully funded by court fees.

4. In what county [or state] do I file my case? (How do I know where venue lies?)

The answer to this question depends on the type of case that is being filed, where litigants live, whether a corporation is a party and where events took place. Sorting out the impact of these factors would constitute legal advice. The clerk should advise the party to consult an attorney.

b. Answering a Petition

1. How do I file an answer?

A litigant's answer must be in writing and filed with the clerk within a certain number of days after the petition was served on the party. (Understand that certain types of civil actions have different limitations i.e.--dispossessory actions vs. tort cases). The litigant **must** provide a copy to the opposing party. The clerk may point out the various means of service. The answer includes a response to each specific allegation or paragraph in the petition or pleading to which the defendant is responding. Since the answer should also incorporate any affirmative defenses, the clerk should suggest that the party consult with an attorney. Georgia law allows the clerk to write the answer for a litigant who is incapable of writing his/her own answer.

2. A petition was filed on me ____ days ago, now here I am to make my appearance.

A **written answer** must be filed in the clerk's office within ____ days after the petition was served on the party. (See response in b.1 above.) The answer also must be served on the other parties in the case. A defendant may file an answer after the ____ day time period, but the clerk cannot guarantee what effect the answer will have in the case. This is an administrative question, which may be answered by the clerk. Once a petition is filed it must be served upon the opposing party who is then given a specific time to respond, usually 30 days from date of service, however dispossessory actions and personal property foreclosures must be answered within 7 days. If an answer is filed denying the claim, the magistrate clerk will set the case for hearing according to the magistrate's schedule and notice will be mailed to all parties. In some counties, unless waived by court order, *mediation* is required prior to setting the case for hearing. In those counties the clerk should inform the party about that requirement and that notice for the mediation will be sent to all parties the same as the notice for the hearing.

3. A petition was filed on me more than ____ days ago. Can I still file an answer?

The clerk can accept an answer at any time, even if it is late. But the clerk cannot speculate about the legal consequences of filing the answer late. If the plaintiff has already filed an application for default judgment or has obtained a default judgment, the defendant should

definitely consult an attorney for options. Georgia law requires the payment of certain costs to open a default and the Chief Magistrate will direct the procedure for such instances.

In dispossessory/distress actions, the rules are different and the litigant seeking to file an answer more than 7 days after service, that person should be advised to seek legal counsel.

c. Bankruptcy

If I file bankruptcy will my debts go away?

The clerk should not speculate about how bankruptcy laws would apply in a particular case, which would be a clear example of providing legal advice. In addition, bankruptcy is a complicated area of the law. Strongly recommend that the party consult an attorney. The defendant should advise the court if he or she is under Bankruptcy protection. (With stays, encourage party to provide a case number.)

d. Collection/Enforcement of Judgments (Liens, etc.)

1. Are there any liens on my property?

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Property liens are generally recorded in Superior Court.

2. How do I collect my judgment?

Litigants seeking to collect a judgment issued by the Court should be advised to seek the advice of an attorney concerning the collection of the judgment. The Chief Magistrate may establish procedures for collection of its judgments, issuance of FiFas or similar matters. A party may file statutory post-judgment interrogatories as allowed by Georgia law.

e. Eviction: Dispossessory Actions

How do I evict someone who has failed to pay rent, violated the terms of the lease or is holding the premises over past the end of the term of the lease?

The clerk may provide to the litigant the appropriate form necessary to initiate a dispossessory action. There are several complicated issues that are connected with the dispossessory actions which should not be addressed by the clerk (i.e.--when a security deposit has to be returned; should the landlord request damages in addition to the back due rent; was notice required prior to filing the dispossessory action, etc.). Therefore, it is important that the clerk not get involved with telling the litigant whether the form is correct because every fact pattern is different.

f. Name Change

How do I change my name? [Not part of divorce case.]

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Name changes are generally handled by Superior Court.

g. Real Estate Issues

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Real estate records are generally maintained by Superior Court.

h. Dismissals

If the plaintiff no longer wants to continue with their case for whatever reason (i.e. the case is settled, the plaintiff has changed their position, the plaintiff simply does not want to pursue the matter any further), the plaintiff can seek a dismissal form from the clerk's office. Understand that the filing and dismissal of a civil case is an important event. If the dismissal is done "with prejudice", the plaintiff could not later refile that same action. If the petition is dismissed "without prejudice" then the case could be reinitiated within certain time limitations by the plaintiff.

It is also important to understand that the dismissal of the case by the plaintiff will not dismiss the counterclaim of the defendant, if any. The defendant is also authorized to dismiss their counterclaim on many of the same principles addressed above.

2. Domestic Abuse

a. Process

How do I get a restraining order against someone?

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Restraining Orders are generally handled by Superior Court.

Many people incorrectly believe that the Magistrate Court has the authority to issue a restraining order, domestic violence protective order, temporary protective order, or similar "restraining orders." Magistrate court does not have the authority to do so unless it has been specifically appointed to do so by a Superior Court Judge. Therefore, it is important that the party seeking a protective order or domestic violence order seek assistance through Superior Court which has the authority to consider a "restraining order."

Other restraining orders

For other types of restraining orders the clerk should suggest the party consult with an attorney. The party might also seek assistance from a local domestic abuse assistance center. However, in some Magistrate Courts, Good Behavior Bonds are used in the same manner but they are only authorized for the particular county in which the Good Behavior Bond is issued.

b. Appointment of Attorney

1. Will the County Attorney represent me?

The County Attorney or District Attorney usually represents the state in **criminal** cases.

2. Can you appoint an attorney for me?

Only a judge can appoint an attorney, and a judge may appoint an attorney only in certain criminal cases. In most civil cases there is no provision for the appointment of counsel, but the clerk may refer the party to Legal Aid, which may assist civil litigants who cannot afford to hire an attorney.

3. What other legal assistance can be provided for me?

Georgia Legal Aid Services around the state of Georgia, through Volunteer Lawyers Foundations or other legal services per direction of chief judge

3. Domestic: Dissolutions, Modifications and Support

a. Filing & Modification Issues

1. How do I file a divorce?

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Domestic relations matters (divorces, modifications, legal separations, contempts) are handled by Superior Court.

b. Child Support

1. How do I get my ex-spouse to pay child support?

The establishment and modification of child support is generally a matter for Superior Court determination in a civil case. If you desire to request an arrest warrant for abandonment of child or similar crime, please see the process set forth under the criminal section of this pamphlet.

2. Can I get my ex-spouse's wages garnished for not paying child support?

It depends upon the circumstances of the case. Does the ex-spouse have a court-ordered child support obligation that is in arrears? If the answer to this question is "Yes," then the person might be able to obtain garnishment of the ex-spouse's wages. However, the clerk should explain that garnishing wages can be a complicated process, and that further assistance from the clerk could be interpreted as providing legal advice (aside from providing forms)--which the clerk may not do. The party should seek assistance from a private attorney, from Legal Aid or Legal Services offices (if he or she cannot afford an attorney), or from the Child Support Recovery Unit.

c. Custody & Visitation

Where do I go for custody battles?

Superior Court handles all domestic relations matters.

4. Probate

1. Can I file my own guardianship and conservatorship?

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Probate Court has jurisdiction over such matters.

2. Do you have my will?

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. Probate Court would be the appropriate referral for all probate matters.

5. Small Claims

a. Filing a Small Claim Case

1. How do I file a small claim?

See B.1.a.

2. Whom do I file against?

This question requires the clerk to offer legal advice, which a clerk may not provide. Advise the plaintiff to consult with competent legal counsel.

3. Do I have a case against this guy?

This question requires a clerk to interpret how the law will apply in a particular litigant's case, which would constitute legal advice. Clerks cannot provide legal advice. The party should ask an attorney this question.

4. I live in Georgia and the defendant lives in ANOTHER STATE. Where do I file?

The answer to this question depends on the particular circumstances of the case. The clerk should advise the plaintiff to consult with competent legal counsel.

5. I live in this county and the person I want to sue lives in ANOTHER COUNTY in Georgia. Where do I file?

The answer to this question depends on the particular circumstances of the case. The clerk should advise the plaintiff to consult with competent legal counsel.

6. Once I file my claim, how long before I go to court?

This is an administrative question, which may be answered by the clerk. Once a petition is filed it must be served upon the opposing party who is then given a specific time to respond, usually 30 days from date of service, however distress/dispossessory actions and personal property foreclosures must be answered within 7 days. If an answer is filed denying the claim, the magistrate clerk will set the case for hearing according to the magistrate's schedule and notice will be mailed to all parties. In some counties, unless waived by court order, *mediation* is required prior to setting the case for hearing. In those counties the clerk should inform the party about that requirement and that notice for the mediation will be sent to all parties the same as the notice for the hearing.

7. *My case was dismissed a year ago. Can I refile?*

The answer depends upon how the case was dismissed (i.e., with or without prejudice) and whether the statute of limitations has expired, which can be a complicated issue. The party should seek advice from competent legal counsel.

8. *Will you mail me thirty small claims forms?*

Most clerks' offices will not do this. Clerks will mail one copy free of charge. The recipient is allowed to make copies from the original. Some courts also have forms available via the Internet.

b. Answering a Small Claim Petition

1. *I received a small claim notice in the mail. What do I do now?*

The defendant should follow the instructions on the notice and perhaps seek advice from an attorney. The clerk cannot tell the defendant whether to admit or deny the claim or how to respond to the notice; this would be legal advice, which clerks cannot provide. (Clerks may provide an answer form.)

2. *How do I file a counterclaim?*

The clerk may provide the appropriate forms and indicate where the information should be placed on the form, but cannot suggest phraseology or whether a counterclaim should be filed.

c. Bankruptcy & Its Impact

I filed a debt collection case against a person. After that, the person filed for bankruptcy. How will the bankruptcy case affect my case against that person?

The answer to this question can be complicated. It requires legal advice, which clerks cannot provide. From a procedural standpoint the clerk may advise that the filing of bankruptcy generally suspends ("stays") the state court proceedings. The party should seek advice from competent legal counsel as to how the bankruptcy might affect the plaintiff's claim. However,

litigants should advise the Magistrate Court if they believe bankruptcy has a bearing on the case and provide case number if known.

d. Collecting on a Judgment

1. Once a judgment is obtained, how long before I get my money? Can I have the defendant arrested until he/she pays?

This question requires *caution* by the clerk. A judgment coupled with a FiFa gives the judgment creditor a **lien** against the defendant, but the judgment and lien do not guarantee voluntary payment. The judgment creditor may pursue collection through various legal forms of **execution**, but these can be complicated. The party should seek advice from an attorney.

U.S. law does not allow for a party to be arrested for non-payment of a debt- including a judgment.

2. How do I obtain garnishment?

The clerk may provide appropriate forms that are available for this process and point out where information should be placed on the forms, but the clerk should not give any advice as to how the garnishment should be pursued.

3. How do I find out where the defendant works?

Georgia law allows for post-judgment interrogatories and some courts have forms for such a process. The litigants should be encouraged to seek legal counsel in this circumstance. Clerks may provide the standard interrogatory form.

4. I tried an execution, but it didn't work. What do I do now?

The clerk cannot tell the person what he or she should do in this circumstance.

5. How do I stop a garnishment?

The clerk may provide the defendant with appropriate forms for requesting a hearing, if such forms are available. Otherwise, the clerk should advise the defendant that a traverse needs to be filed with the clerk's office with notice to the garnishing party. A hearing will then be scheduled before a judge.

6. Why can't the judge just put the defendant in jail?

The clerk may advise that jail is not a legal remedy available in civil proceedings. The plaintiff may wish to consult competent legal counsel to explore other available options.

7. Can the defendant make installment payments on the judgment?

The judgment order **may** provide for installment payments, or the defendant may petition the court for installment payments. The judgment creditor may also accept partial payments even if they are not explicitly authorized in the judgment, but the defendant should seek advice from an attorney as to whether the judgment creditor who has accepted partial payments will be prevented from seeking accelerated collection of the judgment through other legal means. The parties are free to contact one another.

8. The other party paid me just the judgment and not court costs. How do I collect the court costs?

If the judgment required the defendant to pay court costs, the judgment lien does not have to be released until those costs are paid. The plaintiff may pursue payment through **execution** and the clerk should provide forms for doing so, if available.

e. Landlord & Tenant Cases

1. Does a three day "notice to quit" include weekends and holidays?

Yes.

2. Other questions about dispossessory cases

This can be a very complicated area of the law, so the party should consult an attorney on almost all other questions. Legal Aid may provide free or low cost legal services for low-income residents who cannot afford an attorney.

f. Satisfying & Releasing the Judgment

1. I paid my judgment in full and the plaintiff has not released it. How do I get the judgment released?

There is a procedure for this contingency found in the Georgia Code, but the party should seek advice from competent legal counsel on this issue.

2. I paid my judgment so why don't you satisfy it?

The judgment creditor (the person who was owed the money) is responsible for satisfying the judgment, not the clerk.

C. Criminal and Traffic Cases

1. General Criminal Matters

a. Appeals

How do I file a notice of appeal?

An appeal of a criminal matter is complicated and time-limited. The Clerk may provide a form, if available, but the clerk cannot tell a litigant what information the appeal should include.

b. Attorneys

1. How do I get an appointed attorney?

Parties have the right to hire their own attorney. If financially unable to do so, a party may apply for a court-appointed attorney, and the clerk should provide the appropriate forms, if available in a criminal case. The judge will then consider the request and, based on criteria established by the state legislature, determine whether the party is eligible for court-appointed counsel. Some counties have an Indigent Defense Office that addresses appointment of counsel. As rules and guidelines may change, the clerk should not attempt to advise the person whether they qualify as indigent.

2. Why do I have to reimburse the state for court-appointed attorney fees?

The legislature passed a law that may require the courts to order such reimbursement.

3. Why can't I have a court-appointed attorney?

Clerks do not play a role in determining who gets a court-appointed attorney.

c. Bond

1. How do I get a friend out of jail (out on bond)?

If bond has been set, advise the party to contact the appropriate law enforcement agency concerning bond.

2. When will I get my bond money back?

Bonds are only released upon order by a judge or final resolution of the charges. Furthermore, the bond is returned only to the party posting it, and the bond is subject to the clerk's procedures for returning cash bonds. Any monies paid to a professional bail bondsman would have to be addressed between the surety and the bail bondsman.

d. Charges & Charging Issues

1. What have I been charged with?

The clerk may show the defendant the file assuming it is not confidential or sealed consistent with Uniform Magistrate Court Rule 6. Ensure the information to be released is approved by the Judge pursuant to Uniform Magistrate Court Rule 6. If the defendant has further questions, the clerk should suggest that the party consult with an attorney or with the prosecutor's office.

2. *It wasn't my car so why did I get a ticket for _____?*

Clerks are not authorized to speak for law enforcement officers or to speculate as to why an officer did or did not issue a ticket. Encourage the party to seek advice from competent legal counsel or ask the prosecuting attorney.

e. Complaints (Regarding Police Officers)

How do I file a complaint about a police officer?

The clerk may refer the party to the relevant law enforcement agency.

f. Court Costs

1. *Why are my court costs so high?*

Court costs are established by the legislature; the clerk's duty is merely to assess and collect those costs.

2. *Why do I have to pay court costs when I didn't go to court?*

Court costs are established by the legislature and they are fees for the filing and processing of the case rather than a fee for personal appearances.

3. *Why are there so many surcharges on my fine?*

The Georgia legislature has established several different surcharges that apply to all criminal fines in Georgia. Those surcharges are used to fund a variety of different operations and agencies throughout the state, specifically including but not limited to indigent defense. The fines set by the court have automatic surcharges that are applied to it and are not within the discretion of the court whether to assess them or not.

g. Fines

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. The Probate Court, State Court, Juvenile Court or Superior Court may have jurisdiction over certain fines.

On any fine assessed by the Magistrate Court, the clerk may refer the party to the appropriate probation office or clerk who accepts the payment of fines. Consult with supervisors as to whether your court allows for the payment of the fine without a formal hearing being conducted. In most cases, the payment of a fine constitutes a waiver of certain constitutional rights and may, in some circumstances, constitute an admission of guilt. Therefore, simply "paying the fine" is likely to be a matter that needs to be addressed between the party and their attorney to insure that the party understands all of the consequences of a payment of a fine.

1. *When do I have to pay my fine?*

Fines are usually due at sentencing unless additional time to pay is granted by the court.

2. *Why won't you take my check?*

Procedures for accepting fine payments are set by the Chief Magistrate.

3. *Will you give me an extension to pay my fine?*

Only a judge may grant an extension. The defendant should file a request in writing with the clerk who will then give the request to the judge for consideration.

4. *What do the police do with all the money I pay?*

Fine payments do not go to officers or law enforcement agencies directly, but are paid to the general fund of the cities or counties of the jurisdiction.

h. Guilty Plea

How do I plead guilty?

Generally, guilty pleas are only accepted in open court after proper waiver of certain Constitutional rights. The Chief Magistrate shall set all criminal procedures for the Court and the clerks'.

i. License Suspension

Why is my license suspended when I paid my ticket?

Magistrate Courts in Georgia have a limited jurisdiction and do not handle all types of legal matters. The Legislature sets rules for license suspensions and clerks are not given discretion over such matters.

j. Notices-Missed Court Dates

1. *I missed my court date. What happens now?*

A defendant is responsible for being in court on the date that is appointed for court. If the defendant believes that they have an appropriate excuse for not being present, they should present that excuse in writing to the clerk for consideration by the judge. A missed court date may result in either an order for arrest (bench warrant for failure to appear) or some sort of Rule Nisi or other order requiring the defendant to come to court on another court date to show cause why they should not be held in contempt for failure to appear. Again, recommending that the defendant hire a lawyer to look into this matter for them may be advisable.

2. I've moved since the matter began. What do I do now?

It is always the responsibility of the party to an action, whether it be civil or criminal, to keep the court notified of any changes of address. It is not the court's responsibility to "find" any party to either a civil or criminal action. It is the responsibility of the clerk to notify a litigant of their relevant court dates or other matters at the last known address. If that address has changed and the litigant failed to notify the court, a failure to timely respond or be present for a hearing may have repercussions to the litigant and their case which cannot all be summarized in this response.

k. Records & Warrants

1. Why won't you do a record check for me?

The clerk's office is required to keep the records open and accurate. Due to staffing and liability considerations, however, the clerk does not conduct record searches. Notify the person requesting the document of the times and dates when records may be received (see Uniform Magistrate Court Rule 6).

2. This isn't supposed to be on my record. Why is it showing up?

The clerk should first determine if the matter was recorded properly and, if so, advise the party to seek advice and assistance from competent legal counsel.

3. Is there a warrant out for my arrest?

The party should check with local law enforcement; clerks are not authorized to provide this information.

l. Sentences: Outcomes & Options

1. What will my sentence be?

The judge imposes the sentences and it would be inappropriate for the clerk to speculate.

2. Am I going to jail?

Sentencing depends on a variety of factors and it would be inappropriate for the clerk to speculate on what the judge might do.

3. How do I get probation?

Because this is such an important issue, the clerk should emphasize that the best option would be to consult with competent legal counsel. However, if the defendant is not going to contact an attorney, the clerk may suggest that the defendant could make the request to the judge at sentencing. But the clerk may not tell the defendant the likelihood of probation following a hearing.

*If the court provides informational pamphlets or websites for pro se litigants, the clerk may provide the relevant pamphlet or point out a portion of the website or pamphlet that addresses their question.

EXHIBIT A

Helpful Resources for People Who Need Legal Assistance of Information

State Bar of Georgia -- 1-800-334-6865, www.gabar.org

**Council of Magistrate Court Judges (Georgia) --
www.georgiacourts.org/councils/magistrate**

Administrative Office of the Courts of Georgia -- 404-656-5171

Georgia Supreme Court -- 404-656-3470

Child Support Recovery -- ocss.dhr.georgia.gov/

Safe Homes of Augusta (National Crisis Hotline) -- 1-800-334-2836

Legal Aid -- legalaid-ga.org

GBI -- 404-244-2600

Georgia Lawyer Referral Program -- 1-800-215-1644

**Georgia Landlord and Tenant Hotline -- 1-800-369-4706,
www.georgialawyerreferral.com**

*** Information is subject to change**