

MAGISTRATE COURT OF TROUP COUNTY

TROUP COUNTY GOVERNMENT CENTER

SUITE 1800

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LA GRANGE, GEORGIA 30240

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TROUP COUNTY
GEORGIA

VICKIE SUE McWATERS
CHIEF MAGISTRATE

TOYA DUFFEY WILSON
CLERK OF COURT

May 18, 2020

To whom it may concern:

The Supreme Court of Georgia has passed a new Uniform Magistrate Court Rule entitled "Rule 46. Emergency Dispossessory." This rule is in response to the temporary moratorium placed on dispossessory actions provided for by the federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act").

I have attached a copy of the new Rule 46 for your review. It requires that every dispossessory case based on non-payment of rent filed on or after March 27, 2020, while the temporary moratorium is pending, file a Cares Act Affidavit, if applicable, at or before the time of hearing. I have also attached a copy of the Cares Act Affidavit form as well as a copy of the CARES Act Explanation of Terms that helps describe the types of properties that will be considered a "Covered Dwelling" or "Covered Property."

Please read Rule 46 and the other attached documents carefully. If it is applicable, please complete the CARES Act Affidavit and forward it to the court for filing. We are working to come up with a plan to reset all of the pending cases since the Judicial State of Emergency was put in place. It will certainly help us with scheduling and also you, as a Plaintiff, if we can take care of this new requirement before the day a case is scheduled for court.

If you have any questions about whether your property is a Covered Dwelling/Property under the CARES Act and/or whether you can complete the CARES Act Affidavit, please contact an attorney of your choosing. Neither the clerk's office nor one of our magistrate judges can provide you with the legal advice necessary to make that determination.

Thank you for your patience as we begin to return to the normal business of the court. At this time, our hope is to begin having in-person court the week of June 15, 2020. If you have any questions about the scheduling of a particular case, please contact the Clerk's office.

Sincerely,

Vickie Sue McWaters
Chief Magistrate of Troup County



SUPREME COURT OF GEORGIA

April 30, 2020

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN RE: MAGISTRATE COURT RULE 46

It is ordered that new Uniform Magistrate Court Rule 46 (emergency dispossession) be approved, effective May 4, 2020, as follows:

PART III. CIVIL RULES

...

Rule 46. Emergency Dispossession

(A) A landlord who files a dispossession before August 25, 2020 under OCGA § 44-7-50 (a) seeking possession of a residential premises for nonpayment of rent shall submit verification, filed and served with the complaint, indicating whether the property is exempt from the moratorium provided for in the federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) (Public Law No. 116-136). In the event that the dispossession action was filed prior to the enactment of this rule, the required verification shall be submitted to the court prior to or during the dispossession hearing; if the tenant does not file an answer, the required verification shall be submitted prior to the writ of possession being issued.

(B) A landlord shall use the affidavit in this rule if the property is not defined as a “covered property” under section 4024 (a) (2) of the CARES

Act or otherwise exempt from the moratorium provided for in the CARES Act.

(C) If the property is a covered property, a landlord shall comply with the 30-day notice requirement contained within section 4024 (c) of the CARES Act prior to filing any proceeding for nonpayment of rent pursuant to OCGA § 44-7-50. The required 30-day notice shall not be sent prior to July 26, 2020.

IN THE MAGISTRATE COURT OF _____ COUNTY
STATE OF GEORGIA
CARES ACT AFFIDAVIT

Case No. _____

Plaintiff

Defendant(s)

Address

Property Address

City State Zip

City State Zip

Email Address

Personally appeared before me, the undersigned officer, the Plaintiff, his agent or attorney who on oath deposes and says as follows:

(1)

I am personally familiar with the residential property occupied by the Defendant, the Defendant's tenancy, the property's ownership, the financing arrangements and any and all liens that may exist on the property.

(2)

The property is not a "covered property" as defined by section 4024 (a) (2) of the CARES Act, or the property is otherwise exempt from the moratorium imposed therein.

(3)

It is not part of a covered housing program (as defined in section 41411 (a) of the Violence Against Women Act of 1994 (34 USC § 12491 (a)) or the rural housing voucher program under section 542 of the Housing Act of 1949 (42 USC § 1490r).

(4)

There are no mortgages, deeds to secure debt, nor liens of any other sort which are made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the United States Government or in connection with a housing or urban development program administered by the U.S. Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5)

The debt on the property is not receiving a forbearance pursuant to section 4023 of the CARES Act.

(6)

I swear under penalty of perjury that the above information is true and correct and made of my own personal knowledge. I understand further proof may be required at trial.

Sworn to /Subscribed/ filed before me

This _____ day of _____, _____.

This _____ day of _____, _____.

Deputy Clerk/ Notary Public

Attorney/ Owner/ Agent Phone#

CARES Act
Public Law No. 116-136
Explanation of Terms

Sec. 4024 TEMPORARY MORATORIUM ON EVICTION FILINGS.

(a) DEFINITIONS.—In this section:

(1) COVERED DWELLING.—The term “covered dwelling” means a dwelling that—

(A) is occupied by a tenant—

(i) pursuant to a residential lease; or

(ii) without a lease or with a lease terminable under State law; and

(B) is on or in a covered property.

(2) COVERED PROPERTY.—The term “covered property” means any property that—

(A) participates in—

(i) a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a);

or

(ii) the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r);

or

(B) has a—

(i) Federally backed mortgage loan; or

(ii) Federally backed multifamily mortgage loan.

(3) DWELLING.—The term “dwelling”—

(A) has the meaning given the term in section 802 of the Fair Housing Act (42 U.S.C. 3602); and

(B) includes houses and dwellings described in section 803(b) of such Act (42 U.S.C. 3603(b).

(4) FEDERALLY BACKED MORTGAGE LOAN.—The term “Federally backed mortgage loan” includes any loan (other than temporary financing such as a construction loan) that —

(A) is secured by a first or subordinate lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from 1 to 4 families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(5) FEDERALLY BACKED MULTIFAMILY MORTGAGE LOAN.—The term “Federally backed multifamily mortgage loan” includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first or subordinate lien on residential multifamily real property designed principally for the occupancy of 5 or more families, including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property; and

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

SUPREME COURT OF THE STATE OF GEORGIA

Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

 , Clerk

**MAGISTRATE COURT OF TROUP COUNTY
STATE OF GEORGIA
CARES ACT AFFIDAVIT**

Case No. _____

Plaintiff

Defendants(s)

Address

vs.

Property Address

City State Zip

City State Zip

Email Address

Personally appeared before me, the undersigned officer, the Plaintiff, his agent or attorney who on oath deposes and says as follows:

(1) I am personally familiar with residential property occupied by the Defendant, the Defendant's tenancy, the property's ownership, the financing arrangements and any and all liens that may exist on the property.

(2) The property is not a "covered property" as defined by Sec. 4024(a)(2) of the CARES Act.

(3) It is not part of a covered housing program (as defined in section 41411(a) of the Violence Against Women Act of 1994 (34 U.S.C. 12491(a))) or the rural housing voucher program under section 542 of the Housing Act of 1949 (42 U.S.C. 1490r).

(4) There are no mortgages, deeds to secure debt, nor liens of any other sort which are made in whole or part, or insured guaranteed, supplemented, or assisted in any way, by any officer or agency of the Federal Government or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency, or is purchased or securitized by the Federal Home Loan Corporation or the Federal National Mortgage Association.

(5) The debt on the property is not receiving a forbearance pursuant to Sec. 4023 of the CARES Act.

(6) I swear under penalty of perjury that the above information is true and correct and made of my own personal knowledge. I understand further proof may be required at trial.

Sworn to /Subscribed/ filed before me

This _____ day of _____, 20_____

This _____ day of _____, 20_____.

Deputy Clerk/ Notary Public

Attorney/ Owner/ Agent Phone#