

PAULDING COUNTY, GA  
FILED IN OFFICE

2020 MAY 18 PM 3:40

CHRISTY L. BATES, CLERK



## Magistrate Court of Paulding County

Chief Magistrate Martin Enrique Valbuena  
Magistrate Lisa F. Baty  
Magistrate Charles M. Norman

280 Constitution Boulevard  
Dallas, Georgia 30132  
Phone: (770) 443-7533

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 Dispossession." This rule is in response to the temporary moratorium placed on dispossession 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 dispossession 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,

A handwritten signature in black ink, appearing to read "M. Valbuena".

Martin Enrique Valbuena  
Chief Magistrate Judge  
Paulding County Magistrate Court



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 PAULDING COUNTY  
STATE OF GEORGIA  
CARES ACT AFFIDAVIT

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
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)

(Initial)\_\_\_\_ 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)

(Initial)\_\_\_\_ 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)

(Initial)\_\_\_\_ 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)

(Initial)\_\_\_\_ 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)

(Initial)\_\_\_\_ The debt on the property is not receiving a forbearance pursuant to section 4023 of the CARES Act.

(6)

(Initial)\_\_\_\_ 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#