

Upton County Magistrate Court Civil and Criminal Guidelines

About The Magistrate Court

The Magistrate Court was created by legislation in 1982. Prior to then, there were Small Claims Courts with Justices of the Peace presiding. Each county within the State of Georgia has a Magistrate Court. Each court has a Chief Magistrate that is elected by the citizens of the county. Many Magistrate Courts have at least one, if not more, judges or Magistrates who are associates and serve in the same judicial capacity and handle related casework.

The Civil Jurisdiction

The Magistrate Court's Civil jurisdiction is now \$15,000.00. This became effective July 1, 1999 by legislation through the General Assembly. On Landlord/Tenant and rental disputes there is no monetary limit, this court has an exclusive right over these cases.

The Criminal Aspect

The Magistrate Court Judges must approve all criminal warrants issued within Upton County. Law enforcement personnel generally secure the criminal warrant in the majority of criminal cases within the City of Thomaston and Upton County. Citizens are lawfully permitted to secure their own arrest warrants, however, the court prefers some form of law enforcement involvement.

Criminal Procedures

A Criminal Arrest Warrant: Once probable cause has been established by an affiant or law enforcement officer, a criminal warrant will issue for the arrest of a defendant accused of a criminal act. After the arrest, a first appearance will be held before the appropriate Magistrate Judge. A bond is set and the arrested party is allowed to post bail and return for court when the case is called. The District Attorney's Office prepares all criminal cases for the Grand Jury's consideration. A preliminary hearing may be held at the request of the defendant's attorney. This hearing determines if probable cause existed and the case is bound over to the Grand Jury or dismissed if it lacks probable cause. Charges are Misdemeanors or Felony(ies).

A Search Warrant: A search warrant issues when there is reasonable suspicion to believe that a criminal act is or has taken place within a residence. An officer has to bring forth sufficient evidence to substantiate his claim prior to the issuance of a search warrant. An affidavit must accompany his request.

Bad Checks: Deposit Account Fraud. This action is generally civil in nature. However, it can become a criminal act if the check writer doesn't meet certain requirements by state law. Bad Check Citations are issued after a merchant sends a 10 day letter notifying the party of a bounced check. The check can be picked up at the business to avoid a citation issuing on **NSF** checks. On **CLOSED ACCOUNT** Checks, a criminal warrant issues. The above mentioned criminal procedures apply on closed accounts.

Civil Procedures

A Civil Action/Suit: File this action to collect money that someone owes you. This action takes 30 days for a judgment or a trial in the court if the defendant answers the complaint. If the action goes without the defendant responding to the court, a final judgment will be mailed to the plaintiff. The judgment is good for seven (7) years.

A Trover/Suit: File this action to recover property that someone is in possession of that belongs to you. This action takes 30 days for a judgment or a trial in the court if the defendant answers the complaint. If the action goes without the defendant responding to the court, a final judgment will be mailed to the plaintiff. A Writ of Possession generally follows this procedure if the property is not returned.

A Foreclosure: File this action to repossess contracted property. A signed contract must be presented to prevail in this action. This action takes 14 days for a judgment. A defendant's answer brings this case to court within seven (7) days. A Writ of Possession generally follows this procedure if the property is not voluntarily relinquished.

A Dispossessory Action: A Landlord and Tenant Action: File this action to evict a tenant or to force the tenant to pay unpaid, late or delinquent rent. Rent must be paid into the court's registry once this action is filed or file an answer denying the rent alleged due. A tenant must tender (pay) the rent due within seven (7) days or a Writ of Possession will issue on the eighth (8th) day. With a writ, all household furnishings are removed from the premises and placed beside the nearest public road finalizing the eviction process.