

## INSTRUCTIONS FOR ESTABLISHING THE PATERNITY OF YOUR CHILD

Free to download; \$8.00 for paper copy

### YOU MAY NEED AN ATTORNEY IF:

- The case becomes contested and the other party has a lawyer.
- You cannot find the Defendant to serve him or her with your papers.
- You think you will have difficulty getting information and documents from the other party.

**Even if the other party is cooperating with you, you should talk to a lawyer before you sign any settlement papers or file anything in court.**

STEP 1: Complete the Domestic Relations Filing Information and Final Disposition Forms.

STEP 2: Complete the Complaint for Determination of Paternity.

STEP 3: Complete the Verification form.

STEP 4: Complete the Rule Nisi

STEP 5: Complete the Certificate of Service.

STEP 6: Complete the Financial Affidavit; produce proof of income

STEP 7: Ask for genetic tests, if necessary

STEP 8: Pay the filing fee.

STEP 9: File the forms.

STEP 10: Prepare your case for trial (if it is contested).

STEP 11: Receive the Final Judgment.

### **STEP 1: Complete the Domestic Relations Filing Information and Final Disposition forms**

These forms are required by Georgia Law, at O.C.G.A. § 9-11-133. They help the Clerk of Court keep statistical information about the number and types of cases decided in our local courts. The clerks use this information to prepare case management reports for the chief judge of each circuit and for the Chief Justice of the Georgia Supreme Court. In short, having this information helps us to run the court system more efficiently for you.

#### The filing information form

- a. In the top line, fill in the county where you are filing and the date filed.
- b. In the second line, fill in the names of the Plaintiff and Defendant.
- c. Where it says "Plaintiff/Petitioner's Attorney," check the box which says  Pro Se. This indicates that you are representing yourself without an attorney.
- d. In the large left-hand box, check off what kind of case this is. Since this is a paternity action, you will check " Paternity (includes legitimation)."
- e. In the right hand box, indicate whether or not you are asking for relief from family violence by checking yes or no in the appropriate boxes.

### The final disposition form

The purpose of this form is to tell how your case ends. Since your case is far from over, you should NOT fill in the information in the three big boxes at the bottom of the page. At this point, we do not know how your case will end.

- a. In the top line, fill in only the county where you are filing. We do not yet know the date disposed, since you have not yet received a final order from the judge.
- b. Leave the second line, "Docket #," blank. The clerk will assign this number.
- c. Write your name where it says "Reporting party."
- d. Write down the full names of the Plaintiff and Defendant.
- e. Where it says Plaintiff/Petitioner's Attorney, you will check the box which says  Pro Se. This shows that you are representing yourself. Since you are not a licensed attorney, you do not have a Bar #, so leave those blanks empty.

### **STEP 2: Complete the Complaint for Determination of Paternity.**

Fill in your full name as the Plaintiff and the Defendant's full name as Defendant. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Then insert your name in the space provided just before paragraph one (1).

#### Paragraph 1: Venue.

The word venue originally meant neighborhood. Today, venue means the proper place to hold a trial based on issues such as fairness and convenience to the parties, as well as the county's connection to the events in dispute. **Choose only one letter from below.**

Choose a) if the Defendant lives in the county where you are filing your papers, and has signed an acknowledgement of service form (which is on p. 9 of the forms packet).

Choose b) if the Defendant lives in a county other than where you are filing and the Defendant will agree to having the case heard in the county where you are filing; or if the Defendant lives outside the state and the Defendant will agree to having the case heard in the county where you are filing. In order to show his or her agreement to the county where you are filing, the Defendant will sign an **Acknowledgement of Service/Affidavit of Waiver of Venue and Personal Jurisdiction** (which is on p.10 of the forms packet).

Choose c) if the Defendant lives in the county where you are filing your papers, and you intend to have him or her served by the Sheriff. Check the box to show whether you are having the Defendant served at home or at work. In the blank provided, fill in the address where you will have him or her served. You will use the Certificate of Service (which is on p. 12 of the forms packet) to have the Defendant served.

Choose d) if the Defendant is subject to Georgia's long arm statute. The long arm statute gives a Georgia court personal jurisdiction over a non-resident defendant **ONLY IF** he or she had enough contacts with the state. You will probably need to do additional research at the

law library in order to determine whether the Defendant is subject to the long arm statute, or you may need to consult an attorney. Please see: McConaughey, Dan. 2006. Chapter Six--Jurisdiction and Venue in *Georgia Divorce, Alimony and Child Custody*. Eagan, Minnesota: Thomson West. In this situation, the Defendant will be served by second original. The clerk will stamp a copy of your Complaint "Second Original." These papers will be forwarded to the sheriff of the Defendant's county of residence and served by the local Sheriff. You will need to make arrangements to pay the Sheriff's department which serves the papers.

Paragraph 2: Child born or unborn.

Choose a) if the child has already been born. Fill in the name of the Defendant, the name of the child, and the child's date of birth.

Choose b) if the child is unborn. Fill in the name of the Defendant and the expected due date of the child.

Paragraph 3: Plaintiff's identity.

Check the box beside a). Fill in the child's name and date of birth.

Paragraph 4: Child's residence.

Check the box beside paragraph 4. Fill in the address of the Plaintiff Mother and the minor child.

Paragraph 5: Plaintiff's entitlement to custody.

Check the box beside paragraph 5.

Paragraph 6: Plaintiff's entitlement to child support.

Check the box beside paragraph 6.

Paragraph 7: Guardian ad litem.

Check the box beside paragraph 7.

Paragraph 8: Child as a party.

Check the box beside paragraph 8.

Paragraph 9: Fees of Attorney and Guardian ad litem.

Check the box beside paragraph 9. Check the box to indicate whether the Plaintiff is male or female.

Paragraph 10: Paternity testing.

Check the box beside paragraph 10.

Paragraph 11: Costs of litigation.

Check the box beside paragraph 11.

Paragraph 12: Child support amount.

Go to <http://www.georgiacourts.org/csc/> to complete and print out the child support worksheet. You may view detailed instructions on this web page: <http://www.albany.ga.us/content/1800/2889/3011/3518/4781/4938.aspx>. Click on “Child Support Worksheet Instructions.” These same instructions are available in print at the Law Library. If you cannot complete the Worksheet even with these instructions, you have three other options: 1) hire an attorney to help you; 2) hire a bookkeeper to help you; or 3) file a case with Child Support Enforcement and turn in the schedules that they create for you.

Enter the number created by the worksheet into the blank provided in paragraph 12. Check the boxes to indicate the frequency of payments, and enter the date of the first payment in the blank provided. When you choose the frequency of payments, be sure to match the timing to the non-custodial parent’s pay periods.

Paragraph 13: Child support method of payment.

Check a) if you want the non-custodial parent to make child support payments directly to the custodial parent.

Check b) if you want an income deduction order so that the non-custodial parent’s employer will withhold the child support from the custodial parent’s paycheck and pay the custodial parent.

Check c) if you want Child Support Enforcement to collect child support payments from the non-custodial parent and pay the custodial parent.

Paragraph 14: Health insurance.

Check the box beside paragraph 14. In the blank provided, fill in the name of the person who is responsible for providing health insurance. In the blanks following paragraph 14, show how you plan to divide up the medical expenses which are not covered by health insurance (deductibles, co-pays, etc.).

Sign the complaint in the blank provided on page 7. Write down your address and telephone numbers in the blanks provided.

**STEP 3: VERIFICATION**

By completing the Verification form (p. 8 of the forms packet), you are swearing that everything you said in your complaint is true. Insert your name as Plaintiff and your spouse’s name as Defendant. Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint. You will need to sign this Verification in the presence of a Notary Public. Most banks and many libraries have a notary on staff and will notarize your documents for a small fee.

#### STEP 4: RULE NISI

The Rule Nisi is on page 11 of the forms packet. Check the box to show whether you are bringing your case in State or Superior Court. Fill in the names of the Plaintiff and Defendant. Sign at the bottom where it says “Presented by \_\_\_\_\_ Plaintiff *pro se*.”

#### STEP 5: CERTIFICATE OF SERVICE

The Certificate of Service is on p. 12 of the forms packet. Check the box to show whether you are bringing your case in State or Superior Court. Fill in the names of the Plaintiff and Defendant. Check the box to indicate whether the Defendant is represented by an attorney. In the blanks provided, fill in the address of the party who is being served, usually the Defendant. Insert the date on which you are filing your papers. Sign your name on the line which says “Plaintiff *pro se*,” and enter your address and telephone numbers in the blanks provided.

#### STEP 6: FINANCIAL AFFIDAVIT

This affidavit (pp. 13-19 of the forms packet) asks you to give information about monthly income and expenses. If your income is not the same every month, divide last year’s income by 12 in order to get an estimate. For expenses such as car insurance which may not come due every month, divide the yearly amount by 12 in order to get the monthly amount. Fill in all the financial information which is requested on the form.

The income information which you enter on this form must be supported by proof. The court will not accept your papers for filing without proof of income such as W-2, 1099, most recent tax returns.

#### STEP 7: PARTIALLY FILL OUT THE FINAL ORDER

1. Final Order (pages 31-35 of the forms packet).
  - a. **Caption:** Fill in your full name as the Plaintiff and your spouse’s full name as Defendant. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.**
  - b. **Contents of Order:** (You will use the numbers from your Child Support Worksheet)
    - i. Child’s Name—In the first blank, fill in the current name of the child.
    - ii. Father’s Name—In the second blank, fill in the name of the father.
    - iii. Father’s Name—In the third blank, fill in the name of the father.
    - iv. Mother’s Name—In the fourth blank, fill in the mother’s name.
    - v. **Visitation—Leave this paragraphs blank so that the Judge can fill it in.**
    - vi. Names of Children (Paragraph 1)—Fill in the names of the children and their dates of birth.
    - vii. Name of Custodial Parent (Paragraph 2 a)—Fill in the name of the Custodial Parent.
    - viii. Name of Non-custodial parent (Paragraph 2 b)—Fill in the name of the Non-custodial parent.
    - ix. Parenting Time (Paragraph 2 c)—Fill in the number of days which the non-custodial parent will visit with the child(ren).

- x. Gross income of Husband/Father (Paragraph 3 a)—Fill in the gross income of the Husband.
- xi. Gross income of Wife/Mother (Paragraph 3 b)—Fill in the gross income of the Wife.
- xii. Non-custodial parent’s adjusted income (Paragraph 4 a)—Fill in the adjusted income of the non-custodial parent.
- xiii. Custodial Parent’s adjusted income (Paragraph 4 b)—Fill in the adjusted income of the custodial parent.
- xiv. Combined adjusted income (Paragraph 4 c)—Fill in the amount of the parties’ combined adjusted income.
- xv. Basic Support Obligation (Paragraph 5)—Fill in the amount of the Basic Child Support Obligation which is listed on the “Child Support Obligation Schedule Table” based on the parties’ Combined Adjusted Income. This table can be found at <http://www.georgiacourts.org/aoc/publications/sb382.htm>. Move the bar on the far right-hand side of the screen about one-third of the way down the document in order to see this table.
- xvi. Basic Child Support Obligation/Custodial Parent (Paragraph 6 a) Fill in the amount of the Basic Child Support Obligation for the Custodial parent.
- xvii. Basic Child Support Obligation/Non-custodial parent (Paragraph 6 b)—Fill in the amount for the Basic Child Support Obligation for the Non-custodial parent.
- xviii. Health Insurance (Paragraph 7)—Check the box to show whether health insurance is available at a reasonable cost. Fill in the name of the parent who is responsible for maintaining health insurance for the children.
- xix. Presumptive Amount of Child Support/Custodial Parent (Paragraph 8 a)—Fill in the Presumptive Amount of Child Support for the Custodial parent.
- xx. Presumptive Amount of Child Support/Non-custodial Parent (Paragraph 8 b)—Fill in the Presumptive Amount of Child Support due to the Non-custodial Parent.
- xxi. Presumptive Amount of Child Support/Custodial Parent—Fill in the Presumptive Amount of Child Support due to the Custodial Parent.
- xxii. Title II Social Security Benefits (Paragraph 9)—Fill in the amount of benefits which the child receives each month under Title II of the Federal Social Security Act on the Obligor’s account.
- xxiii. **Special Circumstances (Paragraph 10)—Leave this area blank because the Judge has discretion on whether and how to use deviations from the Presumptive Amount of Child Support. The Judge will fill in this part of the Order.**
- xxiv. **Final Amounts (Paragraphs 11 and 12)—Leave these areas blank. If the Judge alters the Presumptive Amount of Child Support based on Special Circumstances, the final amounts may be different from the numbers on your Child Support Worksheets and Schedules.**
- xxv. Name of the Non-custodial Parent—Fill in the name of the Non-Custodial Parent.

## **STEP 7: ASK FOR GENETIC TESTS, IF NECESSARY.**

If you want to require the Defendant to undergo genetic testing, you will need to use the forms on pages 20-23 of the forms packet.

### **Motion for Genetic Tests**

Fill in your full name as the Plaintiff and the reputed father's full name as Defendant. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Then insert your name in the space provided just before paragraph one (1).

Paragraph 1: Check the box

Paragraph 2: Check the box. Fill in the name of the reputed father in the space provided.

Paragraph 3: Check the box,

Paragraph 4: Check the box.

Sign your name in the blank provided. Fill in your address and telephone numbers in the blanks provided.

### **Genetic Tests Order**

Fill in your full name as the Plaintiff and the reputed father's full name as Defendant. **Do not fill in where it says Civil Action File No. The clerk will assign a number to your case when you file your complaint.** Then insert your name in the space provided just before paragraph one (1). The Judge will complete the rest of the form.

## **STEP 8: PAY THE FILING FEE.**

Unless you are able to have your filing fee waived, there is a \$75.00 filing fee payable to the Clerk of Court in Dougherty County. You must pay this fee when you file your Complaint for Divorce unless you also file a Poverty Affidavit. In addition, you must pay a \$25.00 fee to have the Sheriff's department serve the papers.

## **STEP 9: FILE THE FORMS.**

You should make two copies of all of your documents. Give the clerk your original and the two copies. The clerk will assign a number to your case and will write in the number on your documents. The clerk will then stamp the documents to show that your complaint has been filed and will give you your copy for your records. The original will remain with the court. The other copy will be given to your spouse. If you need more information about how to have the other party served, please see the excellent article at <http://www.fultoncourt.org/family/service.php>.

## **STEP 10: PREPARE YOUR CASE FOR TRIAL.**

In most civil cases, **pretrial discovery** is conducted. **Discovery** refers to the formal procedures and laws which enable each party to find out more about the other side's case. Discovery serves

several important purposes. It preserves evidence of witnesses who may not be available at trial. It reveals facts which might have been previously unknown. It helps refine the issues. It “freezes” testimony in order to prevent later perjury. It promotes settlements because it allows each party to test the strength of his or her opponent’s case. Even if the case does not settle, discovery increases the fairness and justice of the trial outcome. There are several methods of discovery which a party can use.

**Interrogatories** are written questions which one party sends to another. The answering party must write down answers under oath and file them with the clerk of court within 30 days. Georgia law usually limits the number of interrogatories to 50. Failure to respond can result in sanctions and penalties by the court.

**Depositions** are like a mini-trial. A plaintiff, defendant, or other witness is asked oral questions which must be answered orally while under oath. Depositions are recorded by a court reporter who types everything up into one long document. Each party who is questioned may be cross examined. At trial, a witness who has either changed or forgotten his or her previous testimony can be “impeached,” or discredited by referring back to the deposition testimony.

**Requests for Production of Documents** are used by a party to gain access to a document which is not in his or her possession. For example, a request for production of documents may be used to get a copy of the other party’s tax returns, bank statements, or other important documents.

**Physical and Mental Examinations** may be used only with the court’s permission, when a party’s physical or mental condition is an issue in the trial, and when the requesting party can show “good cause,” i.e., the information is extremely important and cannot be otherwise obtained.

**Requests for Admissions** are used to determine which issues are actually in controversy. A party is asked to admit or deny the truth of a series of statements.

*Forms for all of the above discovery tools are available at the law library upon request.*

For more information about trial preparation, see the following informative websites:

<http://www.fultoncourt.org/family/trialprep.php>

<http://www.fultoncourt.org/family/self-representation.php>

<http://www.georgiacourts.org/aoc/selfhelp/>

## **STEP 11: RECEIVE THE FINAL JUDGMENT**

Once the case has been heard and both parties have rested their case, the Court will issue a decision as soon as possible. In most cases, there is no specific time limit for a judge to give a decision. After the judge enters a final order in your case, you will be mailed a copy of the final order. You should keep a copy of this order in your files.