

## Gwinnett Magistrate Court General Instructions Video Transcript.

Hello my name is Christina hammer bloom I am the chief magistrate of Gwinnett County I'd like to welcome you to the Magistrate Court of Gwinnett County and our civil calendar as we get started I'm going to excuse the attorneys and any others who have seen this video before I just ask that you return before this video ends in about ten minutes at which time the judge will call the calendar for those of you that are here for the first time handling a case on your own you should know that approximately 80 percent of civil cases filed in the Magistrate Court are handled by pro se litigants in legal speak a pro se litigant is a person who represents him or herself for many of you this is the first and only time in your life you will be in a courtroom magistrate court is designed with the pro se litigant in mind combining all of the different types of cases that are handled by the Gwinnett County Magistrate Court our judges have heard over a hundred thousand civil and criminal cases in a given year what I'm going to do now is go over some preliminary issues that will help you understand what happens during a magistrate court civil calendar as a preliminary matter the monetary limit of any magistrate court case is \$15,000 this includes the principal and attorney's fees requested the \$15,000 is however exclusive of interest and court costs what this means is that we do not have jurisdiction to hear a case where the principal and the attorney's fees exceed the sum of \$15,000 consequently if your claim or counter claim exceeds \$15,000 please let the judge know as soon as your case is called civil trial procedures in magistrate court are more relaxed than in other higher courts however the rules of evidence are the same it does not make any difference whether you are represented by counsel or if you are representing yourself the rules of evidence apply to everyone the rules of evidence were designed with prominent purpose in mind and that is the discovery of the truth the rules of evidence seek to ensure that only the best and highest evidence is admitted for consideration there are some common errors that pro se litigants make regarding the rules of evidence the most common error involves a rule of evidence called hearsay sometimes pro se litigants appear in court with sworn notarized statements from their witnesses these are not admissible the court cannot accept these as evidence your opponent has the right to confront and cross-examine any witnesses against them someone who signed and notarized a statement and who is not here today cannot be cross-examined if a witness cannot be cross-examined the judge cannot admit into evidence any affidavits or other written statements another hearsay issue that we often see involves estimates as to estimates there's a general rule and a large exception the best and most sound practice is to always have the person who prepared the estimate here and available to testify however estimates may be admissible depending on what you plan on using them for if you plan on using an estimate to prove what is wrong with the item that needs to be repaired the estimate would not be admissible you need to have the person who looked at the item in court to testify live opinion testimony cannot be admitted without giving the other party an opportunity for cross-examination but if you plan to use an estimate to prove value it may be admissible for example say you took your car to a mechanic and you are now suing the mechanic for doing a poor job if you attempt to bring an estimate to prove that what the mechanic did was wrong then the estimate would not be admissible the mechanic or other expert witness would need to testify in court on the other hand if you are a witness has knowledge in that field about what happened to your car and you are merely using the estimate to prove how much it's going to cost to repair the car the estimate may be a the admission of evidence is solely for the court to decide another issue that often arises is requests for continuance or for a reset of your court date some of you may now be concerned that you do not have any of the right evidence or necessary witnesses present that you may need to present your case now what do you do you've got three basic choices first you can always dismiss the case without prejudice file again and come back to

court another day please note however that there is a limit on how many times you can do this before your case is dismissed for good second you can try the case as best you can with the admissible evidence you have with you sometimes trial attorneys decide to do that third and finally you can ask the judge assigned to your case for a continuance or a reset date continuances are either granted or denied by the judge on a case-by-case basis for example if all parties live in Gwinnett County and there would be minimal inconvenience the judge might reset the case conversely if a party has come a great distance to be here or has brought in witnesses it might not be fair to reset the case to another date ultimately it is up to the judge to decide whether to grant a continuance trial procedure is the flow of the trial in civil cases the plaintiff on a statement of claim and/or the defendant on a counterclaim has what is called the burden of proof the burden of proof in a civil case is a preponderance of the evidence standard the term preponderance means greater weight and as it is used here preponderance of the evidence means the greater weight of the evidence upon the issues involved in the legal world this means that the weight of the evidence must be sufficient to Incline a reasonable mind to one side of the issue rather than the other put another way a party must tip the scales ever so slightly in their favor to win if a party fails to meet their burden of proof - a preponderance of the admissible evidence then that party cannot win their case in the event the evidence is evenly balanced in civil cases the tie goes to the defendant cases are decided based on evidence consists of two things testimony and exhibits testimony is the statement made by a witness under oath at trial exhibits are those documents photographs or other items that are admitted into evidence during the trial procedure in a civil trial is generally as follows first the attorney for each side if there is one has the opportunity to make what is called an opening statement the opening statement is not evidence itself but is a preview or outline of what the evidence is expected to be following the opening statements the plaintiff and defendant have the opportunity to call witnesses and introduce exhibits each party has the right to cross-examine the other party's witnesses since the plaintiff has the burden of proof the plaintiff goes first after the plaintiffs case has been presented it's the defendants turn after all of the evidence is presented each side can make a closing argument or summation neither the opening statement nor closing arguments are evidence in the case the parties have the right to waive or forego any opening or closing statements for cases without attorneys the judge will probably handle how the evidence is going to be introduced the judge will read the statement of claim and defenses to help familiarize him or herself with the issues in the case the judge may also do much of the initial questioning of both parties after that the parties will have an opportunity to ask questions of one another in most instances the judge will render a decision right away there are some cases where the judge may have to do some legal research in those instances the case will be taken under advisement and a judgment will be mailed to you usually within a week to 10 days when the judge renders his or her decision you men not agree with it and you may feel that the judge did not view the evidence in the same way that you did if you are not familiar with the rules of law and evidence it is important to remember that as judges we were not there when the incident or controversy that you were here about occurred we can only decide the case based on the evidence and testimony admitted at trial in ideal circumstances the evidence reflects exactly what occurred however if a key issue or defense is not raised a critical witness fails to show up as promised or testifies differently than you expected or a key piece of evidence is left at home then the case may turn out very differently than you expected any of these circumstances may change who prevails in the case remember also that we as judges have a duty to follow the law despite our personal feelings sometimes the application of the law can be harsh however the rules of evidence and procedure strive to ensure that all litigants have a level playing field that being said many times the best decisions are made by you the parties in the case so let

me tell you about the Magistrate Court mediation program a program that can help you reach a negotiated settlement of your disagreement instead of going to trial mediation is a process where a trained neutral third party in this case the mediator helps the parties reach a legal settlement the role of the mediator is to promote communication so each of you can be heard a mediator does not decide your case you decide your case with the assistance of the mediator mediators do not represent either party with mediation you discuss the case in a private and confidential setting instead of having an adversarial court proceeding settlement can avoid the risks for both sides that are necessarily associated with trial the mediation process allows you the opportunity to create your own mutually agreeable solutions to your legal dispute the Gwinnett County Magistrate Court provides mediation as a courtesy this service is free to you in a few minutes the judge will enter the courtroom and call the calendar if you would like to use mediation to assist you in resolving your dispute please let the judge know when he or she calls your case if you try mediation and you cannot settle your case the case would simply proceed to trial settlement offers and negotiations during mediation are not admissible evidence at trial so there's no harm in attempting mediation at the conclusion of the trial some of you will be awarded a judgment in your favor on your statement of claim or on the counterclaim the next question is of course how do I collect on that judgment all civil court judgments are equal under Georgia law it is the duty of the judgment creditor which means the party having the judgment to collect the judgment by any of the various methods allowed by law however the Magistrate Court has unique provisions regarding payment plans first you can work out your own payment plan through mediation second the court can order the payment plan in some cases the judgment debtor agrees that he or she owes the debt but needs time to pay through a payment plan if you agree you owe the debt then all you need is a payment plan you should tell the judge that you need a payment plan when the case is called third for contested trials if a judgment is awarded against you the debtor can immediately ask the judge for a payment plan or one may be included by the court in the judgment if you are awarded a judgment please ask the judge for a written outline concerning your rights as a judgment creditor this information is also available at our clerk's office in the Justice and Administration Building and on our website if you have specific questions please address them to a licensed attorney this outline merely describes how you can legally cease debtors property file a wage or bank account guard action put liens on Motor Vehicles and utilize post-judgment interrogatories in an effort to collect the sum that has been awarded to you lastly as a judgment creditor you should know that you have the duty under Georgia law to file a written notice with the court when the judgment has been paid in full if you fail to do so the judgment debtor can be awarded a money judgment against you please file your written satisfaction of judgment notice with the clerk of court immediately after the judgment is satisfied or paid in a few minutes the judge will come out probably have some opening remarks about the calendar and then call through the list of cases scheduled to appear the judge does not know who has actually appeared for the case therefore when your case is called please stand up and let the judge know that you are present and be prepared to inform the judge on how you wish to proceed again I'm Kristina Hammer Blum the chief magistrate of Gwinnett County it is always our goal to provide fair impartial hearings and justice for all thank you for your attention to this video.