SUPREME COURT OF GEORGIA

April 30, 2020

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN RE: SUPERIOR COURT RULE 49

It is ordered that new Uniform Superior Court Rule 49 (relating to emergency dispossessory) be approved, effective May 4, 2020, as follows:

Rule 49. EMERGENCY DISPOSSESSORY

(A) A landlord who files a dispossessory 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 dispossessory action was filed prior to the enactment of this rule, the required verification shall be submitted to the court prior to or during the dispossessory 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 "CARES Act Affidavit" 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 SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

CARES ACT AFFIDAVIT

Case No. _____ _____ Plaintiff _____ Address _____ City State Zip _____ E-mail Address	 _____ Defendant(s) _____ Property Address _____ City State Zip

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.

Thriise S Barnes, Clerk