

POVERTY AFFIDAVIT

If you are financially unable (not just reluctant) to pay the filing fee, you may file an *Affidavit of Indigence* asking the Court to relieve you from paying the fee.

The request is not automatically granted by the Court. You will be asked questions to help with the evaluation of your request. You may also be required to show proof of your income and bills. **Please attached a copy of documents that verify you income, such as pay stubs or unemployment checks.**

You must present to the Court a completed and signed original of the action (complaint, name change, etc.) that you are asking the Court to allow you to file without paying a filing fee. PLEASE NOTE: Your petition/complaint will not be filed until the Court approves the *Affidavit of Indigence*. **If the Court does not approve your affidavit, you will be required to pay all court cost before the complaint/petition will be filed.**

O.C.G.A. 9-15-2. **Affidavit of indigence; effect; how contested; finality of court's judgment; inquiry on court's own motion; order to pay costs; effect on merits; procedure when filing party not represented by counsel**

(a) (1) When any party, plaintiff or defendant, in any action or proceeding held in any court in this state is unable to pay any deposit, fee, or other cost which is normally required in the court, if the party shall subscribe an affidavit to the effect that because of his indigence he is unable to pay the costs, the party shall be relieved from paying the costs and his rights shall be the same as if he paid the costs.

(2) Any other party at interest or his agent or attorney may contest the truth of an affidavit of indigence by verifying affirmatively under oath that the same is untrue. The issue thereby formed shall be heard and determined by the court, under the rules of the court. The judgment of the court on all issues of fact concerning the ability of a party to pay costs or give bond shall be final.

(b) In the absence of a traverse affidavit contesting the truth of an affidavit of indigence, the court may inquire into the truth of the affidavit of indigence. After a hearing, the court may order the costs to be paid if it finds that the deposit, fee, or other costs can be paid and, if the costs are not paid within the time permitted in such order, may deny the relief sought.

(c) The adjudication of the issue of indigence shall not affect a decision on the merits of the pending action.

(d) When a civil action is presented for filing under this Code section by a party who is not represented by an attorney, the clerk of court shall not file the matter but shall present the complaint or other initial pleading to a judge of the court. The judge shall review the pleading and, if the judge determines that the pleading shows on its face such a complete absence of any justiciable issue of law or fact that it cannot be reasonably believe that denying filing of the pleading, then the judge shall enter an order denying filing of the pleading. If the judge does not so find, then the judge shall enter an order allowing filing and shall return the pleading to the clerk for filing as in other cases,. An order denying filing shall be appealable in the same manner as an order dismissing an action.

Georgia Code Section 9-15-2(a)(1) establishes that "when any party, plaintiff or defendant, in any action or proceeding held in any court in this state is unable to pay any deposit, fee, or other cost which is normally required in the court, if the party shall subscribe an affidavit to the effect that because of his indigence he is unable to pay the costs, the party shall be relieved from paying the costs and his rights shall be the same as if he had paid the costs" ([Ga. Code Ann., § 9-15-2](#))[1]. This broad language encompasses all costs normally required in court proceedings, including service fees.

The waiver of costs under in forma pauperis status specifically includes service fees. In *Portis v. Evans*, the Georgia Supreme Court addressed whether service of process was valid when a plaintiff proceeded in forma pauperis without paying service costs ([Portis v. Evans, 249 Ga. 396 \(1982\)](#))[3]. The court held that "a plaintiff filing a proper affidavit of poverty with the clerk of court is entitled to proceed in forma pauperis until a party at interest contests the truth of the pauper's affidavit and the court thereafter determines that the affiant is in fact able to pay costs" ([Portis v. Evans, 249 Ga. 396 \(1982\)](#))[3]. The court found that service without payment of costs was valid where the plaintiff had filed a proper affidavit of poverty and no party contested it ([Portis v. Evans, 249 Ga. 396 \(1982\)](#))[3].

IN THE SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA

Plaintiff,

vs.

Defendant.

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CIVIL ACTION FILE NO. _____

AFFIDAVIT OF POVERTY

I am filing this *Affidavit of Poverty* under O.C.G.A. §9-15-2, to ask that I be relieved from paying costs of filing and service in this case. I hereby swear or affirm, before a notary public, that the following information is true:

1.

Because I am indigent, I am unable to pay the filing fee, service fee, and other costs which are normally required in the Court.

2.

My monthly income and expenses are contained in the attached Exhibit "A".

3.

My assets and liabilities are contained in the attached Exhibit "A"

4.

I support the following dependents who live with me: _____

5.

I have the following special financial circumstances:

I have read (or had read to me) the above questions and answers and they are true and correct. The Undersigned swears that the information given herein is true and correct and understands that a false answer to any item may result in a criminal charge of false swearing.

This ___ day of _____, 20__.

Affiant

Sworn to and subscribed before me this
_____ day of _____, 20__.

Notary Public
My Commission Expires: _____

IN THE SUPERIOR COURT OF EFFINGHAM COUNTY, GEORGIA

CIVIL ACTION NUMBER _____

EXHIBIT "A"

1. AFFIANT'S NAME _____

Names and birth dates of children :

Name	Date of Birth	Resides With
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. SUMMARY OF AFFIANT'S INCOME AND NEEDS

- (a) Gross monthly income\$ _____
- (b) Net monthly income.....\$ _____
- (c) Average monthly expenses\$ _____
 - Monthly payments to creditors..... + _____
 - Total monthly expenses and payments to creditors.....\$ _____
- (d) Amount of spousal/child support needed by Affiant.....\$ _____
- (e) Amount of child support indicated by Child Support Guidelines.....\$ _____

3. A. AFFIANT'S GROSS MONTHLY INCOME

(All income must be entered based on monthly average regardless of date of receipt. Where applicable, income should be annualized.)

- Salary\$ _____
- Bonuses, commissions, allowances, overtime, tips and similar payments
(based on past 12-month average or time of employment if less than 1 year)
ATTACH SHEET ITEMIZING THIS INCOME.
- Business income from sources such as self employment, partnership, close
Corporations and/or independent contracts (gross receipts minus ordinary and
necessary expenses required to produce income)
ATTACH SHEET ITEMIZING THIS INCOME.\$ _____
- Disability/unemployment/worker's compensation.....\$ _____
- Pension, retirement or annuity payments.....\$ _____
- Social Security benefits.....\$ _____
- Other public benefits (specify).....\$ _____
- Spousal or child support from prior marriage.....\$ _____
- Interest and dividends.....\$ _____
- Rental income (gross receipts minus ordinary and necessary expenses required
to produce income) ATTACH SHEET ITEMIZING THIS INCOME.\$ _____

Lottery winnings or Cash Gifts..... \$ _____
 Gains derived from dealing in property (not including non-recurring gains)..... \$ _____
 Other income of a recurring nature (specify source)..... \$ _____
GROSS MONTHLY INCOME..... \$ _____

B. Net monthly income from employment (deducting only state and federal taxes and FICA) \$ _____
 Affiant's pay period (i.e., weekly, monthly, etc.) _____
 Number of exemptions claimed _____

4. ASSETS

(If you claim or agree that all or part of an asset is non-marital, indicate the non-marital portion under the appropriate spouse's column. The total value of each asset must be listed in the =value column, =value means what you feel the item of property would be worth if it were offered for sale.)

Description	Value	Separate Asset of husband	Separate Asset of wife
Cash	\$ _____	_____	_____
Stocks, bonds	_____	_____	_____
CD's/ Money Market Accts.	_____	_____	_____
Real estate: Home	_____	_____	_____
Other	_____	_____	_____
Automobiles	_____	_____	_____
Money owed you	_____	_____	_____
Retirement/IRA	_____	_____	_____
Furniture/furnishings	_____	_____	_____
Jewelry	_____	_____	_____
Life insurance (cash value)	_____	_____	_____
Collectibles	_____	_____	_____
Bank accounts (list each account)	_____	_____	_____
Other assets	_____	_____	_____
TOTAL ASSETS	\$ _____	_____	_____

5. A. AVERAGE MONTHLY EXPENSES

HOUSEHOLD

Mortgage or rent payments \$ _____
 Property taxes _____
 Insurance _____
 Electricity _____
 Water _____
 Garbage & sewer _____
 Telephone/Cell Phone _____
 Gas _____
 Repairs & maintenance _____
 Lawn Care _____
 Pest control _____
 Cable TV/Satellite _____
 Misc. household and grocery items _____
 Meals outside home _____
 Other _____

AUTOMOBILE

Gasoline and oil \$ _____
 Repairs _____
 Auto, tags and license _____
 Insurance _____

OTHER/INSURANCE

Health \$ _____
 Life _____
 Disability _____
 Other (specify) _____

AFFIANT'S OTHER EXPENSES

\$ _____
 Dry cleaning and laundry _____
 Clothing _____
 Medical/dental _____
 Prescriptions _____
 Affiant's gifts (special holidays) _____
 Entertainment _____
 Vacations _____
 Publications _____
 Dues, clubs _____
 Religious and charities _____
 Miscellaneous (attach sheet) _____
 Other (attach sheet) _____
 Alimony paid to former spouse _____
 Child support to former spouse _____

CHILDREN'S EXPENSES

Child care \$ _____
 School tuition _____
 School supplies/expenses _____
 Lunch money _____
 Allowance _____
 Clothing _____
 Diapers _____
 Medical, dental, prescription _____
 Grooming/hygiene _____
 Gifts _____
 Entertainment _____
 Activities _____

TOTAL LISTED EXPENSES \$ _____

B. PAYMENTS TO CREDITORS

To Whom	Balance Due	Monthly Payments
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total monthly payments to creditors \$ _____

C. TOTAL MONTHLY EXPENSES \$ _____

This _____ day of _____, 20____

AFFIANT

NOTARY PUBLIC

Commission Expires: _____

IN THE SUPERIOR COURT OF EFFINGHAM COUNTY
STATE OF GEORGIA

_____,
Plaintiff,
vs. _____,
Defendant.

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CIVIL ACTION FILE NO. _____

ORDER ON AFFIDAVIT OF POVERTY

The *pro se* Plaintiff has filed an *Affidavit of Poverty* with the Clerk of Court. Pursuant to O.C.G.A. §9-15-2(d), the Court as reviewed the *Affidavit* and the other initial pleadings.

- Affidavit Approved**—It appears to the Court that the affiant is unable to pay the filing fees and associated costs of this action. Therefore, the affiant’s pleadings shall be filed, and the affidavit shall be relieved from paying the filing fee, sheriff’s service fee, and other costs normally required.

- Affidavit Not Approved**—It appears to the Court that the affiant is able to pay the filing fees and associated costs of this action, or that the filing should otherwise not be allowed under O.C.G.A. §9-15-2(d). Therefore, the affiant shall not be relieved from paying the filing fee, sheriff’s service fee, and other costs normally required.

This order entered on _____, 20__.

Judge, Superior Court of Effingham County
Ogeechee Judicial Circuit

**SUPERIOR COURT OF EFFINGHAM
PARTIES INFORMATION SHEET
TO BE FILED WITH COMPLAINT/PETITION**

Plaintiff's Contact Information:

Plaintiff's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime Phone Number: _____

Cell Phone Number: _____

Email Address: _____

Defendant's Contact Information:

Defendant's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Daytime Phone Number: _____

Cell Phone Number: _____

Email Address: _____