

# POVERTY AFFIDAVIT

It is advisable to have an attorney when filing legal papers to be sure that your rights are protected and that all the procedures are correctly followed. **Courthouse personnel are prohibited by O.C.G.A. § 15-19-51 from giving legal advice.**

## WHAT IS A POVERTY AFFIDAVIT?

If you cannot afford to pay the filing fee for your case, you may file an *Affidavit of Indigence*, also known as a *Poverty Affidavit*. This is a request to the Court to waive the filing fees for your case.

Attach copies of recent pay stubs, unemployment checks, or other income to your *Poverty Affidavit*. Next, you must appear before a judge, who will ask questions about your finances to determine whether you qualify as indigent. You will be required to show proof of your income and expenses to the Court.

You must also present to the Court the completed and signed original action (*Complaint, Petition, etc.*) that you are asking the Court to allow you to file without cost.

Official Code of Georgia states the law on *Poverty Affidavits* as follows:

### **9-15-2. Affidavit of indigence; 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 had 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 justifiable issue of law or fact that it cannot be reasonably believed that the court could grant any relief against any party named in 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.