

APPEAL FROM THE ALBANY MUNICIPAL COURT

May I appeal a decision of the Municipal Court?

You do not have a right to directly appeal, but you may use a writ of certiorari to ask the Superior Court to hear your case. The Superior Court may say yes or no.

What is a writ of certiorari?

A writ of certiorari is a discretionary writ issued by an appellate court demanding that a lower court deliver a case record for review. The writ is called discretionary because the Superior Court has the authority to grant or deny the writ. Most cases that reach the US Supreme Court do so by a writ of certiorari. Frequently, the term will be shortened, as in "The Court granted cert."

We inherited a *common law* framework of judicial decisions and customs from England. According to common law, a higher court has power to review cases from all lower courts and to decide on their jurisdiction and on their decisions on questions of law. But common law does not allow a higher court to decide on questions of fact that the lower courts decided. A specific law passed by a legislature can override common law and can grant a higher court the power to decide on questions of fact that a lower court already decided. When the common law rules and customs were not followed in a lower court proceedings, the writ of certiorari is the only remedy to correct the error, unless a specific law gives a different remedy.

Does the Superior Court routinely grant a writ of certiorari?

No. Certiorari from the Municipal Court is rarely granted by the Superior Court, and appellants rarely win on appeal.

How long do I have to apply for the writ of certiorari?

You must apply using the writ of certiorari with a Certificate of Service attached within thirty (30) days of the entry of judgment. OCGA § 5-4-6.

What does it cost to appeal a case from Municipal Court?

The filing fee which you must pay to the Clerk of the Superior Court was \$200 at the time this packet was updated. Additionally, you will be required to post a bond equal to the amount of the judgment that was rendered against you. The bond must be taken to the Municipal Court Office, payable to the City of Albany Treasury Department. Finally, you must pay the cost of copying and transmitting the record from Municipal Court to Superior Court (At the time this packet was updated, the cost was \$2.50 for the first page and \$.50 per page for all other pages).

Where can I find the Rules which govern appeals from Municipal Court?

The procedures for appellate review of Municipal Court decisions are set forth in section 22-3 of *The Code of Ordinances of the City of Albany, Georgia* and in the *Official Code of Georgia Annotated*, section 5-4-1 through 5-4-19. You can read the Code of Ordinances online at www.municode.com. You can read a free unofficial version of the Georgia Code online at <http://www.lexisnexis.com/hottopics/gacode/Default.asp>.

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

Plaintiff in certiorari

CASE FILE

v.

NO.

Defendant in certiorari

and

Respondent in certiorari

PETITION FOR CERTIORARI

The petition of _____ shows to the court the following facts:

1. That on the _____ day of _____, _____(year), there came on to be tried in the Municipal Court of _____ County before the Honorable _____, presiding judge and a jury / no jury, the case of _____ v. petitioner, _____.

This case was about _____

_____.
A copy of said suit, notes referred to and notice of attorney's fees are hereto attached, and marked exhibits "A," "B," "C," respectively. Said suit, as will be observed, was returnable to the _____ term, _____(year), of said _____ County.

2. The reason(s) why the Petitioner objects to the Municipal Court's decision is/are:

(Attach additional pages as needed)

3. The outcome of the case was as follows:

4. Your petitioner further shows that the court then entered a judgment as follows:

5. Petitioner comes now after having complied with the law in such cases and presents this his/ her petition for certiorari within thirty days from the final determination of said cause.

Your petitioner specifically assigns error as follows:

These things *(check all that apply)*:

(c) Are contrary to law.

(d) Are without evidence to support same.

(e) Are contrary to the principles of justice and equity.

(f) _____.

Wherefore, petitioner prays a writ of certiorari, directed to the Honorable _____, judge aforesaid, requiring him / her to certify and send up all the proceedings in said case to the Superior Court of _____ County, Georgia, within 30 days of the service of said writ, that the errors alleged to have been committed may be considered and corrected.

Petitioner *pro se*

Address

Telephone Number(s)

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff in certiorari
v.

CASE FILE
NO. ____ (5) ____

_____,
Defendant in certiorari
and

_____,
Respondent in certiorari

CERTIORARI BOND

Georgia, _____ County

Know all men by these presents, that _____, principal, and the undersigned security, are bound to pay _____ (the adverse party in the case), _____ dollars.

Witness the hand and seal of each party, this _____ day of _____, _____ (year).

The condition of this obligation is such that whereas, said principal is suing out a writ of certiorari in the superior court of said state and county, in re _____ v. _____ from the _____ court;

Now, therefore, should said principal promptly pay the eventual condemnation money, together with all future costs in said matter as may be required by law, then this bond to be void; otherwise of full force and effect.

(SEAL)
Principal

(SEAL)
Security
Attested and approved by:

Judge of _____ Court of _____

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff in certiorari
v. _____
CASE FILE
NO. _____

_____,
Defendant in certiorari
and
_____,
Respondent in certiorari

CERTIFICATE OF PAYMENT OF COSTS

I, _____, the judge who presided in the case to which the foregoing petition and bond refer, hereby certify that all costs which have accrued on the trial of said case have been paid by petitioner for certiorari, and that such petitioner has given bond and security as required by law.

This _____ day of _____, ____ (year).

Judge of the _____ Court of _____
(Officer whose decision or judgment is subject matter of complaint)

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

_____,
Plaintiff in certiorari
v.

CASE FILE NO. _____

_____,
Defendant in certiorari
and

_____,
Respondent in certiorari

CERTIFICATE OF SERVICE

I, _____, Plaintiff pro se in certiorari, do hereby certify that I have this day served a copy of the petition for certiorari, a copy of the order sanctioning same and directing the issuance of a writ of certiorari, and a copy of the writ of certiorari, upon the Respondent within five (5) days of filing the petition, by serving a copy of same upon _____.

This _____ day of _____, 20____.

Plaintiff *pro se* in certiorari

Address

Telephone number