

**FILING CLAIMS - LISTING THE CORRECT PARTY OR BUSINESS ENTITY IN YOUR LAWSUIT,
APPLIES TO BOTH PLAINTIFFS & DEFENDANTS**

The party filing the action is the plaintiff(s). The party being sued is the defendant(s). Each must be correctly listed.

Individual	Sole Proprietor	Corporation	Partnership	Minors
Suit listed in the person's own name as plaintiff or against an individual as the defendant.	When one person owns a business.	A legal organization listed with the Georgia Secretary of State's office.	Similar to a sole proprietor, however 2 or more persons own the business. It is NOT incorporated.	Minors under 18 cannot sue in their own name, but must sue through a parent or guardian. However, minors under 18 can be sued in their own name.
Examples: Sally Doe	Sally Doe, dba Sally's Apparel Sales.	Sally's Apparel Sales, Inc. or (Co.) (Company) (Ltd.) (Incorporated). **A corporation <u>must</u> have a similar ending.	Sally Doe & Sara Jones, dba Sally's Apparel, a Partnership.	Jane Doe, a minor, by her next best friend, Sally Doe. (The parent/ guardian is called next best friend.) Plaintiff only.
Where do I file the case? Civil lawsuits are generally filed where the defendant resides. VENUE: County where individual defendant resides.	File in county where the defendant sole proprietor resides. Example, business in Fulton, but sole proprietor lives in Gwinnett; file suit in Gwinnett.	File in county where the defendant corporation has its principal place of business or the registered agent is located. Call (844) 753-7825 or online at www.sos.ga.gov	File in county where <u>any</u> partner resides, or the general partner for a limited partnership. Ex., business partnership is in Fulton, but a partner lives in Gwinnett; file suit in Gwinnett.	File in county where the defendant minor resides. Same rule as an individual defendant.

See Next Page For More Info.

<p>Common Errors</p> <p>Suits against small Corporations</p>	<p>Plaintiff sues the president of a small corporation, rather than suing the corporation, arguing, well, he's the owner of the corporation. Absent very rare exceptions, i.e., signing as a personal guaranty, certain negligence actions, etc., owners & corporate officers of a corporation are <u>not</u> personally liable for the debts of a corporation. Corporations are legally formed to limit personal liability. If you dealt with a corporation, then you should sue the corporation. You should consult an attorney if you believe an exception exists which creates personal liability. These instances exist, but are rare.</p>
<p>You can't sue the defendant's insurance co. on most car wrecks.</p>	<p>Car accident cases: Generally, the Plaintiff cannot directly sue the insurance company of the alleged negligent driver to collect on a liability claim. The Plaintiff must sue and serve the negligent driver, and/or appropriate business entity. The defendant's insurance company is not a proper party to a negligence lawsuit. (Rare exception involves collisions with motor carriers (tractor trailer trucks) having indemnity insurance. See O.C.G.A. 46-7-12.)</p>
<p>A corporation's registered agent is not personally liable.</p>	<p>Simply being the resident agent of a corporation does not of itself create personal liability for the debts of that corporation. The registered agent is simply a person authorized by law to be served with the lawsuits against a corporation.</p>
<p>I don't know if the business I am trying to sue is a corporation, sole proprietorship or partnership.</p>	<p>Call the Secretary of State: (844) 753-7825; Internet: https://www.sos.ga.gov ; Check the business license posted within the business. Alternately, if the business is inside an unincorporated area, check with the local county offices; If inside the city limits, check with that municipality. Or, check the court dockets to determine if the business or person has been a defendant under circumstances similar to yours.</p>
<p>What's a trade name?</p>	<p>A trade name is the registered name under which a corporation transacts business, i.e., Sally's Country Kitchen. You should check the trade name registration docket in Superior Court to determine if a corp. is utilizing a trade name. Your correct defendant would still be the corporation. The style of the case would be the exact corporate entity, dba (list the trade name).</p>
<p>I filed suit against the wrong entity or listed my own business entity incorrectly. What can I do now?</p>	<p>The defendant can insist on having the real plaintiff listed. Furthermore, the defendant can insist that the correct defendant business entity be listed. In some instances the parties are able to reach a consent agreement to substitute the correct party, waive venue, etc., simply so that they can get the case resolved. Always try to reach that compromise. Absent that agreement, the plaintiff should voluntarily dismiss the suit, without prejudice, or the court will dismiss the action, as listing the correct parties is critical to the rights of all involved.</p>