


§§ 51-7-80. Definitions


As used in this article, the term:

- (1) "Civil proceeding" includes any action, suit, proceeding, counterclaim, cross-claim, third-party claim, or other claim at law or in equity.
- (2) "Claim" includes any allegation or contention of fact or law asserted in support of or in opposition to any civil proceeding, defense, motion, or appeal.
- (3) "Defense" includes any denial of allegations made by another party in any pleading, motion, or other paper submitted to the court for the purpose of seeking affirmative or negative relief, and any affirmative defense or matter asserted in confession or avoidance.
- (4) "Good faith," when used with reference to any civil proceeding, claim, defense, motion, appeal, or other position, means that to the best of a person's or his or her attorney's knowledge, information, and belief, formed honestly after reasonable inquiry, that such civil proceeding, claim, defense, motion, appeal, or other position is well grounded in fact and is either warranted by existing law or by reasonable grounds to believe that an argument for the extension, modification, or reversal of existing law may be successful.
- (5) "Malice" means acting with ill will or for a wrongful purpose and may be inferred in an action if the party initiated, continued, or procured civil proceedings or process in a harassing manner or used process for a purpose other than that of securing the proper adjudication of the claim upon which the proceedings are based.
- (6) "Person" means an individual, corporation, company, association, firm, partnership, society, joint-stock company, or any other entity, including any governmental entity or unincorporated association of persons with capacity to sue or be sued.
- (7) "Without substantial justification," when used with reference to any civil proceeding, claim, defense, motion, appeal, or other position, means that such civil proceeding, claim, defense, motion, appeal, or other position is:
 - (A) Frivolous;
 - (B) Groundless in fact or in law; or
 - (C) Vexatious.
- (8) "Wrongful purpose" when used with reference to any civil proceeding, claim, defense, motion, appeal, or other position results in or has the effect of:
 - (A) Attempting to unjustifiably harass or intimidate another party or witness to the proceeding; or
 - (B) Attempting to unjustifiably accomplish some ulterior or collateral purpose other than resolving the subject controversy on its merits.

West's Code of Georgia Annotated [Currentness](#)

Title 51. Torts

 [Chapter 7](#). False Arrest, False Imprisonment, Malicious Prosecution, and Abusive Litigation ([Refs & Annos](#))

 [Article 5](#). Abusive Litigation ([Refs & Annos](#))

§§ 51-7-81. "Abusive litigation" defined


Any person who takes an active part in the initiation, continuation, or procurement of civil proceedings against another shall be liable for abusive litigation if such person acts:


- (1) With malice; and
- (2) Without substantial justification.

Laws 1989, p. 408, § 2.

West's Code of Georgia Annotated [Currentness](#)

Title 51. Torts

 [Chapter 7](#). False Arrest, False Imprisonment, Malicious Prosecution, and Abusive Litigation ([Refs & Annos](#))

 [Article 5](#). Abusive Litigation ([Refs & Annos](#))

§§ 51-7-82. Defenses to claim for abusive litigation

(a) It shall be a complete defense to any claim for abusive litigation that the person against whom a claim of abusive litigation is asserted has voluntarily withdrawn, abandoned, discontinued, or dismissed the civil proceeding, claim, defense, motion, appeal, civil process, or other position which the injured person claims constitutes abusive litigation within 30 days after the mailing of the notice required by subsection (a) of [Code Section 51-7-84](#) or prior to a ruling by the court relative to the civil proceeding, claim, defense, motion, appeal, civil process, or other position, whichever shall first occur; provided, however, that this defense shall not apply where the alleged act of abusive litigation involves the seizure or interference with the use of the injured person's property by process of attachment, execution, garnishment, writ of possession, lis pendens, injunction, restraining order, or similar process which results in special damage to the injured person.


(b) It shall be a complete defense to any claim for abusive litigation that the person against whom a claim of abusive litigation is asserted acted in good faith; provided, however, that good faith shall be an affirmative defense and the burden of proof shall be on the person asserting the actions were taken in good faith.


(c) It shall be a complete defense to any claim for abusive litigation that the person against whom a claim of abusive litigation is asserted was substantially successful on the issue forming the basis for the claim of abusive litigation in the underlying civil proceeding.

Laws 1989, p. 408, § 2.

West's Code of Georgia Annotated [Currentness](#)

Title 51. Torts

 [Chapter 7](#). False Arrest, False Imprisonment, Malicious Prosecution, and Abusive Litigation ([Refs & Annos](#))

 [Article 5](#). Abusive Litigation ([Refs & Annos](#))

§§ 51-7-83. Damages, costs, and expenses

(a) A plaintiff who prevails in an action under this article shall be entitled to all damages allowed by law as proven by the evidence, including costs and expenses of litigation and reasonable attorney's fees.


(b) If the abusive litigation is in a civil proceeding of a court of record and no damages other than costs and expenses of litigation and reasonable attorney's fees are claimed, the procedures provided [in Code Section 9-15-14](#) shall be utilized instead.


(c) No motion filed under [Code Section 9-15-14](#) shall preclude the filing of an action under this article for damages other than costs and expenses of litigation and reasonable attorney's fees. Any ruling under [Code Section 9-15-14](#) is conclusive as to the issues resolved therein.

Laws 1989, p. 408, § 2.

West's Code of Georgia Annotated [Currentness](#)

Title 51. Torts

 [Chapter 7](#). False Arrest, False Imprisonment, Malicious Prosecution, and Abusive Litigation ([Refs & Annos](#))

 [Article 5](#). Abusive Litigation ([Refs & Annos](#))

§§ 51-7-84. Notice of claim; time of bringing action


(a) As a condition precedent to any claim for abusive litigation, the person injured by such act shall give written notice by registered or certified mail or statutory overnight delivery or some other means evidencing receipt by the addressee to any person against whom such injured person intends to assert a claim for abusive litigation and shall thereby give the person against whom an abusive litigation claim is contemplated an opportunity to voluntarily withdraw, abandon, discontinue, or dismiss the civil proceeding, claim, defense, motion, appeal, civil process, or other position. Such notice shall identify the civil proceeding, claim, defense, motion, appeal, civil process, or other position which the injured person claims constitutes abusive litigation.


(b) An action or claim under this article requires the final termination of the proceeding in which the alleged abusive litigation occurred and must be brought within one year of the date of final termination.

Laws 1989, p. 408, § 2; Laws 2000, p. 1589, § 3.

West's Code of Georgia Annotated [Currentness](#)

Title 51. Torts

 [Chapter 7](#). False Arrest, False Imprisonment, Malicious Prosecution, and Abusive Litigation ([Refs & Annos](#))

 [Article 5](#). Abusive Litigation ([Refs & Annos](#))

§§ 51-7-85. Exclusive remedy

On and after April 3, 1989, no claim other than as provided in this article or [in Code Section 9-15-14](#) shall be allowed, whether statutory or common law, for the torts of malicious use of civil proceedings, malicious abuse of civil process, nor abusive litigation, provided that claims filed prior to such date shall not be affected. This article is the exclusive remedy for abusive litigation.

Laws 1989, p. 408, § 2.