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COURTS

Finality of Judgment in Civil Cases

CODE SECTIONS:	O.C.G.A. §§ 9-3-21 (repealed), 23-2-1 (repealed), 23-2-60 (amended), 9-11-60 (amended)
BILL NUMBER:	SB 457
ACT NUMBER:	1209
SUMMARY:	The Act eliminates the complaint in equity as a method of directly attacking a judgment. Where reasons exist for what formerly would have been a complaint in equity, the appropriate method to attack a judgment is now a motion for a new trial or a motion to set aside a judgment.

History

O.C.G.A. § 9-11-60 provides the statutory basis by which the finality of judgments may be collaterally attacked in Georgia courts.¹ Under prior law, methods of directly attacking judgments included a complaint in equity, a motion for a new trial, and a motion to set aside a verdict.² The complaint in equity provided the means by which a party could set aside a judgment which was procured by "fraud, accident, or mistake, or the acts of the adverse party unmixed with the negligence or fault of the complainant."³ The 1984 Georgia General Assembly sought to reduce the number of appeals reaching Georgia appellate courts by making the appeal of denial of a motion to set aside a judgment discretionary.⁴ The right to appeal from denial of a complaint in equity to set aside a judgment was similarly modified.⁵ The motions to set aside judgment and for a new trial were allowed only in the court of rendition.⁶ The complaint in equity was allowed in any superior court which had jurisdiction.⁷

1. See *Cronic v. State*, 172 Ga. App. 675, 677, 324 S.E.2d 533, 534 (1984).

2. O.C.G.A. § 9-11-60(b) (1982).

3. O.C.G.A. § 9-11-60(e) (1982).

4. *Id.* at § 9-11-60(d). See also M. Pope & S. Kimmey, *Appellate Practice & Procedure*, 36 MERCER L. REV. 79, 80 - 81 (1984) (discretionary appeals expanded to reduce flood of cases in the courts).

5. *Id.* at § 9-11-60(e). See also Pope & Kimmey, *supra* note 4, at 80 (appeal from order denying relief based on a complaint in equity made discretionary).

6. O.C.G.A. § 9-11-60(b) (1982).

7. *Id.*

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The Act is designed to further reduce the number of attacks on judgments in the Georgia judicial system and simplify the procedures regarding finality of judgments.⁸ O.C.G.A. § 9-11-60(e) eliminates the opportunity for filing a complaint in equity in superior courts while retaining the motion for a new trial and a motion to set aside a verdict. It does not, however, eliminate all recourse for setting aside a judgment for fraud, accident, mistake, or acts of the adverse party. These may be reasons for a motion to set aside a judgment under O.C.G.A. § 9-11-60(d), but as before, the motion is allowed only in the court of rendition.

8. *Report of the Governor's Judicial Process Review Commission 13* (Nov. 1985) (copy on file at Georgia State University Law Review Office).