

## Ga. Justices Look Ready To Kill \$20M Garnished Judgment

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*Law360* (August 21, 2024, 10:07 PM EDT)

The Supreme Court of Georgia appeared inclined Wednesday to toss a \$20 million default judgment that a state court judge slapped on a financial advisory after the firm failed to respond to a summons in an underlying case it claims it had zero stake in.

The Georgia justices at moments appeared baffled that RBC Global Asset Management had somehow been left holding the bag for a verdict won by a Georgia mother against a martial arts studio where her son was assaulted.

While counsel for Markisha Lattimore, the mother in question, argued that RBC GAM had brought the penalty on itself for failing to respond to a court summons, the justices seemed to think the dollar amount was wildly out of proportion.

"How is it possibly constitutional for a statute to impose a \$20 million liability for failing to send a document saying, 'We don't have anything'?" asked Justice Nels Peterson. "How is the harm that imposes — nonzero, but relatively minimal — warrant the imposition of a penalty of this sort?"

Added Justice Charlie Bethel: "If I never had any business relationship with the person who has some judgment elsewhere, [on] what basis would I be held to account for their debt?"

Lattimore's attorney, Andrew Evans, protested that the garnishment statute for missed summonses was intended to ensure a friendly business climate for the Peach State, comparing it to Delaware, where an ignored summons can land the recipient in jail. But that reply only prompted a more open rebuke from the court.

"That is a tough argument. First of all, that is a pure policy argument, and we're here to do law," said Justice Sarah Hawkins Warren.

Lattimore's fight with RBC GAM, according to appellate briefs, originated with her winning the eight-figure verdict against a metro Atlanta karate studio where her son was sexually assaulted by another attendee. Following the win, Lattimore filed garnishment summonses against several financial institutions trying to collect on the bill, later securing a default judgment against RBC GAM for the full amount of the verdict.

Lattimore would also secure a similar judgment against financial giant BlackRock Inc., which is currently being fought over in the Georgia Court of Appeals.

The judgment has been met with protests of attorney misconduct on the part of Lattimore's counsel by RBC GAM, which counted among its legal team former Georgia Supreme Court Justices Harold Melton and David Nahmias and which also had the backing of the Georgia Attorney General's Office and the tort reform group Georgians For Lawsuit Reform.

The latter group, in an amicus brief, called the case "merely one example of a disturbing and growing trend in which Georgia's garnishment procedures are being strategically abused in order to obtain grossly excessive, multi-million (if not billion) dollar judgments on innocent businesses."

In Wednesday's oral arguments, Nahmias in fact encouraged his erstwhile colleagues to not jump ahead to the constitutional underpinnings of the garnishment statute. Instead, he argued, they could decide the case on the mere fact that RBC GAM never had a relationship with the karate studio and doesn't qualify as a financial institution as laid out in the law, rendering the summons unenforceable.

"GAM provides investment advice to, and manages assets for, its clients, but GAM does not hold their assets in GAM's accounts where they could be turned over in a garnishment," Nahmias told the court.

He also alleged that Lattimore's attorneys have filed over 100 garnishment summonses in an array of cases, calling on the court to rein in the profligate practice.

"It is the plaintiffs' argument that is unlimited," he added.

As to the constitutional issue, Nahmias said that the law sets forth enough penalties in small amounts — essentially to cover court costs for the delay — when potential garnishees ignore summonses. Slapping them with the entire judgment was far out of step with reasonableness, he added.

Evans, for his part, argued that the statute at issue had made sure to include alongside financial institutions any "medium of savings or collective investment," a category that should include RBC GAM.

"If possession were the test, there would be no reason to have the word medium in the statute at all," he said. "The statute would just say the place of deposit, or place of savings, or place of collective investment."

"The word medium is important here, and it means something other than possession," he added. "This is the key."

RBC GAM is represented by David Nahmias of Jones Day and Harold Melton of Troutman Pepper Hamilton Sanders LLP.

Lattimore is represented by Andrew C. Evans of Evans Law LLC and Madeleine N. Simmons of Stewart Miller Simmons Trial Attorneys.

**Georgians for Lawsuit Reform is represented by its own Meagan Hanson and by Jason S. Alloy, Josh B. Belinfante and Edward A. Bedard of Robbins Alloy Belinfante & Littlefield LLC.**

The case is RBC Global Asset Management (USA) Inc. v. Lattimore et al., case number S24A0789, in the Supreme Court of Georgia.