

**FOURTH DIVISION
MCFADDEN, P. J.,
WATKINS and PADGETT, JJ.**

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed.
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August 19, 2026

In the Court of Appeals of Georgia

A26A0854. MITCHELL v. HIG REALTY CREDIT FUND, L.P.

WATKINS, Judge.

Former tenant Trentiss Mitchell appeals the trial court's grant of summary judgment to landlord HIG Realty Credit Fund, L.P. ("HIG") in this constructive eviction case. Among other things, Mitchell argues that HIG improperly served him with discovery requests and summary judgment materials at the wrong address. Because the record does not support Mitchell's arguments, we affirm.

The record shows that HIG owns an apartment complex at which Mitchell was a tenant from October 2023 to October 2024. Nine days after moving out, Mitchell filed a pro se complaint against HIG in state court, alleging that HIG had constructively evicted him by failing to complete repairs on the property. On his

complaint and accompanying verification, Mitchell listed his address as 609 Virginia Avenue, Apartment 4205, which is the property address.

HIG filed an answer and counterclaim, denying Mitchell's allegations and claiming that he owed past due rent and other expenses. HIG later filed a certificate of service stating that it had mailed discovery requests, including requests for admission, to Mitchell's Virginia Avenue address. Eighty-four days after that, HIG filed a motion for summary judgment, arguing that Mitchell had failed to respond to discovery and thus had admitted that he had no viable claims and, instead, owed money to HIG. The certificates of service accompanying the summary judgment motion, brief, and statement of undisputed material facts state that HIG mailed those documents to Mitchell's Virginia Avenue address.

Along with the motion, HIG attached its unanswered requests for admission, which asked Mitchell to admit that all property repairs were completed within a reasonable time after notice was given, that Mitchell was not constructively evicted, that he suffered no damages as a result of any act of HIG, and that he owed HIG unpaid rent, late charges, utilities, and liquidated damages under the parties' lease. HIG also attached an affidavit from its attorney, who averred that he had sent the

discovery requests to Mitchell by first-class mail to “the address provided in the record,” that the mail had not been returned as undeliverable, and that Mitchell had neither responded to the requests nor contacted him to ask for additional time or complain of improper service. Finally, HIG attached an affidavit from its former property manager, who averred that Mitchell had not paid rent for months and that his repair requests had been handled within a reasonable time.

The day after HIG filed the summary judgment materials, Mitchell filed a motion for a continuance, claiming that he had not been properly served with discovery and needed more time to respond. In the motion’s signature block, Mitchell listed an email address, but no mailing address. The trial court summarily denied the motion for a continuance without addressing Mitchell’s service argument, and Mitchell filed no response to the pending summary judgment motion. The trial court later granted summary judgment to HIG, ruling that the statements in HIG’s requests for admission were deemed admitted because Mitchell failed to respond within 30 days. Based on those admissions and the property manager’s un rebutted affidavit, the trial court determined that there were no genuine issues of material fact and that HIG was entitled to summary judgment as a matter of law. Mitchell appeals.

1. As an initial matter, we note that in his appellate briefing, Mitchell cites five cases that are either fictitious or have nothing to do with the propositions for which they are cited.¹ These defects suggest that Mitchell’s briefs were “drafted with the use of unchecked generative AI,”² and his reliance on non-existent law is a clear impediment to the work of this Court.³ We elect not to sanction Mitchell because HIG has not complained and does not appear to have been hampered in responding to Mitchell’s arguments.⁴ Nevertheless, we caution Mitchell that any future filings in this Court containing citations to fictitious or plainly inapplicable cases may result in the imposition of sanctions.⁵

¹ Mitchell purports to cite *Walker v. Pierce*, 315 Ga. App. 524 (2012), and *Crenshaw v. Ga. Dep’t of Human Resources*, 263 Ga. 722 (1994), which do not exist. He also cites *Henson v. Columbus Bank & Trust Co.*, 144 Ga. App. 80 (240 SE2d 284) (1977), and *Stamps v. Nelson*, 290 Ga. App. 277 (659 SE2d 697) (2008), which do exist, but have nothing to do with the issues raised in this appeal.

² *Slay v. Ross*, 379 Ga. App. 1, 1 (927 SE2d 569) (2026).

³ See *Shahid v. Essam*, 376 Ga. App. 145, 145–50(1) (918 SE2d 198) (2025).

⁴ See *Slay*, 379 Ga. App. at 1-2.

⁵ See Court of Appeals Rule 7(e)(2) (authorizing this Court to impose a penalty not to exceed \$10,000 against a party for prosecuting a frivolous appeal); see also *Shahid*, 376 Ga. App. at 145–50(1) (imposing the then-maximum penalty under Rule 7(e)(2) on a party’s attorney for filing a brief with citations to imaginary and unrelated cases).

2. Mitchell asserts that the trial court's order, which is styled "Order on Plaintiff's Motion for Summary Judgment," must be reversed because he never moved for summary judgment. However, the body of the order clearly shows that the trial court intended to grant *the defendant's* motion for summary judgment and that the court's reference to "Plaintiff's" motion was a mere scrivener's error presenting no basis for reversal.⁶

3. Mitchell also argues that HIG did not properly serve him with the discovery requests and summary judgment materials because it mailed them to his "former address, despite having knowledge that [he] had relocated." However, Mitchell fails to show improper service.

Under OCGA § 9-11-5(b), service of a pleading after the original complaint may be made on a pro se party, such as Mitchell, by "delivering a copy to the person to be served or by mailing it to the person to be served at the person's last known address or, if no address is known, by leaving it with the clerk of the court."⁷ The Uniform

⁶ See *Dallow v. Dallow*, 299 Ga. 762, 777-78(5) (791 SE2d 20) (2016) (trial court's erroneous citation to the wrong statute was a scrivener's error that did not require reversal because the court's intent was obvious from the order).

⁷ See *Turner v. Reynolds*, 379 Ga. App. 583, 585 (930 SE2d 128) (2026) (holding that OCGA § 9-11-5(b) governs the service upon pro se parties of pleadings after the

Superior Court Rules, which also apply in state courts,⁸ require a pro se party to state the party's current address on all pleadings and immediately notify the calendar clerk and opposing counsel of any change of address.⁹

Here, Mitchell listed his address as 609 Virginia Avenue on his complaint and attached verification, even though he had moved out nine days earlier. HIG mailed its discovery requests to that address, and they were not returned as undeliverable. HIG also mailed the summary judgment materials to that address. Although Mitchell insists that HIG knew he no longer lived there, nothing in the record indicates that Mitchell ever updated his address with the trial court or opposing counsel or that HIG otherwise had knowledge of any new address, and Mitchell's motion for a continuance — his sole filing after the complaint — listed no mailing address at all.¹⁰ Thus, the

complaint).

⁸ See *Glenn v. A-One Chems. & Equip.*, ___ Ga. App. ___, ___(1)(a) n.10 (929 SE2d 828) (2026).

⁹ See USCR 2.1 (the word “attorney” also refers to “any person proceeding pro se” in a pending action); USCR 4.2(3) (“[A]ll pleadings shall state . . . the . . . current office address . . . of the attorney[.]”); and USCR 4.6 (“Each such attorney shall notify the calendar clerk (and, . . . in civil actions, the opposing attorney(s)) immediately upon any change of . . . address[.]”).

¹⁰ Notably, the address listed for Mitchell in this Court's docket system is the Virginia Avenue address. Mitchell's appellant's brief and reply brief list only an email

record shows that HIG complied with OCGA § 9-11-5(b) by serving Mitchell at his last known address.

4. Mitchell maintains that the trial court erred by granting summary judgment to HIG even though factual disputes remain. We disagree.

Unless a response to requests for admission is timely and properly served upon the party requesting the admission, the requests are deemed admitted as a matter of law. Once the requests are deemed admitted, each of the matters addressed in the requests are conclusive as a matter of law on the matters stated and cannot be contradicted by other evidence unless the admissions are withdrawn or amended on formal motion.¹¹

By failing to answer discovery, Mitchell admitted that HIG made timely repairs, that he was not constructively evicted, and that he owed HIG for past due rent and other expenses. Mitchell did not seek to withdraw or amend the admissions. Aside from his unsupported assertion that factual issues remain, Mitchell does not challenge the

address in the signature block.

¹¹ *Brougham Casket & Vault Co. v. DeLoach*, 323 Ga. App. 701, 703(1) (747 SE2d 707) (2013) (citations and punctuation omitted).

merits of the summary judgment ruling. Accordingly, the trial court did not err by granting summary judgment to HIG.¹²

5. In a related argument, Mitchell asserts that the trial court violated his procedural due process rights by granting summary judgment without affording him notice and an opportunity to respond. This argument fails.

Due process requires that notice must be “reasonably calculated, under all the circumstances, to enable the interested parties to protect their rights.”¹³ The record shows that HIG sent its summary judgment filings to Mitchell’s last known address, in accordance with OCGA § 9-11-5(b). “Where service is properly made, actual notice is not required.”¹⁴ Further, Mitchell had ample time to respond to the summary judgment motion before the trial court ruled on it. Under these circumstances, Mitchell fails to show any due process violation.

¹² See *Blount v. College Glen Condo. Ass’n*, 362 Ga. App. 133, 135(1) (866 SE2d 843) (2021) (affirming grant of summary judgment to the plaintiff based on the defendants’ discovery admissions, which the defendants did not seek to withdraw or amend despite their claims of improper service).

¹³ *Green Tree Servicing v. Jones*, 333 Ga. App. 184, 189(2) (775 SE2d 714) (2015) (citation and punctuation omitted).

¹⁴ *Allen v. Bd. of Tax Assessors of Paulding County*, 247 Ga. 568, 569 (277 SE2d 660) (1981).

5. Finally, Mitchell argues for the first time in his reply brief that the trial court's summary judgment order conflicts with a prior order entered in a dispossessory action between the parties. "But an appellant who raises an argument for the first time in a reply brief is not entitled to have that argument considered."¹⁵ In any event, "[w]e cannot consider factual representations in a brief which do not appear in the record."¹⁶ The record contains no evidence of any dispossessory proceeding.

Judgment affirmed. McFadden, P. J., and Padgett, J., concur.

¹⁵ *Bradley v. State*, 318 Ga. 142, 145(2) n.4 (897 SE2d 428) (2024) (citation and punctuation omitted); accord *Miller v. Polk*, 371 Ga. App. 746, 755(3) (903 SE2d 128) (2024).

¹⁶ *Crewe Acquisitions v. Kendrick*, 351 Ga. App. 624, 626 n.5 (832 SE2d 442) (2019) (citation and punctuation omitted).