

Your Guide

to Magistrate's Court



Provided by the



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Chapter I

MOST FREQUENTLY ASKED QUESTIONS

What is Magistrate's Court?

Magistrate's Court is a court of law. You may file a civil lawsuit in Magistrate's Court if:

- You believe that you or your property has been injured or damaged.
- The value of that injury or damage is \$7500.00 or less.

How do you file a lawsuit in Magistrate's Court?

If you believe that you or your property has been injured or damaged, you may decide to file a lawsuit in Magistrate's Court. Your belief that you or your property has been damaged or injured is called a **Claim**. To file the lawsuit, follow these steps:

- Identify the county where the person lives or company does business that you claim injured or damaged you or your property. You will need to file your lawsuit in that county. There are Magistrate's Courts in each county. You can find the number for Magistrate's Court in the "County Government" section of your phone book.
- Explain to the Magistrate's Court what you are claiming and why. You can do this in writing or orally.
- In that explanation or statement, you must identify who you claim injured you or your property. You may identify an individual, many individuals or an organization. Every party you identify must be related in some way to the injury that you are claiming.
- Decide whether you want to attach to the statement any documents or papers that support your claim. If you have questions, you may ask the Magistrate's Court personnel.
- You must pay a filing fee when you file the Complaint. The amount of the fee changes depending on the county in which the Magistrate's Court is located.

How will you know if you have been sued in Magistrate's Court?

You will know that you have been sued in Magistrate's Court when you receive a document called a **Complaint**. A Complaint is a short written statement filed by the person suing you. The person who filed the suit is called a **Plaintiff**. The Plaintiff first files the Complaint with the Magistrate's Court. The Complaint then is sent to you. You are called the **Defendant**.

What should you do if you are sued in Magistrate's Court?

If you receive a Complaint, you may take certain actions in order to defend your position:

- Explain your position to the Magistrate's Court. You can do this in writing or orally.
- You need to explain your position within the thirty-day period following your receipt of the Complaint. To determine when the thirty-day period ends, count thirty days beginning the day after you receive the Complaint. In other words, if you receive the Complaint on a Monday, day one of the thirty-day period will be the next day, or Tuesday.
- If Plaintiff's claim is valued by the Plaintiff at \$25 or less, you must respond within five days.
- If you believe that you have a claim against the Plaintiff that



- relates to his or her claims against you, you may explain to the Magistrate's Court what you are claiming and why. You can do this in writing or orally.
- Not all claims can be brought in Magistrate's Court. For example, only claims valued at \$7500.00 or less can be brought in Magistrate's Court. Therefore, if the value of your claim against the Plaintiff is more than \$7500.00, you must agree to accept no more than \$7500.00 if you want to bring the claim in Magistrate's Court. If you agree to accept \$7500.00 or less, you cannot sue the Plaintiff for the amount over \$7500.00 at a later time.

What happens if you are sued and you decide not respond within 30 days?

If you receive a Complaint and decide not to defend your position within thirty days, the Magistrate's Court will enter a **Default Judgment**. In other words, the Plaintiff will win the lawsuit. This means that the Plaintiff will be entitled to the money or relief that he or she claims that you owe him or her.



What happens if the Magistrate's Court enters a default judgement against you?

If the Magistrate's Court enters a Default Judgment, then:

- The Magistrate's Court will notify you that you have lost the lawsuit.
- The Magistrate's Court may order you to pay the person who won the lawsuit.
- The Magistrate's Court may order you to pay the total amount due at one time or in **installments**. If the Magistrate's Court orders you to pay in installments, you will not need to pay the total amount at one time. Instead, the Magistrate's Court will allow you to make smaller payments over a specific period of time, rather than one large payment. These smaller payments are called **installment payments**.
- If the Magistrate's Court orders you to make installment payments and you fail to make an installment payment, the total amount of the judgment will become due immediately. In other words, the Magistrate's Court will not allow you to continue making smaller payments. Instead, you will have to make one large payment.
- If you do not pay the total amount due, you may suffer legal consequences. An example of the legal consequences is a negative effect on your credit.

How will you know if the defendant files a claim against you after you have sued the defendant?

You will know that the person you sued has filed a claim against you when you receive a document called a **Counterclaim**. A Counterclaim is a short written statement filed by the Defendant. The Defendant first files the Counterclaim with the Magistrate's Court. The Counterclaim then is sent to you.

What should you do if the defendant files a countersuit against you?

If the Defendant files a Counterclaim against you:

- You should file a reply to the Counterclaim thirty days after you receive it. To determine when the thirty-day period ends, count thirty days beginning the day after you receive the Counterclaim. In other words, if you receive the Counterclaim on a Monday, day one of the thirty day period will be the next day, or Tuesday.
- If the Counterclaim is valued by the Defendant at \$25 or less, you must respond within five days.
- You also will need to appear at trial to defend your position.

How do you know where to go for the trial and when to go there?

The Magistrate's Court will contact you to tell you the date and location of the trial. The Magistrate's Court will contact both the Plaintiff and the Defendant.

What can you do if you know that you will not be able to go to Magistrate's Court on the day that trial is scheduled?

Once you know the date and location of the trial, you should decide whether you will be able to go to trial on that date. You must have an important and valid reason for not being able to go to Magistrate's Court. If you do have an important and valid reason, you must contact the Magistrate's Court to get permission to get the trial rescheduled or **continued**. Usually, you can only get permission to reschedule once.

What happens if the defendant files a counterclaim against you and you fail to appear at trial?

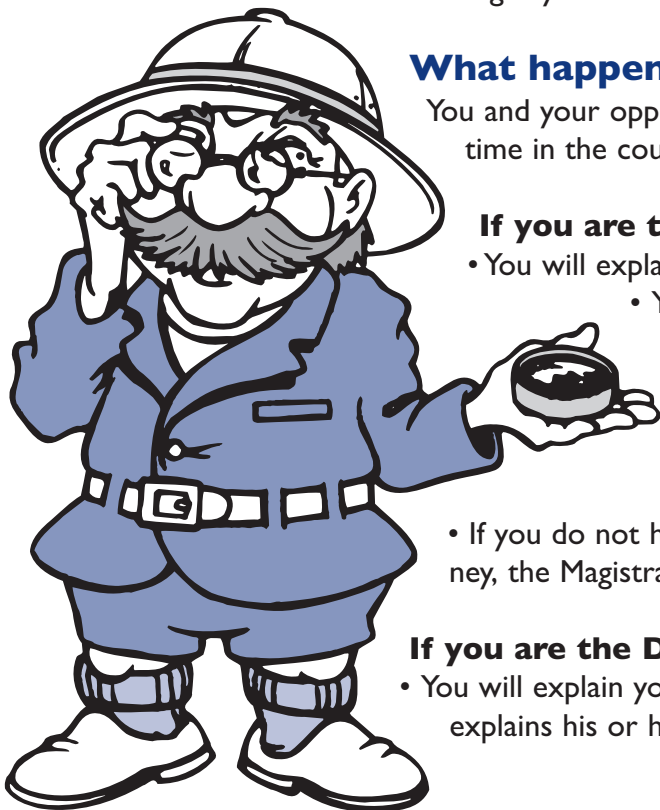
If the Defendant files a Counterclaim against you, you should appear at trial to argue your claims against the Defendant and to defend your position. If you do not appear at trial, the Magistrate's Court will **dismiss** your claims against the Defendant. In other words, you will not win the lawsuit. Additionally, if you do not appear at trial, the Magistrate's Court will rule in favor of the Defendant. In other words, the Defendant will win his or her claims against you. This means that the Defendant will be entitled to the money or relief that he or she claims that you owe him or her.

What happens if the plaintiff and defendant do not appear for trial?

If the Plaintiff and the Defendant fail to appear for trial, then the Magistrate's Court will dismiss all the claims that were filed. In other words, neither the Plaintiff nor the Defendant will win. Additionally, if the Magistrate's Court dismisses the claims, the lawsuit will no longer exist.

Are you entitled to a jury trial?

If you want a jury trial, you must send a written request for a jury trial to the Magistrate's Court at least five working days before the date of the trial.



What happens at trial?

You and your opponent will appear before the Magistrate Judge at the same time in the courtroom.

If you are the Plaintiff:

- You will explain your claims and your position first.
- You may ask questions to any witnesses whom you believe will support your position.
- You may give the Magistrate Judge any documents or things that you believe will support your position.
- You may ask the Defendant questions that relate to your claims.
- If you do not have an attorney or if the Defendant does not have an attorney, the Magistrate Judge will question you, the Defendant and any witnesses.

If you are the Defendant:

- You will explain your position and any claims that you may have after the Plaintiff explains his or her claims and position.

- You also may ask questions to any witnesses whom you believe will support your position.
- You also may give the Magistrate Judge any documents or things that you believe will support your position.
- You may ask the Plaintiff questions that relate to your position and your claims.
- If you do not have an attorney or if the Plaintiff does not have an attorney, the Magistrate Judge will question you, the Plaintiff and any witnesses.

Anything that the Plaintiff, the Defendant and the witnesses say will be **under oath**. In other words, if any individual does not tell the truth, that individual may have committed perjury. After you and your opponent have explained your positions, either the Magistrate Judge or the jury will review the information. As soon as the Magistrate Judge or the jury finishes reviewing the information, the Magistrate Judge or the jury will decide the outcome of the lawsuit. The Magistrate Judge will tell both parties at the same time in the courtroom who won the case. This is called the **verdict**.

What happens if you believe that a person will help your position but you do not believe that the person will come to trial?

You may believe that a person or many people have information that will support your position. You may ask anyone to come to trial to be a **witness**. A witness will answer questions asked to him or her by you, the opposing party and the Magistrate Judge. Some people you want to be witnesses will not come to trial if you ask them. If someone refuses to be a witness, you may contact the Magistrate's Court. The Magistrate's Court may have the power to **issue a subpoena** to force the person to come to trial.

What happens if you disagree with the final decision?

You may not agree with the final decision. This final decision is called a **judgment**. If you disagree with the judgment, you may file a motion for a new trial within five days from the date you receive notice of the judgment. You do not have to file a motion for new trial. Instead, you may appeal to the circuit court to review the decision.

How do you appeal a judgment in Magistrate's Court?

In order to appeal a judgment in Magistrate's Court, you must:

- Send a Notice of Appeal to the clerk of circuit court in the county where the Magistrate's Court is located.
- Send a Notice of Appeal to the Magistrate who heard the case.
- Send a Notice of Appeal to your opponent.
- Send all Notices of Appeal within thirty days after you receive notice of the judgment.

If you appeal the case, will you be able to have a jury trial?

No, your appeal only will be heard by a circuit court judge.



Chapter II

DEFINITIONS

Abandonment	Give up title or right to property	Plaintiff	The person who filed the lawsuit
Accounts	Statement of money owed, including the reason that the money is owed	Predistress hearing	Hearing before the Magistrate Judge in which tenant or person renting property can prove why his or her personal property should not be taken to satisfy the debt owed to the landlord
Affidavit	Written or printed statement of facts made voluntarily and willingly under oath	Subpoena	Document or paper that requires a person to appear at a specific time and place to give testimony
Attachment	Act of taking someone's property in order to satisfy or pay for a judgment	Sureties	Plural of surety; person who agrees to pay money or to take some action when another person fails to pay money or to take some action
Bond Undertaking	Written agreement or promise to pay money or to take some action where another person fails to pay money or to take some action	Testimony	Spoken evidence presented to Magistrate's Court by a person under oath
Claim	Your belief that you or your property has been damaged or injured	Venue	County or place where injury occurred or where trial will occur
Complaint	A short written statement filed by the person bringing the lawsuit	Verdict	Outcome of the lawsuit or who won the case
Continuance	To continue or reschedule a trial or a hearing		
Counterclaim	A short written statement filed by the Defendant that makes a claim against the Plaintiff		
Default judgment	Final decision in a lawsuit that is entered when a party fails to respond to a claim filed against him or her		
Defendant	The person being sued		
Distrain	Seizure of goods or property to satisfy delinquent or late rent payments		
Ejectment	Legal word used to describe the process of returning possession of property to the person who is entitled to possess the property		
Guardian ad litem	Person appointed by Magistrate's Court to represent an infant or incompetent person		
Installment payments	Smaller payments made over a specific period of time, rather than one large payment		
Judgment	Final decision of the lawsuit		
Oath	Promise by a person making a statement to Magistrate's Court that the statement is true		





Chapter III

FORMS

CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

IN THE MAGISTRATES COURT

 PLAINTIFF(S)

 vs.

 DEFENDANT(S)

SUMMONS

TO THE DEFENDANT _____
YOU ARE SUMMONED and required to answer the allegations of the attached complaint within _____
days from the first day after receipt of this summons. Your answer must be received by the magistrates
court located at _____, _____, South Carolina.

If you fail to answer within the prescribed time, a judgment maybe entered against you for the amount
or other remedy requested in the attached complaint, plus interest and costs.

Given under my hand, this _____ day of _____, 20_____.

MAGISTRATE

CIVIL CASE NUMBER

[illegible]

IN THE MAGISTRATES COURT

_____)
_____) **PLAINTIFF(S)** _____)

vs.)

NOTICE OF APPEAL

_____)
_____)
DEFENDANT(S)_____)

The plaintiff/defendant, _____
hereby gives notice of intention to appeal from the judgment of the magistrates court in the above
action, to the Circuit Court of Common Pleas, in the County of _____.
This notice of appeal is made subsequent to personal notice of the judgment which was received on
the _____ day of _____ 20_____.

DATED: _____

Signature of Plaintiff
(or his attorney)

IN THE MAGISTRATES COURT

AFFIDAVIT OF DEFAULT

Plaintiff, _____ personally appeared before me,
who being duly sworn, states that a summons and complaint in this action was served on the defendant,
_____, on the _____ day of _____
20_____ which required that defendant to answer or appear before or on the _____
day of _____ 20_____ that defendant failed to appear or answer as required and is
now in default.

Signature Plaintiff/Defendant
(or his attorney)

CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

IN THE MAGISTRATES COURT

PLAINTIFF(S)

VS.

DEFENDANT(S)

AFFIDAVIT AND ITEMIZATION OF ACCOUNTS

Plaintiff, _____, personally appeared before me, who, being duly sworn, states that he is the plaintiff in this action, and that the itemization of accounts which follows is true and correct.

He further states that no part of the sum included in the itemization below has been paid or satisfied in any fashion, and is today due and owed to him.

Itemization of Accounts

[illegible]

(Copies of bills, papers or other proof of any of the above accounts should be attached to this document.)

Sworn to before me, this _____)
day of _____, 20____)
_____))
Magistrate or Notary Public for _____)
South Carolina _____)
My Commission Expires: _____)

Signature Plaintiff/Defendant
(or his attorney)

CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA)
COUNTY OF _____)

IN THE MAGISTRATES COURT

_____)
_____)
_____) **PLAINTIFF(S)**

vs.)

_____)
_____)
DEFENDANT(S) _____)

AFFIDAVIT FOR
CHANGE OF VENUE

_____, plaintiff/defendant, personally
appearing before me, states that he believes that he is unable to have a fair trial before Magistrate
_____ for the following reasons: _____

and, therefore, requests that a change of venue be granted.

Sworn to before me, this _____)
day of _____, 20____)
_____))
Magistrate or Notary Public for _____)
South Carolina _____)
My Commission Expires: _____)

Signature Plaintiff/Defendant
(or his attorney)

CIVIL CASE NUMBER

[illegible]

IN THE MAGISTRATES COURT

)

)
PLAINTIFF(S)
)
)
vs.
)
)

)

)
DEFENDANT(S)
)

NOTICE OF INTENTION
TO SEEK
CHANGE OF VENUE

This is to give notice that _____,
the plaintiff/defendant in this action, intends to seek a change of venue before Magistrate _____
on the ____ day of _____, 20 ____.

DATED: _____

Signature Plaintiff/Defendant
(or his attorney)

CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

IN THE MAGISTRATES COURT

_____)
_____)
 PLAINTIFF(S))
)
 vs.)
_____)
_____)
 DEFENDANT(S))

AMENDMENT TO COMPLAINT

Upon filing of my complaint against _____
at which time I was ignorant of the true facts as correctly stated below, I now do state for the purpose of
amending my complaint that: _____

was incorrect, and should be stated as below: _____

DATED: _____

Signature of Plaintiff
(or his attorney)

IN THE MAGISTRATES COURT

IN THE MAGISTRATES COURT

TELEPHONE

COUNTERCLAIM

Signature of Defendant
(or his attorney)

IN THE MAGISTRATES COURT

PLAINTIFF		
STREET ADDRESS		
CITY	STATE	ZIP CODE
TELEPHONE		

ANSWER

DEFENDANT			)
STREET ADDRESS			)
CITY	STATE	ZIP CODE	)
TELEPHONE			)

A. _____ I do not live in this county. I want this case transferred to my home county if possible.
B. _____ I admit everything in the complaint and do not want a trial.
C. _____ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s).
D. _____ I deny that I am responsible at all.

DATED: _____

Signature of Defendant
(or his attorney)

KEEP A COPY OF THIS ANSWER AND BRING IT TO COURT

INSTRUCTIONS TO DEFENDANT

1. If you do not wish to oppose plaintiff's claim, you may:
 - a. Contact plaintiff and make an out-of-court settlement with the plaintiff before the trial date and file with the magistrate's court a dismissal of the case signed by the plaintiff, or
 - b. Make no answer to the complaint. In that case, the plaintiff may be given a default judgment against you in the amount specified in the complaint.
2. If you wish to oppose the claim:
 - a. You must file an answer with the magistrate's court within the time specified within the summons. Your answer may be made in writing in a form approved by the magistrate, or your answer may be made orally to the magistrate's court if you appear in person.
 - b. You will be notified of the time and date of the trial. You must appear at that time. Should you fail to appear, the plaintiff may be given a default judgment against you in the amount specified in the complaint.
 - c. At the time for your trial, you must bring with you all books, papers, witnesses and evidence you have to establish your defense.
 - d. At your request the court will issue a subpoena for any witnesses you may need (you must order the subpoena as soon as possible and before the trial date).
3. If you desire a jury trial, you must request one within five days from the date set for trial. If no jury trial is timely requested, the matter will be heard and decided by the magistrate.
4. If you have a claim against the plaintiff that grows out of the same transaction or occurrence as the plaintiff's claim, you may file a counterclaim. The counterclaim must be filed with the magistrate within the time specified in the summons for answering. The counterclaim must be made in writing in a form approved by the magistrate, or it may be made orally to the magistrate's court if you appear in person. Your counterclaim will be tried at the same time as the plaintiff's claim if it does not exceed the jurisdiction of the magistrate to hear.
5. If you have a claim against the plaintiff that does not grow out of the same occurrence or transaction as the plaintiff's claim, you may file a claim (complaint) against the plaintiff. This claim would be heard separate and apart from the plaintiff's claim against you.
6. If you are a member of the Armed Services of the United States, please advise the court upon receipt of this summons.
7. If you are under 18 years of age, please advise the court upon receipt of this summons.
8. If you are a prisoner in any municipal, county, state or federal jail or prison, please advise the court upon receipt of this summons.
9. You may be represented by an attorney but are not required to have one. The magistrate's court will explain the procedure of the court and will help you prepare papers related to your action if you require such assistance. The court cannot, however, represent you or provide you with an attorney.

CIVIL CASE NUMBER

[illegible]

IN THE MAGISTRATES COURT

PLAINTIFF		
STREET ADDRESS		
CITY	STATE	ZIP CODE
TELEPHONE		

VS.

COMPLAINT

DEFENDANT			)
STREET ADDRESS			)
CITY	STATE	ZIP CODE	)
TELEPHONE			)

I, _____ the plaintiff in this civil action
do make the following claims:

I, I believe that the defendant, _____
is a resident of _____ County, and resides at _____
which is within Judge _____'s magisterial jurisdiction.

2. I make this complaint on the following: _____

(Attach supplement if necessary)

3. I believe, because of the above information, that I am entitled to and do request a judgment for \$_____ and/or other relief as below requested:_____

including any costs resulting in this action.

I state under penalty of perjury that the above is correct and truthful.

DATED: _____

Signature of Plaintiff
(or his attorney)

Chapter IV

ADMINISTRATIVE AND PROCEDURAL RULES FOR MAGISTRATE'S COURT

Scope and Purpose

- (a) These rules are applicable to all actions at law of a civil nature in magistrate's courts in which the demand or value of property involved does not exceed \$7500, exclusive of costs and interest, unless a higher demand or value of property is provided by law to be within the jurisdiction of the magistrate's court. However, the time limits for taking any action under these rules shall not apply where different time limits are specified by statute.
- (b) These rules govern civil procedure in the magistrate's courts. They are to be known and cited as "Administrative and Procedural Rules for Magistrate's Court." They shall be construed to secure the just, speedy and inexpensive determination of every civil case within the jurisdiction of the magistrate's court. All civil actions in the magistrate's court shall be conducted in such a manner as to do substantial justice between the parties according to the rules of substantive law and, in the administration of those rules, the court shall make such accommodation to the parties as is necessary to serve the ends of justice. To this end the court, in its discretion, may explore claims and/or defenses not raised by the parties.



RULE I

"Amendment" means making a change in a complaint, answer or counterclaim.

"Answer" means the paper filed by the party defending against the claim.

"Complaint" means the paper filed by the party making the claim.

"Counterclaim" means a claim by a defendant against a plaintiff.

"Court" means the judge of the magistrate's court.

"Default" means failure to defend such as failure to answer or appear for trial.

"Defendant" means the party defending against the plaintiff's claim.

"Execution" means enforcement of the judgment.

“Judgment” means the decision of the court on the case.

“Party” means a person or legal entity that is suing or being sued.

“Plaintiff” means the party beginning the case.

“Subpoena” means an order of the court requiring a witness to attend and testify at trial.

“Summons” means the paper issued by the court that orders the defendant to admit or deny the plaintiff’s claim.

“Working day” means a day that is not a Saturday, Sunday or legal holiday under state or federal law.

RULE 2

- (a) If no procedure is provided by these rules, the court shall proceed in a manner consistent with the statutory law applicable to magistrates and with circuit court practice in like situations but not inconsistent with these rules.
- (b) Each magistrate may promulgate rules for the conduct of proceedings in his court that are not inconsistent with these rules and the South Carolina Code of Laws.

RULE 3

- (a) Each magistrate’s court shall conduct civil court as often as reasonably necessary.
- (b) All time periods shall be measured by starting to count on the first day after the summons and complaint were served on the defendant or on the first day after the judgment was entered or on the first day after any other event happens, which by these rules starts the running of a time period. If the last day is anything other than a working day, then the last day is not considered to have arrived until the next working day thereafter has arrived.

RULE 4

A civil action may be filed in the appropriate magistrate’s court having territorial jurisdiction in the county in which at least one defendant resides, except that civil actions against corporations may be filed in any county where such corporation shall have or shall usually keep an office or agent for the transaction of its usual and customary business.

RULE 5

A case shall begin by filing with the magistrate’s court a short and plain written statement showing what the plaintiff claims and why he claims it. However, the plaintiff may make an oral statement if he appears personally, which shall be reduced to writing. The court shall assist the plaintiff in reducing the statement to writing if the court determines such assistance is required. This statement shall be called a “complaint.” A plaintiff may combine as many claims as he has against a defendant in one case, and he may sue more than one defendant in one case if his claim involves all of the defendants.

RULE 6

- (a) Upon the filing of the complaint and a copy with any attachments for each defendant, the court shall issue a summons to each defendant. The summons shall require that the defendant must answer and present any appropriate counterclaims within thirty days (five days in matters of \$25 or less) from the first day after the date of service.
- (b) Service shall be by personal service, service by publication in the manner provided for in Title 15 of the South Carolina Code of Laws or by mail in the following manner: Service may be made by mailing a copy of the summons, complaint and any appropriate attachments to the defendant at his last known address by certified mail, restricted delivery, return receipt requested, showing to whom and date delivered. The envelope and the return receipt shall be stamped with the docket number of the case. The “Receipt for Certified Mail” shall state the name and address of the addressee and the date of mailing and shall be attached to the original summons and filed by the court. Reception by the court of the signed returned receipt shall constitute proof of service on the indicated delivery date. The specified time period for answering and counterclaiming shall begin to run on the first day after the date of delivery as shown on the return receipt. When the service is by mail, double the time required in cases of personal service shall be given.
- (c) If service by mail cannot be made in the manner indicated in subsection (b) of this rule, then some other manner of service shall be attempted. If personal service is attempted by an officer charged with the responsibility of serving civil papers, he shall attempt to serve the summons, complaint and any appropriate attachments on each defendant and shall make a written return of the results of his efforts to the magistrate within five working days of the date he received the papers. Upon service, the officer shall note on the written return the date, time and manner of service.

RULE 7

The defendant may reply to the plaintiff’s complaint at any time within thirty days (five days in matters of \$25 or less) from the first day after the date of service by filing a written statement in a form approved by the magistrate or by personally appearing and making an oral statement. This reply shall be called an “answer.” If the defendant personally appears within the specified time period and makes an oral answer, it shall be reduced to writing. The court shall assist the defendant in reducing the answer to writing if the court determines such assistance is required. The defendant’s answer may deny in whole or in part any or all of the material allegations made in the plaintiff’s complaint and/or allege any new matter constituting a defense. The court shall notify the plaintiff that an answer has been filed and shall make available to the plaintiff a copy of the same.

RULE 8

- (a) At any time within thirty days (five days in matters of \$25 or less) of the first day after the date of service of the summons and complaint, the defendant may assert a counterclaim which grows out of the same transaction or occurrence as the plaintiff’s claim by filing a written statement in a form approved by the magistrate or by personally appearing and making an oral statement. If the defendant personally appears within the specified time period and makes an oral counterclaim, it shall be reduced to writing. The court shall assist the defendant in reducing the counterclaim to writing if the court determines such assistance is required. The counterclaim shall be served on the plaintiff by the court.

- (b) If the court, during the course of a trial, determines that a defendant, unrepresented by legal counsel, has a counterclaim arising out of the same transaction or occurrence as the plaintiff's claim, the court shall inform the defendant and plaintiff of the nature of the counterclaim. If the defendant does not desire the court to hear the counterclaim, the court shall proceed to hear only the plaintiff's claim. If the defendant desires the court to hear the counterclaim, the court shall advise the plaintiff of the nature of the counterclaim and the plaintiff shall have the option to proceed with the trial or have the case continued.
- (c) The defendant in a counterclaim may waive the excess of his claim over the jurisdictional maximum to bring it within the jurisdiction of the magistrate's court. If the defendant elects to waive a portion of his counterclaim, he may not later maintain a separate action for the remainder of such claim. If the defendant does not waive the excess, the counterclaim will be dismissed for lack of jurisdiction.

RULE 9

- (a) Upon the filing of an answer by the defendant, the magistrate shall set the date of the trial and serve notice of the same on both parties in a manner provided for in Rule 6.
- (b) If the defendant has failed to answer within the specified period, the magistrate shall set a hearing date and shall notify the parties of the hearing date when such hearing is necessary for entering a default judgment in a manner consistent with Rule 10 and Section 22-3-270 of the 1976 South Carolina Code of Laws.

RULE 10

- (a) If the defendant does not answer within thirty days (five days in matters of \$25 or less) from the first day after the date of service of the summons and complaint or answers within the specified time period but then fails to appear at the time set for trial, then judgment may be given for the plaintiff by default in a manner consistent with Section 22-3-270 of the 1976 South Carolina Code of Laws, as now or hereafter amended.
- (b) If the plaintiff does not appear at trial or if neither the plaintiff nor the defendant appears at the time and place specified for trial, the court may enter an order dismissing the action.
- (c) If the defendant has filed a counterclaim against the plaintiff (counter-defendant) and the plaintiff (counter-defendant) fails to appear at the time set for trial, the judgment may be given for the defendant by default in a manner consistent with Section 22-3-270 of the 1976 South Carolina Code of Laws, as now or hereafter amended.

RULE 11

- (a) Trials should be conducted in an informal manner and rules of evidence shall apply but shall be relaxed in the interest of justice.
- (b) If either party wants a jury trial, it must be requested in writing at least five working days prior to the date set for trial.

- (c) In the trial of a civil action in which one or both parties are unrepresented by legal counsel, the court shall question the parties and witnesses in order to ensure that all claims and defenses are fully presented.
- (d) All testimony shall be given under oath or affirmation. Witnesses may be called, and the court shall have the power to issue subpoenas to compel their attendance. There shall be no additional fee charged for the issuance of subpoenas unless otherwise specifically provided for by law.

RULE 12

The court shall be lenient in the allowance of changes or amendments to complaints, answers and counterclaims and continuances of trial for good cause shown when necessary to serve the ends of justice. However, except in unusual circumstances, no party shall be allowed more than one continuance in any case, and all continuances must have the specific approval of the court. Continuances shall be for as short a period as possible, and where feasible, the wishes of the party not requesting the continuance shall be considered in scheduling a new hearing date. Raising a claim, defense or counterclaim for the first time at trial shall constitute grounds for a continuance when necessary to serve the ends of justice.

RULE 13

- (a) The parties are encouraged to make voluntary exchanges of information before the trial, but in no event shall the court require such exchanges.
- (b) The court shall, with both parties present, confer with them before any trial whenever it appears that such conference might simplify the issues or shorten the trial or lead to a voluntary exchange of information that might promote a settlement.

RULE 14

The magistrate or clerk must enter in the civil docket book the following:

1. the title of every action;
2. the sum of money claimed;
3. the trial date;
4. every adjournment, on whose application it was made and to what time it was made;
5. the judgment of the court and when it was returned or the date and reason for dismissing the action;
6. a statement of any money paid to the court, judge or clerk, when it was paid, by whom it was paid, for what purpose it was paid and the receipt number(s) evidencing such payment(s);
7. the date of receipt of any notice of appeal and receipt of any appeal bond.

RULE 15

- (a) The party recovering judgment shall also recover those costs provided for by law.
- (b) In default judgments, the court shall immediately notify the losing party of the judgment in conformity to and in a manner consistent with Section 18-7-20 of the 1976 South Carolina Code of Laws, as now or hereafter amended.

(c) The court may order a judgment to be paid to the prevailing party in full or in specified installments. Failure to make any installment payment shall render the remaining amount immediately due. The prevailing party may seek execution on the remainder of the judgment without further order of the trial court.

(d) At the time of judgment, the court shall advise the judgment debtor of his duty to pay the judgment according to its terms and the legal consequences of failing to do so.

When a judgment is not paid according to its terms, the judgment creditor shall first make a good faith effort to personally contact the judgment debtor.

(e) Upon payment in full, the judgment creditor should file a statement of collection with the magistrate's court and the clerk of the circuit court if the judgment had been previously filed with the clerk of the circuit court.

RULE 16

A judgment may be appealed to the circuit court as provided by law.

RULE 17

Notice of the fact that court personnel will explain to all parties the procedure of the magistrate's court and will assist them, if such assistance is required, to fill out all forms that may be necessary or appropriate shall be conspicuously posted in the magistrate's office in the following form.

NOTICE TO ALL PARTIES IN CIVIL ACTIONS

This office will explain the procedure of the court and will help you prepare papers related to your action if the court determines such help is required.

RULE 18

An informative pamphlet on civil proceedings in the magistrate's court shall be formulated by the Office of Court Administration, subject to approval by the Supreme Court, for distribution to the magistrate's courts. This pamphlet shall be made available through the magistrate's court to every litigant and to such other persons or organizations as the court may deem appropriate.

RULE 19

The use of the preceding forms in magistrate's court is recommended. The magistrate's court shall make these forms available without charge to any person who is a litigant in an action before the court. The Office of Court Administration shall make amendments to these forms and shall add such forms as is deemed appropriate. (Rule 19 lists 38 forms to be made available. The forms that precede these rules are only a portion of the forms provided by the magistrate's court).

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