

MAGISTRATE COURT SUMMONS AND COMPLAINT INSTRUCTIONS

(1) WHAT IS IT: A SUMMONS AND COMPLAINT IS A LEGAL ACTION TO OBTAIN A JUDGMENT FOR A DEBT. THE PARTY WHO BEGINS THE ACTION IS THE PLAINTIFF AND THE PARTY WHO IS BEING SUED IS THE DEFENDANT.

(2) HOW TO OBTAIN A SUMMONS AND COMPLAINT: UPON THE AFFIDAVIT BY THE PLAINTIFF (OR HIS AGENT), ANY MAGISTRATE IN THE COUNTY IN WHICH THE DEFENDANT RESIDES (OR IS CONDUCTING BUSINESS) CAN ISSUE THE SUMMONS AND COMPLAINT.

*** MAKE SURE THAT THE DEFENDANT RESIDES IN SPARTANBURG COUNTY BEFORE FILING A SUMMONS AND COMPLAINT BECAUSE THE DEFENDANT CAN ONLY BE SUED IN THE COUNTY THAT HE RESIDES IN. FOR EXAMPLE, IF THE DEFENDANT LIVES IN CHEROKEE COUNTY, THE SUMMONS AND COMPLAINT MUST BE FILED IN THE CHEROKEE COUNTY MAGISTRATE COURT NOT THE SPARTANBURG COUNTY MAGISTRATE COURT.***

THE JURISDICTIONAL LIMIT OF THE COURT IS \$7,500.00. IF THE DEFENDANT IS INDEBTED FOR MORE THAN \$7,500.00, THE PLAINTIFF MUST FILE THE ACTION IN THE CIRCUIT COURT.

(3) HOW MUCH DOES THE ACTION COST: STATE LAW PROVIDES THAT AT THE TIME THE SUMMONS AND COMPLAINT IS ISSUED, THE MAGISTRATE WILL COLLECT EIGHTY (\$80.00) DOLLARS FOR ISSUING AND FOR ATTEMPTING TO SERVE THE DEFENDANT AT HIS RESIDENCE OR PLACE OF BUSINESS. HOWEVER, YOU ARE RESPONSIBLE TO MAKE SURE THE SUMMONS AND COMPLAINT IS SERVED ON THE DEFENDANT, NOT THE MAGISTRATE COURT. THE FILING FEE IS NON-REFUNDABLE. THERE IS AN \$8 FEE FOR A WITNESS SUBPONEA OR \$5.00 FEE FOR A JURY TRIAL.

(4) IS A LAWYER NECESSARY: NEITHER THE PLAINTIFF NOR THE DEFENDANT HAS TO HAVE A LAWYER, BUT THEY CAN HIRE ONE. THE MAGISTRATE CANNOT APPOINT A LAWYER FOR EITHER THE PLAINTIFF OR THE DEFENDANT.

(5) THE TRIAL: THE COURT WILL NOTIFY YOU OF THE TRIAL DATE. IF THE DEFENDANT DOES NOT CONTEST THE PLAINTIFF'S COMPLAINT, THE TRIAL WILL BE HELD FROM SIX (6) TO EIGHT (8) WEEKS AFTER FILING THE COMPLAINT. IF THE COMPLAINT IS CONTESTED BY THE DEFENDANT, THE TRIAL WILL USUALLY BE WITHIN TWO (2) MONTHS TO SIX (6) MONTHS AFTER THE SUMMONS AND COMPLAINT IS SERVED ON THE DEFENDANT. AT THE TRIAL THE PLAINTIFF HAS THE BURDEN OF PROOF BY THE GREATER WEIGHT OF THE EVIDENCE TO PROVE THAT THE DEFENDANT HAS DAMAGED OR OWES THE PLAINTIFF MONEY AND HOW MUCH THAT THE DEFENDANT SHOULD PAY.

(6) WHAT HAPPENS AFTER THE TRIAL: IF THE JUDGMENT IS FOR THE PLAINTIFF, THE COURT WILL ORDER A TRANSCRIPT (JUDGMENT) AGAINST THE DEFENDANT. THE COURT WILL SEND THE TRANSCRIPT TO BOTH PARTIES. THE MAGISTRATE HAS NO POWER TO FORCE THE DEFENDANT TO PAY THE JUDGEMENT. IF THE DEFENDANT WILL NOT PAY THE JUDGMENT, THE PLAINTIFF CAN FILE THE TRANSCRIPT OF JUDGMENT FROM THE MAGISTRATE COURT WITH THE CLERK OF THE CIRCUIT COURT (MR. MARK KITCHENS). WHEN THE TRANSCRIPT OF JUDGMENT IS FILED, THE JUDGEMENT BEGINS DRAWING INTEREST AND BECOMES A LIEN AGAINST ANY LAND WHICH THE DEFENDANT OWNS OR COMES TO OWN IN THE COUNTY. THE RECORDED JUDGMENT IN CIRCUIT COURT IS GOOD FOR TEN (10) YEARS. THE MAGISTRATE COURT JUDGEMENT NOT RECORDED IN CIRCUIT COURT IS ONLY GOOD FOR THREE (3) YEARS. AFTER FILING THE TRANSCRIPT IN CIRCUIT COURT, YOU MAY WISH TO PROCEED WITH AN EXECUTION THROUGH THE SHERIFF'S DEPARTMENT. YOU WILL NEED TO ASK THE CLERK OF THE CIRCUIT COURT ABOUT THE EXECUTION AGAINST THE DEFENDANT.

(7) OTHER COSTS: THE CLERK OF THE CIRCUIT COURT COLLECTS TEN (\$10) DOLLARS FOR THE FILING OF THE TRANSCRIPT OF JUDGMENT. IF THE MAGISTRATE FINDS FOR THE PLAINTIFF, ALL COURT COSTS CAN BE ASSESSED AGAINST THE DEFENDANT AND ARE RECOVERABLE AS PART OF THE OF THE JUDGMENT.

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

IN THE MAGISTRATE COURT

PLAINTIFF'S NAME AND ADDRESS)
)
)

_____)

PHONE NO.: _____)

VERSUS)
DEFENDANT'S NAME AND ADDRESS)

COMPLAINT

CASE NO.: _____

_____)

PHONE NO.: _____)

SS#: _____)

*****)

THE PLAINTIFF IN THIS CIVIL ACTION ALLEGES THE FOLLOWING:

1. THAT THE DEFENDANT IS A RESIDENT OF, OR IS DOING BUSINESS
IN THE COUNTY OF SPARTANBURG AND THE STATE OF SOUTH CAROLINA.

2. THAT THIS COMPLAINT IS BASED UPON THE FOLLOWING INFORMATION:

3. THAT BECAUSE OF THE ABOVE INFORMATION, I BELIEVE THAT I AM
ENTITLED TO AND DO REQUEST JUDGMENT FOR \$ _____, ALONG WITH
ANY COSTS ALLOWABLE BY LAW.

I STATE UNDER PENALTY OF PERJURY THAT THE ABOVE IS CORRECT AND
TRUTHFUL.

DATED

SIGNATURE OF PLAINTIFF/AGENT/ATTORNEY

PRINTED NAME OF PLAINTIFF/AGENT/ATTORNEY

