

HAMPTON COUNTY MAGISTRATE'S COURT

Procedures for Filing a Small Claims Suit

JURISDICTION: Magistrate's Court has a top limit of \$ 7500.00 or less. If you wish to claim more than the cap you should contact an attorney.

FILING: The filing fee for a Complaint action is \$70.00 plus a \$10.00 service for the service fee. Total is usually \$80.00. For a Claim & Delivery action, the filing fee is \$55.00 plus \$10.00 service, totaling \$65.00. Consult the published fee schedule for other charges. (MAKE CHECKS PAYABLE TO HAMPTON COUNTY MAGISTRATE)

VENUE: The Defendant (the person being sued) has to be a resident of Hampton County. A business generally has to be located in Hampton County. The Plaintiff (the person starting the suit) has to provide the correct address of the Defendant. If you have a question whether a person or business address is in Hampton County, please make sure before filing. (Filing fee is non-refundable so make sure address is correct.)

PROPER NAME: When filing against a person, that person's proper name must be listed in the complaint. If a corporation, the service must be upon a corporate officer or registered agent and the proper name of the corporation must be listed as Defendant. The county business license office or the S.C. Secretary of State's office can assist with corporate names and agents.

COMPLAINT: All small claims actions should be filled out on the standard forms provided through the court unless filed by an attorney. If you need assistance in completing a form, please ask a court clerk. **COURT CLERKS ARE NOT ALLOWED TO GIVE LEGAL ADVICE OR EVALUATE YOUR CASE.** Claims mailed to the court must be legible. The written Complaint must explain why the person is filing suit and include invoice numbers, dates, check numbers, or whatever transactions between the parties. At trial the court may dismiss complaints that are insufficient. **MUST BE DISMISSED IN WRITING.**

SUMMONS: After filing the complaint and fee, the Magistrate will issue a Summons with instructions to the Defendant requiring the Defendant to file a written Answer on forms provided by the court within 30 days after service of the Complaint. (60 days if by certified mail) The defendant must answer in writing to this court. To determine the service date, the plaintiff must call the court 3 weeks from the date of filing to find out the date of service (not a hearing date). If the defendant makes payment to the plaintiff notify the court by putting their response in writing, if the case has been settled, the plaintiff is to send a response in writing to the court dismissing the case.

ANSWER: Unless the Defendant files an answer to the complaint within 30 days of service of the complaint the facts therein are admitted as true. Once the Answer is filed with the court a copy is mailed to the Plaintiff.

COUNTERCLAIMS: The Defendant may also assert counterclaims (counter suit) against the Plaintiff if the claim arises out of the same circumstances or transactions as the Plaintiff's claim. Generally the defendant has 30 days to file the counterclaim after receiving the Plaintiff's complaint. The counterclaim will be served upon the Plaintiff with a Counterclaim Answer form and instructions.

DEFAULTS: If a Defendant does not answer the complaint within the 30-day period the Plaintiff may receive default Judgement. A default hearing will be after the 30-day answer period has ended. The plaintiff must still prove the amount of the claim. After testimony the court may limit recovery to a lesser amount.

TRIAL IN ABSENCE: If the Plaintiff does not appear on the day of trial, the action is usually dismissed. If the Defendant does not appear on trial date, the Plaintiff may proceed with testimony and a Judgement may be issued. Either party may ask the case be reopened with good cause proven within 5 days of the trial date.

TRIALS: Trial dates are usually scheduled 45 to 75 days after the time for filing answers has ended. Jury trials are usually 6 to 9 months after written request.

POST TRIAL: A motion for a new trial must be made in writing within 5 days after notice of the judgement.

APPEALS: An appeal must be filed in writing within 30 days from the notification of the decision of the court. The appeal form can be obtained from the magistrate office, to be filed with the clerk of court's office within the same 30 days. Then a copy of the notice of appeal must be served on the magistrate court within the same 30 day and the opposing party.

EVIDENCE: At trial each party must be prepared to present, as well as, provide copies of any documents to court and other party that the presenting party intends to use at trial. Original documents are usually the best evidence. Written or notarized statements by a witness are not good evidence. These persons need to be at trial. The court may issue subpoenas for certain witnesses. There is a fee for this procedure.

SERVICE: The magistrate's court does not deliver (serve) your complaint. The Summons and Complaint is served by the Sheriff Dept. Questions regarding service should be directed to the court clerk. The court will mail notice of service or a service problem when the Complaint is returned. **Do not contact Sheriff Dept. for status on a case or status of a case.**

SETTLEMENTS: After service of the action, the Plaintiff and Defendant may agree on a money payment to end the action. If that amount is paid before the trial date the Plaintiff is obligated to notify the court that the action has ended. If the money payment cannot be finished before trial the parties may agree to have the court enter a written Order at the trial time; both parties need to appear at that time.

JUDGEMENTS: If the court issues a written judgement in the action, upon payment the prevailing party is obligated to file a Satisfaction of Judgement form. If the judgement is unpaid the court will issue a Transcript of Judgement which may be filed with the Hampton County Clerk of Court office and will be on record for 10 years and draw interest at a statutory rate. Again if the judgement is paid a satisfaction form needs to be filed.

CORPORATIONS: If you are representing a plaintiff or defendant corporation and are not an attorney the authority of that business must file a Non-Attorney Authorization form. This form must be filed with the Complaint or Answer. Please ask the court clerk for a form or use the form located in this civil process section-form title- NON-ATTORNEY AUTHORIZATION

Hampton County Magistrate
P.O. Box 1299
411 Cemetery Rd.
Varnville, SC 29944
(803)943-7511 phone
(803)943-7557 fax

HOURS
8:30am – 4:30pm
Monday – Friday

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HAMPTON)
)
 _____)
 PLANTIFF)
 _____)
 STREET ADDRESS)
 _____)
 CITY STATE ZIP CODE)
 _____)
 TELEPHONE)
 VS.)
 _____)
 DEFENDANT(S))
 _____)
 STREET ADDRESS)
 _____)
 CITY STATE ZIP CODE)
 _____)
 TELEPHONE)

 CIVIL CASE NUMBER

 IN THE MAGISTRATE'S COURT

 COMPLAINT

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

1. I believe the defendant, _____, is a resident of _____ County, and resides at _____, SC 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)

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

PLANTIFF(S)

STREET ADDRESS

CITY STATE ZIP CODE
PHONE # _____

AFFIDAVIT AND ITEMIZATION
OF ACCOUNTS

-VS-

DEFENDANT(S).

STREET ADDRESS

CITY STATE ZIP CODE

Plaintiff, _____, personally appearing 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

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL	\$ _____

(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 _____, _____

Magistrate or Notary Public for South Carolina

My Commission expires _____

PLAINTIFF (or his attorney)

State of South Carolina)
 County of Hampton)
)
)

IN THE MAGISTRATE’S COURT

Authorization for
 Non-Lawyer Representation

I, the undersigned, as _____ of _____,
 (Relationship to business) (Name of Business)

authorize _____ who is an Officer – Employee – Agent
 (Name of Representative) (Circle One)

as a non-lawyer to represent this business in civil actions for Magistrate’s Court in HAMPTON COUNTY, South Carolina. I acknowledge that the business is legally bound by all actions undertaken by the representative during the course of the representation, as well as to any judgment of the Court obtained there from. I further acknowledge that it is my responsibility to notify the Court of any change in the status of this authorization.

Sworn to and Subscribed

Before me this _____ day of _____, 20_____

 Signature

 Name (Printed)

 Magistrate or Notary Public for
 South Carolina

 Business Name and Address

My Commission Expires: _____

If an Agent, explain nature of relationship: _____
 If Eviction action, Real Estate License # : _____

NOTE: Please refer to SC Code of Laws, 1976 as amended, 40-5-10 to 380 appropriate SC Supreme Court Orders. The practice of law in SC without a license or an exemption is a crime.

Any person bringing or defending a civil action in the Hampton County Magistrate’s Court System who is representing another person or business entity must file with each Magistrate’s Court or each individual case in the County’s Civil Court an authorization for non-lawyer representation. The forms are available at the various Magistrate’s Courts.

Non-attorneys practicing law without authorization or exemption may be referred to the SC Attorney General’s Office, SC Supreme Court or other appropriate authority for investigation.

Examples would include: 1) Persons preparing actions and/or appearing to represent any business entity upon Summons and Complaint or Claim and Delivery action; 2) Persons appearing to represent individual or business entity landlords (see Landlord/Tenant and Real Estate Acts for exemptions and requirements); and 3) Persons filing for Public Sales for repaired or stored items under section 29-15-10 and sequence.

General Exemptions: Persons representing themselves; Proprietorship (the owner); Partnership (any general partner). There are no exemptions for corporations (LLC, LLP, PA).