



APPEALS FROM MAGISTRATE'S COURT

This guide covers the basics. It does not refer to every applicable rule or address every possible situation, only some of the most common. Copies of some forms are attached and others can be found on the Judicial Department's website at <http://www.sccourts.org/forms/>.

OVERVIEW

If you disagree with the Magistrate's decision in your case, you generally have the right to appeal within 30 days. This 30 days starts as soon as you are notified of the decision either verbally or in writing.

Note: If the Magistrate announces her decision at a hearing where you are present, this counts as notification and your 30 days starts immediately!

Your appeal needs to be filed in **both** the Magistrate's court that made the decision you are appealing and in the Circuit Court for the County where the Magistrate's Court is located.

You will also need to send a copy of your appeal to the opposing party in your case.

Tip: The opposing party's name and address are usually on the Application for Ejectment they filed in Magistrate's Court.

All of these things need to happen within 30 days.

WHAT TO INCLUDE IN YOUR APPEAL

You will need to explain in your appeal why you think the Magistrate's decision was wrong. It is best to point out specific mistakes that you believe the Magistrate made in applying the law or in deciding the facts.

FILING FEES

The fee to file an appeal in Circuit Court is \$150.00. You will need to pay this fee when you file your appeal. If you can't afford to pay this fee, you can ask for it to be waived by filing a Motion and Affidavit to Proceed *In Forma Pauperis*. A judge will have to decide whether to grant your request.

APPEALING AN EVICTION

If you are appealing an eviction case, you may need to file your appeal quickly to avoid being evicted before your appeal is decided. You can ask for your eviction to be delayed while your appeal is pending. To do this, you will need to file, along with your appeal, a statement, called a "Bond," promising to pay any rent that comes due after the Magistrate's decision. If you are more than 5 days late with any payment, your appeal may be dismissed and you may be evicted.

STATE OF SOUTH CAROLINA)	_____
)	COMMON PLEAS CASE NUMBER
COUNTY OF _____)	_____
)	MAGISTRATE CIVIL CASE NUMBER
_____)	
APPELLANT(S))	IN THE COURT OF COMMON PLEAS
VS.)	NOTICE OF CIVIL APPEAL
_____)	
RESPONDENT(S))	

The plaintiff/defendant (circle one), _____ hereby gives notice of appeal from the judgment of the magistrate's 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 _____, 2_____.

The appellant's exceptions to the judgment of the magistrate are set forth as follows:

Dated: _____

Appellant (or his attorney)

STATE OF SOUTH CAROLINA,)
)
 COUNTY OF _____)
)
 _____)
 Plaintiff)
)
 vs.)
)
 _____)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 _____ JUDICIAL CIRCUIT

**MOTION AND AFFIDAVIT TO
 PROCEED IN FORMA PAUPERIS**

FILE NO. _____

I, _____ being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me)
 this _____ day of _____, 20____)
)
 _____)
 Notary Public for South Carolina)
)
 My Commission expires _____)

 Signature of Plaintiff or
 Person Filing Complaint on Behalf of
 Plaintiff

ORDER

- Leave is *granted* to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is *denied* to proceed in forma pauperis.

Dated: _____, 20____
 _____, South Carolina
 JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

STATE OF SOUTH CAROLINA
COUNTY OF _____

Plaintiff/Landlord,

vs.

Defendant/Tenant.

IN THE COURT OF COMMON PLEAS
_____ JUDICIAL CIRCUIT

COMMON PLEAS CASE NUMBER

MAGISTRATE CIVIL CASE NUMBER

**BOND TO STAY EVICTION ON
APPEAL**

S.C. Code § 27-40-800(b)

Now comes the tenant in the above entitled action and respectfully shows the court that a judgment of ejectment was issued against the tenant and for the landlord on _____ (date) by the magistrate. Tenant has appealed the judgment to the circuit court.

The tenant is obligated to pay rent in the amount of \$_____ per _____ (week/month/etc.) due on the _____ day of each _____ (week/month/etc.).

Tenant hereby undertakes to pay the periodic rent hereinafter due and moves the circuit court to stay execution on the judgment for ejectment until this matter is heard on appeal and decided by the circuit court.

Date: _____

Tenant

Upon execution of the above bond, execution on the judgment of ejectment is hereby stayed until the action is heard on appeal and decided by the circuit court. If Tenant fails to make any rental payment within five days of the due date, upon application of the landlord, the stay of execution shall dissolve, the appeal by the tenant to the circuit court on issued dealing with possession must be dismissed, and the sheriff may dispossess the tenant.

Date: _____

Judge or Clerk