

Summons & Complaint

Magistrate courts are courts of law. You may file a civil lawsuit in magistrate court if you believe that you or your property have been injured or damaged and the amount of that injury or damage is \$7,500 or less. You may file a lawsuit of this type in one of the magistrate courts in Lexington County if the individual you are bringing the lawsuit against is a resident of Lexington County. You may file a lawsuit against a corporation or other business entity in one of the magistrate courts of Lexington County if that company does business in Lexington County. A lawsuit for a money judgment is started by the filing of a complaint with the court. You must pay a filing fee when you file the complaint. Personnel in each court will explain the procedure and help you prepare papers related to your lawsuit if it is determined that such help is necessary. Neither the magistrate nor court personnel, however, will give you legal advice on your claim.

The Judgment

After the trial, judgment will be entered in favor of the winning party. If the winning party is awarded a money judgment, the losing party may satisfy the judgment by paying the amount of the judgment plus the awarded court costs (and interest and attorney fees if provided by statute or contract) to the winning party. Since a magistrate cannot punish a party for failing to pay a judgment, the party seeking relief must resort to other procedures for collection.

The magistrate court will provide the prevailing party with a transcript of judgment after the trial. This transcript should be filed immediately with the Clerk of the Circuit Court. The Clerk of Court's Office for Lexington County is located at the Lexington County Judicial Center, 205 East Main St., Lexington, SC 29072. A filing fee of ten (\$10.00) dollars will be charged by the Clerk of Court's Office for this service. This fee will have already been added to the amount of the judgment on the transcript. Once the transcript is filed, the judgment becomes one of record and will be enforceable for ten (10) years from the date of the judgment. Upon filing with the Clerk of Court, the judgment automatically creates a lien upon the real estate of the judgment debtor situated in the county in which the transcript is filed for a period of ten (10) years from the date of the judgment. Filing the transcript in the Clerk of Court's office does not create a lien on the personal property of the judgment debtor unless and until it is levied upon by way of execution.

Execution is defined as the remedy afforded by law for the enforcement and accomplishment of the terms of a judgment. An execution must be filed in the Clerk of Court's Office. It directs the Sheriff to take the non-exempt personal property and real estate of the judgment debtor, sell it at a public auction, and pay the money made on the sale to the winning party to satisfy the judgment.

Judgments draw interest in the amount of twelve (12%) percent a year, unless another rate is agreed upon by contract. (§34-31-20) It is the winning party's responsibility to make sure that the proper amount of interest is calculated and collected prior to indicating the judgment satisfied in the Clerk of Court's Office. You may wish to contact an attorney about this procedure.

The judgment creditor should keep in mind that other creditors might have priority on the judgment debtor's assets by reason of judgments or liens obtained earlier. Also, a lot of the judgment debtor's property is exempt from execution by law. Section 15-41-30 of the South Carolina Code of Laws specifies the property that is protected (exempted) from execution.

If the judgment debtor fails, within sixty (60) days to satisfy a judgment in a cause of action arising out of a motor vehicle accident, the South Carolina Department of Public Safety will suspend the judgment debtor's license and registration, and any non-resident operating privilege, upon receipt of a certified copy of the transcript of judgment from the Clerk of Court. (§56-9-430) The transcript should be sent to the following address:

South Carolina Department of Public Safety
Financial Responsibility Division
P.O. Box 1498
Columbia, SC 29216

There may be other remedies available for the collection of a judgment. If you encounter difficulty collecting a judgment, we highly recommend that you seek the assistance of a qualified attorney.