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HENRY MCMASTER
ATTORNEY GENERAL

July 6, 2006

Lovee M. Watts, Staff Attorney
South Carolina Court Administration
1015 Sumter Street, Suite 200
Columbia, South Carolina 29201

Dear Ms. Watts:

In a letter to this office the question was raised as to the jurisdiction of a magistrate when hearing an interpleader action where the defendant/buyer and defendant/seller are not located in the same county and/or state where the plaintiff/realtor is located. As explained by you, interpleader is

> ...an equitable remedy in which a person, who owes or is in possession of money or property in which he disclaims any title or interest but which is claimed by two or more persons, prays that the claimants be compelled to state their several claims so that the court may adjudge to whom the matter or thing in controversy belongs.

S.C. Code Ann. § 22-3-25(A) states that

> [i]n compliance with Section 22-3-20(2) and Article 11 of this chapter, actions in the nature of interpleader arising from real estate contracts for the recovery of earnest money, in which the value of the money that is the subject of the action does not exceed the jurisdictional limit of the magistrates court, may be filed in magistrates court under the provisions of this section....

The jurisdictional limit of a magistrate's court action is seven thousand five hundred dollars. See: S.C. Code Ann. § 22-3-10. As indicated by you, Section 22-3-25 is

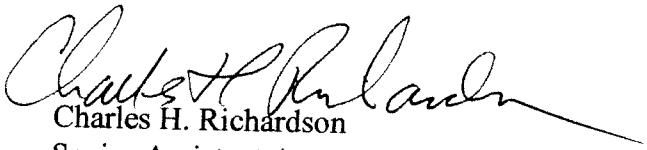
> ...narrowly drawn so that the only interpleader actions available in magistrate's court is where a real estate broker (plaintiff) is unable to determine whether the buyer or seller (defendant) is entitled to the return of earnest money. The real estate broker asks the court to accept the money, dismiss him/her from the case, and allow the buyer and seller to plead their case to the court.

Ernest Lifter

As to your question of the jurisdiction of a magistrate to hear an interpleader action when the defendant/buyer and defendant/seller are not located in the same county where the plaintiff/realtor is located, pursuant to Rule 4 of the Magistrate's Court Rules, "[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...." I am unaware of any court decisions in this State responsive to your question. However, in my opinion, consistent with Rule 4, the interpleader action could be filed in the county in which at least one of the defendants reside. If both of the defendants reside out of state, I am unaware of any authority for the matter to be brought before a magistrate in this State.

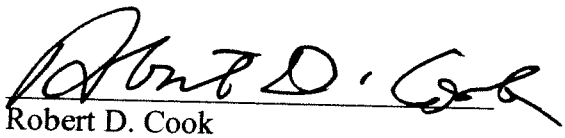
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General