

The State of South Carolina



Office of the Attorney General

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ATTORNEY GENERAL

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July 19, 1990

The Honorable Thomas Kemmerlin, Jr.
Master In Equity of Beaufort County
1407 King Street
Beaufort, South Carolina 29902

Dear Judge Kemmerlin:

By your letter of May 28, 1990, you have requested the opinion of this Office as to whether a particular newspaper circulated in Beaufort County might be designated as the "one newspaper most likely to give notice" in the event that service by publication is necessary, pursuant to Section 15-9-740 of the South Carolina Code of Laws (1976). One newspaper, the "Beaufort Gazette," is published daily; it has a paid subscription list of about 8,800 and once a week distributes about 18,000 free papers. Another newspaper, the "Lowcountry Ledger," is published weekly; it has a paid subscription list of about 2,500 and distributes about 5,500 free copies weekly. You have also provided other information about the two newspapers.

Section 15-9-740 provides in relevant part, as to publication of a summons:

The order of publication shall direct the publication to be made in one newspaper, to be designated by the officer before whom the application is made, most likely to give notice to the person to be served and for such length of time as may be deemed reasonable not less than once a week for three weeks....

Specifically, you wish to know whether the "Lowcountry Ledger" would fit the requirements of Section 15-9-740 as the one newspaper "most likely to give notice" to the person(s) being served.

In an opinion of this Office dated August 19, 1977 (copy enclosed), this Office commented upon whether a legal advertisement must be placed in the one newspaper "most likely to give notice and with the greatest circulation." (Emphasis in original.) This

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opinion stated:

This Office has never expressed the opinion that the newspaper "most likely to give notice" is the newspaper with the greatest circulation, although as a practical matter this may be true. Certainly, as a minimum standard, publication should be made in a newspaper of general circulation in the county. This determination, however, must be made by "the officer before whom the application is made," and his decision would, of course, depend upon the individual facts of each case, as well as the peculiar circumstances of his locality. Therefore, this Office is unable to express an opinion as to whether in every case in Richland County, Section 15-9-740, S. C. Code of Laws, 1976, would require publication in The State rather than newspapers of general circulation such as The Star-Reporter, Osceola or Black News.

Applying this opinion to the situation posed by your letter, we would advise that you, as the officer who would be in the position to designate for publication purposes the one newspaper "most likely to give notice to the person to be served," would not be precluded from ordering that publication be made in the "Lowcountry Ledger," in the "Beaufort Gazette," or in another newspaper circulated in Beaufort County. Which newspaper would be the one most likely to provide the requisite notice would necessarily depend upon the facts and circumstances of a particular case and could be determined only on a case-by-case basis. 1/

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions

1/ Also enclosed is an opinion of this Office dated June 27, 1984, which further comments on publishing legal notices in newspapers, for additional guidance.