

1980 WL 120597 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 14, 1980

***1 Post Office Box 5757**

Hon. Irvin D. Parker
Administrator
South Carolina Department of Consumer Affairs
2221 Devine Street
Columbia, South Carolina 29250

Dear Mr. Parker:

You have requested an opinion of this Office as to various matters relating to the South Carolina Unfair Trade Practices Act and the jurisdiction of magistrate courts to hear cases arising thereunder. I herewith submit to you a brief summary of our conclusions. These conclusions are supported by the authorities cited in and the reasoning of the attached official opinion.

Question 1:

Does a South Carolina magistrate have jurisdiction to hear private actions for damages under § 39-5-140 of the South Carolina Unfair Trade Practices Act (UTPA)?

South Carolina magistrates have authority to hear private unfair trade practices actions provided the amount in controversy does not exceed the jurisdictional limitation imposed upon magistrate courts. The UTPA does not establish the court of common pleas as the exclusive forum for litigation of private causes of action brought under provisions of [CODE § 39-5-140](#).

Question 2:

In a treble damage action under [CODE § 39-5-140](#), is the jurisdiction of magistrate courts determined by the plaintiff's actual damages or the trebled amount that may be awarded?

In those cases in which a willful and knowing violation of the UTPA is alleged and treble damages are sought, the amount in controversy is the total damages sought. Therefore, if treble damages are sought, that amount rather than the amount of actual damages sustained is the amount in controversy.

Question 3:

Are attorneys' fees as authorized by [CODE § 39-5-140](#) included in the jurisdictional amount limitations established for magistrate courts?

The UTPA provides that reasonable attorneys' fees and costs shall be awarded successful parties initiating an action under the UTPA. In view of the statutory authorization for the award of attorneys' fees, such fees should be considered as costs and therefore be excluded from the jurisdictional amount in magistrate courts.

You will find enclosed a detailed official opinion which sets forth our basis for the conclusions stated above. If you have further questions, do not hesitate to contact me.

With kind regards,

W. Joseph Isaacs
Assistant Attorney General

1980 WL 120597 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.