

1980 WL 120764 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 8, 1980

*1 Mr. John Patrick
Assistant Director
South Carolina Court Administration
P. O. Box 11788
Columbia, South Carolina 29211

Dear John:

In a letter to this office, you raised several questions concerning the appropriate fees to be charged by a magistrate for handling a landlord-tenant action. You specifically referenced [Section 8-21-1010\(9\), Code of Laws of South Carolina](#), 1976, as amended, which provides that a magistrate shall collect:

‘For proceedings by a landlord or lessor against a tenant or lessee, including notices to quit, eviction orders or recovery of rents, five dollars’,

and [Section 8-21-1060\(4\), Code of Laws of South Carolina](#), 1976, as amended, which provides that a magistrate shall collect: ‘For serving a summons, rule, order or notice by a magistrate in a civil action, five dollars plus mileage.’

You indicated that there is some inconsistency from magistrate to magistrate as to the appropriate fees to be charged in these landlord-tenant matters. You indicated that some magistrates charge \$5.00 for the issuance of each paper in a particular action, while other magistrates interpret the statute as only permitting a single charge of \$5.00 for the issuances of all papers relating to an action. In addition, some magistrates require a service charge of \$5.00 plus mileage for each paper if such paper is served at a separate time, while other magistrates require only a five dollar charge for the service of all papers regardless of whether or not the papers were served simultaneously. You referenced particularly an action for eviction where a Rule to Show Cause is first served with a warrant of ejectment later being issued if a tenant does not vacate or appear at the hearing which is held pursuant to the Rule.

In the opinion of this Office, pursuant to [Section 8-21-1010\(9\)](#), a magistrate should collect a five dollar fee initially upon handling a particular landlord-tenant matter and such fee would cover all papers issued relating to that particular action. It would appear to be improper for a magistrate to charge \$5.00 for the issuance of each paper related to a particular action even if such papers are issued for the same action at various times.

As to your question concerning when the service charge of \$5.00 plus mileage permitted by [Section 8-21-1060\(4\)](#), supra., should be collected, i.e., whether such fee should be collected each time a paper is served at a separate time or whether such fee covers the service of all papers related to the same action whether or not they are served simultaneously, reference is made to a previous opinion of this office dated August 31, 1979. Such opinion states that while:

‘. . . a single charge of \$5.00 plus mileage is to be collected for the service of all papers concerning a particular civil action when the service of such papers is accomplished at a single time . . . an additional \$5.00 plus mileage cost should be collected to cover . . . (any) . . . additional service inasmuch as an additional act of serving such papers is required.’

*2 In a separate question, you indicated that typically a landlord will institute an action for ejectment as well as an action for collection of rent by distraint, commencing the action for distraint simultaneously or at a later date. Referencing such, you questioned the appropriate fees to be charged in such situations. In the opinion of this Office, a \$5.00 fee should be collected by a magistrate for handling each action regardless of whether the actions commence simultaneously or at a later date. The above responses provided to your other questions would also be applicable to any questions concerning fees to be charged for such separate actions.

If there is anything further, please do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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