

1978 WL 35068 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 30, 1978

\*1 Neal Forney  
Assistant Director  
South Carolina Court Administration  
South Carolina Supreme Court  
Columbia, South Carolina 29201

Dear Mr. Forney:

You have requested an opinion concerning the following question:

Must a civil action in the magistrate court be brought in the county in which the defendant resides?

Former Art. V, § 23 of the pre-1973 Constitution required that a civil action in magistrate's court be brought in the county in which the defendant resides. This provision is no longer in the Constitution, thereby giving rise to the present question.

Nevertheless, Title 15 of the Code applies to all civil actions, and §§ 15-7-10, 15-7-20, and 15-7-30 impose certain mandatory venue requirements. In general, actions involving land are to be tried in the county in which the land is situated and practically all other actions must be tried in the county in which the defendant resides. Accordingly, it is the opinion of this office that it remains the general rule that the defendant's residence, or the location of land in a real property case, determines where the case will be tried. In specific cases, reference should be made to the aforementioned code sections. Sincerely yours,

Kenneth P. Woodington  
Assistant Attorney General

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