

SOUTH CAROLINA BAR

# The judicial system



## **MAGISTRATE'S COURT**

Magistrate's court, sometimes referred to as small claims court, hears civil and criminal cases. Magistrates are appointed by the governor and have the authority to hear civil cases involving claims up to \$7,500. In some cases, such as landlord-tenant disputes, the claims can be more than \$7,500. A magistrate's court case will come to trial more quickly than it would in circuit court. Magistrates also have the authority to hear criminal cases for offenses subject to fines of \$500 or less plus assessments or imprisonment of 30 days or less. Magistrates commonly hear cases involving traffic violations and other minor offenses. They set bail, conduct preliminary hearings and issue arrest and search warrants. Appeals from magistrate's court are heard by circuit court.

## **MUNICIPAL COURT**

Not all cities have municipal courts, which have criminal jurisdiction over all offenses and municipal ordinances subject to fines of \$200 or less or imprisonment of 30 days or less. Municipal judges are selected

by the council of the municipality for no more than four years. Appeals from municipal court are heard by circuit court.

## **FAMILY COURT**

Family court is the only court that hears domestic dispute cases. The family court grants divorces, distributes property between the husband and wife and sets alimony. It also determines custody, orders child support, sets visitation, terminates parental rights and finalizes adoptions. The family court hears paternity disputes and holds emergency hearings in abuse and neglect cases. The family court has the power to hear most criminal cases involving juveniles under 17. However, serious criminal charges may be transferred to circuit court where the juvenile will be tried as an adult. There are no jury trials in family court. Family court judges are elected by the legislature to six year terms. Appeals from the family court are heard by the Court of Appeals.

## **PROBATE COURT**

Probate court has authority

over the property of a person who dies with or without a will. The probate judge makes sure the proper procedures for distributing the property and paying any creditors are followed. This authority includes deciding who inherits the property if someone contests a will. Probate court protects people under age 18 by approving certain lawsuit settlements. It also helps protect people who cannot protect themselves because of mental or serious physical illness. If someone is suffering from mental illness, probate court has the authority to commit them to a mental hospital. Probate court also issues marriage licenses and approves settlements involved in wrongful death and survival actions. Only limited jury trials are available in probate court. Therefore, some cases involving at least \$5,000 can be sent to circuit court. Probate judges are elected by voters to four year terms. Appeals from probate court are to circuit court.

### **MASTER-IN-EQUITY**

Masters, who are appointed by

the governor for terms of six years in counties with 100,000 residents, may be full-time or part-time and are paid by the county. Masters have jurisdiction in equity matters referred by the circuit court. They have the power and authority of the circuit court, sitting without a jury, to regulate all proceedings in every hearing before them. Cases decided by masters may be appealed to the circuit court or the Court of Appeals, depending on where the parties had agreed to appeal.

### **WORKERS' COMPENSATION COMMISSION**

The Commission has the power to hear disputes concerning coverage under the Workers' Compensation Act. The Act, covering most employees, covers medical bills from work-related injuries and provides compensation for time lost from work. Generally, no hearing is necessary. When a dispute arises, however, a commissioner hears the case. Either party may then appeal to the full commission. Afterwards, an appeal is to the circuit court.

## **ADMINISTRATIVE LAW COURT**

The Administrative Law Court was created to hear cases from various state departments and commissions, including cases from professional and occupational licensing boards or commissions within the Department of Labor, Licensing and Regulation. Judges in the Administrative Law Court are elected by the legislature to five year terms. Appeals are to circuit court.

## **CIRCUIT COURT**

The circuit court has the broadest powers of all South Carolina courts. Most lawsuits are heard by a circuit court judge. Civil lawsuits are heard in the common pleas division. Criminal lawsuits are heard in the general sessions division. The circuit court also hears appeals from probate court, magistrate's court, municipal court, the Workers' Compensation Commission and the Administrative Law Court. Some cases filed in the common pleas division, such as boundary disputes, may be sent to a master-

in-equity if the parties agree to do so. Generally, no jury is available after the case is transferred. Circuit court judges are elected by the legislature to six year terms. Appeals from the circuit court are heard by the Court of Appeals.

## **COURT OF APPEALS**

The Court of Appeals hears appeals from the Administrative Law Court, family court, circuit court and sometimes masters-in-equity. Instead of one judge, a case is argued to a panel of three judges. The Court of Appeals focuses on certain legal issues; a party does not get to try a case again. A person must write a brief discussing any problem with the lower court's decision. The judges then read the briefs and transcripts of earlier hearings and review any exhibits. Sometimes, the judges will ask for a short oral argument from the parties involved. After a decision is made, the judges send an opinion to

the parties explaining the reasons for the decision. Generally, the Court of Appeals either affirms or reverses and remands the decision of the original court. If the decision is reversed and remanded, the parties must usually try the case again in the original court.

The Court of Appeals consists of a chief judge and eight associate judges who are elected by the legislature to six year terms.

## **SUPREME COURT**

The Supreme Court is the state's highest court and hears appeals from the Court of Appeals. The Court does not hear all of the cases it is asked to hear. If the Court decides to hear a case, the parties must follow the same procedure used by the Court of Appeals. The Court hears

some appeals directly from circuit court, such as death penalty cases and cases involving the constitutionality of a state statute. If a case was originally filed in a federal court, that court may ask the Supreme Court to answer specific questions based on South Carolina law. In limited situations, an order from the Court will be reviewed by the U.S. Supreme Court. The Supreme Court is composed of a Chief Justice and four Justices who are elected by the General Assembly for terms of 10 years. The terms are staggered, and a justice may be re-elected to any number of terms. The Court also is the rule-making authority for the unified judicial system, and it controls the admission to practice law and discipline of lawyers.

## **General information:**

### **South Carolina Bar Lawyer Referral Service**

If you need a lawyer, contact the South Carolina Bar Lawyer Referral Service from 9 a.m. to 5 p.m. Monday through Friday. Call 1-800-868-2284; if you are in Richland or Lexington Counties, call 799-7100.

### **Additional Legal Tips Available**

To access answers to frequently asked questions on other legal issues, visit the South Carolina Bar's LawLine online at [www.scbar.org/public/lawline.asp](http://www.scbar.org/public/lawline.asp)

Provided as a public service of the



P.O. Box 608 | Columbia, SC 29202  
(803) 799-6653 | Fax: (803) 799-4118  
[www.scbar.org](http://www.scbar.org)

Copyright ©2006 South Carolina Bar  
Printed 2006