

1980 WL 120924 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 14, 1980

*1 Mr. John Patrick
Assistant Director
S.C. Court Administration
P. O. Box 11788
Columbia, SC 29211

Dear John:

In a letter to this Office you asked whether any costs are to be charged by a clerk of court pursuant to [Section 8-21-310, Code of Laws of South Carolina, 1976](#), as amended, for the docketing of a civil appeal from magistrate's court. You referenced that pursuant to [Section 8-21-1010\(8\), Code of Laws of South Carolina, 1976](#), as amended, a magistrate is to collect and deposit with the county 'for making up, certifying and forwarding a transcript of record and judgment in a case for purpose of appeal, ten dollars (\$10.00)'.

In an opinion dated June 19, 1980, this Office determined that pursuant to [Section 8-21-310\(11\)\(a\)](#), clerks of court are to collect fifteen dollars (\$15.00) for the docketing of a civil appeal from a magistrate's court in their office. As to the manner of collecting such fee, inasmuch as [Section 18-7-40, Code of Laws of South Carolina, 1976](#), states that generally the notice of appeal from a civil case in a magistrate's court is to be served on the magistrate and upon the attorney for the respondent or on the respondent, but makes no requirement that the appeal be docketed with the clerk's office in all instances, and pursuant to [Section 18-7-60, Code of Laws of South Carolina, 1976](#), the magistrate makes the return to the appeal and files it in the appellate court, it is recommended that generally the attorney representing the appellant or the appellant should at the time of noting their intention to appeal file a copy of the notice with the clerk's office. At this time, the fifteen dollar (\$15.00) charge could be collected. Obviously, this is only a recommendation inasmuch as there is no absolute statutory requirement that the clerk of court be given notice of the appeal. As to those situations where such notice is not provided the clerk, it appears that the clerk upon receiving notice of the appeal, presumably at the time the magistrate files the return, would bill the appellant for the costs owed.

If there are any questions concerning the above, please do not hesitate to contact me.

With best wishes, I am

Sincerely,

Charles H. Richardson
Assistant Attorney General

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