

1979 WL 43199 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 6, 1979

\*1 Honorable R. Carey Werner  
Greenville County Magistrate  
303 Randall Street  
Greer, South Carolina 29651

Dear Magistrate Werner:

In a letter to this Office you raised a question as to whether a claim and delivery action could be initiated in a magistrate's court under the following circumstances:

A plaintiff has sold a motor vehicle for \$3,000. The defendant has paid the mortgage and note down to \$1,000. The plaintiff comes before the court requesting a claim and delivery action and is prepared to post a bond in order to have the vehicle picked up prior to a preseizure hearing.

You further stated that you are referencing a situation where the value of the item remains at three thousand dollars at the time the claim and delivery is sought.

As referenced by [Section 22-3-1320, Code of Laws of South Carolina](#), 1976, before process can be issued in a claim and delivery action, the plaintiff must by affidavit show among other things the actual value of the personal property claimed. [Section 22-3-10, Code of Laws of South Carolina](#), 1976, as amended by Act No. 164 of 1979, states that magistrates have civil jurisdiction.

‘(11) in actions to recover the possession of personal property claimed, the value of which, as stated in the affidavit of the plaintiff, his agent or attorney, shall not exceed the sum of one thousand dollars;’

Therefore, as to your particular situation, where the value of an item is three thousand dollars, inasmuch as such amount exceeds the magistrate's jurisdiction, a magistrate would be without authority to initiate a claim and delivery action to recover such property. Since a magistrate lacks jurisdiction to recover such an item by means of a claim and delivery action, a response to your question concerning the amount of a bond required for such an item appears unnecessary.

If there are any further questions, please contact me.

Sincerely,

Charles H. Richardson  
Assistant Attorney General

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