

(SEE INSTRUCTIONS ON SIDE TWO)

File No.

STATE OF NORTH CAROLINA

In The General Court Of Justice
Superior Court Division
Before The Clerk

_____ County

Name And Address Of Petitioner(s)

PETITION TO RECOVER DISPUTED MONIES

G.S. 93A-12

County Of Residence Of Petitioner(s)

Telephone No.

Name And Address Of Respondent(s)

Name And Address Of Attorney For Petitioner(s)

County Of Residence Of Respondent(s)

Telephone No.

Telephone No. Of Petitioner(s) Attorney

State Bar No.

The undersigned, being duly sworn, requests that the Court, after notice and hearing, determine rightful ownership of certain disputed monies previously deposited with the Court pursuant to G.S. 93A-12. Petitioner further requests that the Court issue an order awarding and distributing said disputed monies to Petitioner. In support of said request, Petitioner states:

1. Petitioner and Respondent entered into a contract on or about (date) _____ for the purchase and sale of real property located in _____ County at (insert property address): _____. A copy of said contract (the "Contract") is attached to this Petition as Exhibit A.
2. Pursuant to the Contract, the sum of \$ _____ was deposited as earnest money ("Earnest Money") with _____ ("Escrow Agent") who is a
 North Carolina licensed real estate broker. North Carolina licensed attorney.
3. A dispute has arisen between Petitioner and Respondent with respect to the return or forfeiture of the Earnest Money, as a result of which the Escrow Agent has deposited the Earnest Money with the Court. Petitioner is entitled to an order awarding and distributing the Earnest Money to the Petitioner for the following reason(s) (attach additional page(s) if necessary):

VERIFICATION

The undersigned Petitioner has read this Petition and states that its contents are true to the knowledge of Petitioner except those matters stated on information and belief, which Petitioner believes are true.

SWORN/AFFIRMED TO AND SUBSCRIBED BEFORE ME

Date

Date

Signature Of Person Authorized To Administer Oaths

Signature Of Petitioner

Deputy CSC

Assistant CSC

Clerk Of Superior Court

Signature Of Petitioner

Notary

Date My Commission Expires

SEAL

County Where Notarized

**INSTRUCTIONS TO PETITIONER OR RESPONDENT
(PETITION TO RECOVER DISPUTED MONIES, FORM AOC-SP-261)**

1. The Petitioner must file the petition in the county where the Clerk of Court is holding the disputed monies. If no Petition is filed within one (1) year the Clerk of Court will escheat the monies to the State.
2. The Petitioner must show the complete name and address of the Respondent to ensure service on the Respondent. If there are two respondents and they reside at different addresses, the Petitioner must include both addresses. If the respondent is an entity other than an individual (*such as a corporation, limited liability company, etc.*), the Petitioner must file the petition in the complete legal name of the entity.
3. The Petitioner must attach a copy of the real estate contract to the Petition.
4. The Petitioner may serve the respondent by mailing a copy of the summons and petition by registered or certified mail, return receipt requested, addressed to the party to be served or by paying the costs to have the sheriff serve the summons and petition. If certified or registered mail is used, the Petitioner must immediately prepare and file a sworn statement with the Clerk of Court proving service by certified mail and must attach to that statement the postal receipt showing that the letter was accepted.
5. The Petitioner must pay advance court costs for a special proceeding at the time of filing this petition. In the event that judgment is entered in favor of the Petitioner, court costs may be charged against the Respondent if so ordered by the court.
6. The Respondent may file a written response in the office of the Clerk of Court making claim to the disputed monies. The Respondent must send a copy of the response to the Petitioner's attorney or, if there is no attorney of record, the copy must be sent directly to the Petitioner. This response should be filed within 10 days after service of the Petition on the Respondent. The filing of a response does not relieve the Respondent of the need to appear before the Clerk of Court to assert the Respondent's claim to the disputed monies.
7. Whether or not a response is filed, the Petitioner must appear before the Clerk of Court to assert the Petitioner's claim to the disputed monies.
8. The Petitioner or the Respondent may appeal the Clerk's decision in this case. To appeal, notice must be given in open court when the judgment is rendered, or notice may be given in writing to the Clerk of Court within ten (10) days after the judgment is rendered. If notice is given in writing, the appealing party must also serve written notice of appeal on all other parties.
9. **The Clerk of Court cannot give you legal advice about your case or assist you in completing this form. This form is designed to cover common disputes about the return or forfeiture of earnest money deposits in real estate sales transactions. If you have any questions about your case, or about completing or using this form, you should contact an attorney.**