

Magistrate Court Rules

RULE 1-DEFINITIONS

"Amendment" means making a change in a complaint, answer, or counterclaim.

"Answer" means the paper filed by the party responding to the complaint.

"Complaint" means the paper containing the claim filed by the plaintiff.

"Counterclaim" means the paper containing a claim by a defendant against a plaintiff.

"Court" means the judge of the magistrates court.

"Default" means failure to respond to the complaint or failure to appear at trial.

"Defendant" means the party against whom the plaintiff has filed a complaint.

"Execution" means enforcement of the judgment.

"Judgment" means the decision of the court on the case.

"Party" means either a plaintiff or a defendant.

"Plaintiff" means the party filing the complaint.

"Subpoena" means an order of the court requiring a witness to attend and testify at a specified place and time.

"Summons" means the paper issued by the court which orders the defendant to respond to the complaint.

"Working day" means a day which is not a Saturday, Sunday, or legal holiday under state or federal law.

RULE 2-APPLICATION OF STATUTORY LAW AND CIRCUIT COURT PRACTICE IN ABSENCE OF RULE

These rules shall govern all civil suits in the magistrates court. If no procedure is provided by these rules, the court shall proceed in a manner consistent with the statutory law applicable to magistrates and with circuit court practice in similar situations but not inconsistent with these rules.

RULE 3-COMPUTATION OF TIME PERIODS

In computing any period of time prescribed or allowed by these rules, by order of the court, or by any applicable statute, the day of the act, event, or default after which the designated period begins to run is not to be included. The last day of the period so computed is to be included in the period unless it is not a working day, in which event the period runs until the end of the next day which is a working day. When the period of time prescribed or allowed is less than seven days, Saturdays, Sundays, and holidays shall be excluded in the computation. A half holiday shall be construed as a working day.

RULE 4-FILING CIVIL ACTION; ACTION AGAINST CORPORATION; LONG ARM STATUTE

(a) A civil action may be filed in any magistrates court in the county in which at least one defendant resides or where the most substantial part of the cause of action arose, except that civil actions against domestic corporations may be filed in the county where such corporation shall have its principal place of business.

(b) A civil action may be filed in any magistrates court in the county in which the plaintiff resides or where the cause of action arose when the defendant does not reside in this State and jurisdiction is based upon S.C. Code Ann. § 36-2-803.

RULE 5-COMPLAINT

(a) A suit is commenced by filing with the magistrates court a short and plain written statement of the facts showing what the plaintiff claims and why the claim is made. Provided, however, upon a personal appearance, the plaintiff may make an oral statement which shall be reduced to writing. The court or court personnel shall assist the plaintiff in reducing the statement to writing if the court

determines assistance is required. This statement shall be called a complaint. A plaintiff may combine as many claims as the plaintiff has against a defendant in one case and may sue more than one defendant in one case if the claim involves all of the defendants.

(b) The plaintiff shall state on the complaint the address to which the court may mail notices and correspondence concerning the case. If the plaintiff's mailing address changes, the plaintiff must advise the court in writing. The court may notify the plaintiff of all proceedings incident to the case by mailing the notice by regular mail to the plaintiff at the address provided.

(c) A plaintiff who desires to file an action without costs shall file a motion for leave to proceed in forma pauperis, together with the complaint proposed to be filed and an affidavit showing the plaintiff's inability to pay the fee required to file the action. If the motion is granted, the plaintiff may proceed without further application and file the complaint in the court without payment of filing fees.

RULE 6-SUMMONS; SERVICE

(a) Upon the filing of the complaint and a copy with any attachments for each defendant, the court shall issue a summons. A copy of the original summons, along with a copy of the complaint and any attachments, shall be served on each defendant.

(b) The summons shall contain the name of the State and county, the name of the court, the file number of the action, and the names of the parties, be directed to the defendant, and shall state the time within which these rules require the defendant to file an answer and any counterclaim, and shall notify the defendant that in case of failure to do so, judgment by default will be rendered against the defendant for the relief demanded in the complaint.

(c) Service of the summons may be made by the sheriff, the sheriff's deputy, a magistrate's constable, or by any other person not less than eighteen (18) years of age, who is not an attorney in or a party to the action. Service of all other process shall be made by the sheriff or the sheriff's deputy, a magistrate's constable, or any other duly constituted law enforcement officer, or by any person designated by the court who is not less than eighteen (18) years of age and who is not an attorney in or a party to the action.

(d) The summons and complaint must be served together. The plaintiff shall furnish the person making service with as many copies as are necessary. Voluntary appearance made by the defendant is equivalent to personal service. Service shall be made as follows:

(1) Individuals. Upon an individual other than a minor under the age of fourteen (14) years or an incompetent person, by delivering a copy of the summons and complaint to the individual personally or by leaving copies of the summons and complaint at the individual's dwelling house or usual place of abode with a resident of suitable age and discretion, or by delivering a copy to an agent authorized by appointment or by law to receive service of process.

(2) Minors and Incompetents. Upon a minor under the age of fourteen (14) years, a person judicially declared incapable of conducting the person's own affairs, or an incompetent person, by delivering a copy of the summons and complaint to the minor or incompetent person personally and also a copy to (a) the person's guardian or committee or, if there is no guardian or committee within the State, upon (b) a parent or other person having care and control of the person, or (c) any competent person with whom the person resides or (d) by whom the person is employed. If the individual upon whom service is made is a minor between the ages of fourteen (14) and eighteen (18) who lives with a parent or guardian, a copy of the summons and complaint shall also be served upon the parent or guardian if

the parent or guardian resides within the State. Service on persons confined shall also conform to the provisions of S.C. Code Ann. § 15-9-510.

(3) Corporations and Partnerships. Upon a corporation, a partnership, or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process, and if the agent is one authorized by statute to receive service and the statute requires it, by also mailing a copy to the defendant.

(4) Governmental Subdivision. Upon a municipal corporation, county, or other governmental or political subdivision subject to suit in the magistrates court, by delivering a copy of the summons and complaint to the governmental subdivision's chief executive officer or clerk, or by serving the summons and complaint in the manner prescribed by statute for the service of summons and complaint or any similar process upon this type of defendant.

(5) Statutory Service. Service upon a defendant of any class referred to in paragraph (d)(1) or (d)(3) of this rule is also sufficient if the summons and complaint are served in the manner prescribed by statute.

(6) Service by Certified Mail. Service of a summons, complaint, and any appropriate attachments upon a defendant of any class referred to in paragraph (d)(1) or (d)(3) of this rule may be made by certified mail, return receipt requested and delivery restricted to the addressee. Service is effective upon the date of delivery as shown on the return receipt. Service pursuant to this paragraph shall not be the basis for the entry of a default judgment unless the record contains a return receipt showing the acceptance by the defendant. Any default judgment shall be set aside pursuant to Rule 12 if the defendant demonstrates to the court that the return receipt was signed by an unauthorized person. If delivery is refused or is returned undelivered, service shall be made as otherwise provided by these rules.

(7) Service by Commercial Delivery Service. Service of a summons, complaint, and any appropriate attachments upon a defendant of any class referred to in paragraph (d)(1) or (d)(3) of this subdivision of this rule may be made by a commercial delivery service which meets the requirements to be considered a designated delivery service in accordance with 26 U.S.C. § 7502(f)(2). Service is effective upon the date of delivery as shown in the delivery record of the commercial delivery service. Service pursuant to this paragraph shall not be the basis for the entry of a default judgment unless the record contains a delivery record showing the acceptance by the defendant, which includes an original signature or electronic image of the signature of the person served. Any default judgment shall be set aside pursuant to Rule 12 if the defendant demonstrates to the court that the delivery record was signed by an unauthorized person. If delivery of the process is refused or is returned undelivered, service shall be made as otherwise provided by these rules.

(e) Same: Other Service. Whenever a statute or an order of the court provides for service of a summons and complaint, or an order upon a party not an inhabitant or found within the county of the court's jurisdiction, service shall be made under the circumstance and in the manner prescribed by the statute, rule, or order.

(f) Territorial Limits of Effective Service. All process other than a subpoena may be served anywhere within the territorial limits of the State and, when a statute so provides, beyond the territorial limits of the State. A subpoena may be served within the county of the court's jurisdiction. Nothing in this subdivision is meant to extend the jurisdiction of the magistrates court beyond the limits otherwise established by law.

(g) Proof and Return. The person serving the process shall promptly make proof of service and deliver it to the court. If served by the sheriff, the sheriff's deputy, or a magistrate's constable, proof of service shall be made by certificate. If served by any other person, the person shall make an affidavit of service. If served by publication, the printer or publisher shall make an affidavit of publication, and an affidavit of mailing shall be made to the party or the party's attorney if mailing of process is permitted or required by law. Failure to make proof of service does not affect the validity of service. The proof of service shall state the date, time, and place of service and a description of the person actually served. If service was by mail, the person serving process shall show in the proof of service the date and place of mailing, and attach a copy of the return receipt or the returned envelope showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also show proof of any further service on the defendant pursuant to paragraph (d)(6) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed with the court with the pleadings and become a part of the record. If service was by commercial delivery service, the person initiating the service of process shall make an affidavit identifying the process or other documents served and shall attach to the affidavit a delivery record of the commercial delivery service which shall contain the date, time, and place of delivery, the name of the person served, and include an original signature or electronic image of the signature of the person served. The affidavit and delivery record and any other proof shall be promptly filed with the court with the pleadings and become a part of the record.

(h) Proof of Service Outside the State. When the service is made outside of the State, the proof of service may be made by affidavit before:

- (1) Any person in this State authorized to make an affidavit;
- (2) A commissioner of deeds for this State;
- (3) A notary public who shall affix to the proof of service an official seal;
- (4) A clerk of court of record who shall certify the same by an official seal; or,
- (5) If made outside the limits of the United States, a consul, vice-consul, or consular agent of the United States who shall use in the certificate an official seal.

(i) Amendment. At any time in its discretion and upon terms it deems just, the court may, by written order, allow any process or proof of service to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

(j) Acceptance of Service. No other proof of service shall be required when acceptance of service is acknowledged in writing and signed by the person served or the person's attorney and delivered to the court. The acknowledgement shall state the place and date service is accepted.

(k) Dismissal of Summons and Complaint. Subject to the provisions of any statute, rule, or order, a magistrate may dismiss a summons and complaint against any or all defendants without prejudice to the plaintiff if service of process cannot be obtained within one hundred twenty (120) days of the filing of the complaint.

RULE 7-ANSWER AND COUNTERCLAIM; TIME FOR FILING

(a) The defendant may reply to the plaintiff's complaint by filing a written statement in a form approved by the magistrate or by personally appearing and making an oral statement. This reply shall be called an "answer." If the defendant personally appears within the specified time period and makes an oral answer, it shall be reduced to writing. The court or court personnel shall assist the defendant in reducing the answer to writing if the court determines assistance is required. The defendant's answer may deny in total or in part any or all of the material allegations made in the plaintiff's

complaint, and/or allege any new matter constituting a defense. The court shall deliver a copy of the answer to the plaintiff in a manner provided for in Rule 8.

(b) A defendant shall file an answer and any appropriate counterclaims with the court within thirty (30) days from the first day after the date of service. When service is by some other means, as provided for in Rule 6, the defendant shall file the answer and any appropriate counterclaims with the court within the time period designated by the statute, rule, or order, and the time period shall be stated in the summons.

RULE 8-DELIVERY AND FILING OF PLEADINGS AND OTHER PAPERS

(a) Delivery: When required. Every order, pleading after the original summons and complaint, written motion, written notice, appearance, demand, offer of judgment, or similar documents shall be delivered to each of the parties unless otherwise ordered by the court.

(b) Same: How Made. Whenever under these rules delivery of documents is required to be made upon a party represented by an attorney, delivery of the documents shall be made to the attorney unless otherwise ordered by the court. Delivery of a document to a party shall be made by delivering it to that party or by mailing it to the party's last known address or, if no address is known, by filing it with the court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the office of the attorney or the party with a clerk or other person in charge of the office; or, if there is no one in charge, leaving it at the party's usual place of abode with a resident of suitable age and discretion; or mailing it to the last known address of that party. Delivery by mail of all pleadings and papers after service of the original summons and complaint is complete upon mailing.

(c) Service or Delivery on Sunday. Civil process may be served on Sundays, provided that no person may be served going to or from or attending a regularly or specially scheduled church or religious service on Sunday.

RULE 9-COUNTERCLAIM

(a) At any time within the time period specified in these rules for answering the complaint, the defendant may assert a counterclaim which grows out of the same transaction or occurrence as the plaintiff's claim by filing a written statement in a form approved by the magistrate or by personally appearing and making an oral statement. If the defendant personally appears within the specified time period and makes an oral counterclaim, it shall be reduced to writing. The court or court personnel shall assist the defendant in reducing the counterclaim to writing if the court determines assistance is required. The counterclaim shall be delivered to the plaintiff by the court in a manner provided for in Rule 8. The claims contained in the counterclaim shall be deemed denied by the plaintiff and no answer or reply is required to be filed by the plaintiff in response to a counterclaim filed by the defendant.

(b) The defendant in a counterclaim may waive the excess of the claim over the jurisdictional maximum to bring it within the jurisdiction of the magistrates court. If the defendant elects to waive a portion of the counterclaim, a separate action for the remainder of the claim may not be maintained. If the defendant does not waive the excess, the entire action shall be transferred to the circuit court of the county to be considered and tried as if the action had been originally filed in the circuit court as provided for in Rule 13(j), SCRCP.

RULE 10-TRIAL DATE; NOTICE; FAILURE TO ANSWER

(a) Upon the filing of an answer by the defendant, the magistrate shall set the date of trial and deliver notice of the trial date to both parties in a manner provided for in Rule 8.

(b) If the defendant has failed to answer within the time period specified by these rules, the magistrate shall set a hearing date and shall deliver notice of the hearing date to both parties in a manner provided for in Rule 8 when the hearing is necessary for the entering of a default judgment in a manner consistent with Rule 11. At the default hearing, the defendant may participate only by cross-examining witnesses and objecting to evidence.

RULE 11-DEFAULT JUDGMENT; DISMISSAL OF ACTION; DAMAGES

(a) If the defendant does not answer the complaint within the time period specified by these rules or answers within the specified time period but fails to appear at the time set for trial, judgment may be given for the plaintiff by default if the amount of the claim is liquidated. If the claim is unliquidated, and the defendant fails to answer within the time period specified by these rules or answers within the specified time period but then fails to appear at the time set for trial, judgment may be given to the plaintiff by default as in the case of liquidated claims if (1) the plaintiff itemizes the account and attaches an affidavit that it is true and correct and that no part of the sum sued for has been paid by discount or otherwise and (2) a copy of the account and affidavit was served with the summons on the defendant. In all other cases when the defendant fails to appear or answer, the plaintiff cannot recover without proving damages.

(b) If the plaintiff does not appear at trial, or if neither the plaintiff nor the defendant appears at the time and place specified for trial, the court may enter an order dismissing the action.

(c) If the defendant has filed a counterclaim against the plaintiff and the plaintiff fails to appear at the time set for trial, judgment may be given for the defendant by default if the claim is liquidated. If the claim is unliquidated, and the plaintiff fails to appear at the time set for trial, judgment may be given to the defendant by default as in the case of liquidated demands if (1) the defendant itemizes the account and attaches an affidavit that it is true and correct and that no part of the sum sued for has been paid by discount or otherwise and (2) a copy of the account and affidavit is filed with the answer and is delivered to the plaintiff as provided for in Rule 8. In all other cases when the plaintiff fails to appear, the defendant cannot recover on a counterclaim without proving damages.

(d) If a default hearing is conducted at the time set for trial because either the plaintiff or the defendant failed to appear, no further notice need be given of the default hearing, provided both parties were properly delivered notice of the time set for trial in a manner provided for in Rule 8.

(e) For good cause shown, the court may set aside a default or a default judgment in accordance with Rule 12.

RULE 12-RELIEF FROM JUDGMENT OR ORDER

(a) Clerical mistakes and errors arising from oversight or omission in judgments, orders, or other parts of the record may be corrected by the court at any time of its own initiative or on the motion of any party and after any notice that the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court.

(b) On motion and upon terms that are just, the court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 19; (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3), not

more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of the court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. During the pendency of an appeal, leave to make the motion must be obtained from the appellate court. The procedure for obtaining any relief from judgment shall be by motion as prescribed in these rules, by appeal, or by an independent action.

RULE 13-CONDUCT OF TRIAL; JURY TRIALS; WITNESSES; SUBPOENAS

(a) Trials should be conducted in an informal manner and the South Carolina Rules of Evidence shall apply but shall be relaxed in the interest of justice. In the trial of a civil action, in which one or both parties are unrepresented by legal counsel, the court shall question the parties and witnesses in order to assure that all claims and defenses are fully presented.

(b) Notice of the fact that court personnel will explain to all parties the procedure of the magistrates court and will assist them, if such assistance is required, to fill out all forms that may be necessary or appropriate shall be conspicuously posted in the magistrates office in the following form:

NOTICE TO ALL PARTIES IN CIVIL ACTIONS

THIS OFFICE WILL EXPLAIN THE PROCEDURE OF THE COURT, AND WILL HELP YOU PREPARE PAPERS RELATED TO YOUR ACTION, IF THE COURT DETERMINES SUCH HELP IS REQUIRED.

(c) If either party wants a jury trial, it must be requested in writing at least five (5) working days prior to the original date set for trial.

(d) All testimony shall be given under oath or affirmation.

(e) The court shall have the power to issue subpoenas to compel the attendance of witnesses. The court may issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of a court in which the attorney is authorized to practice.

RULE 14-AMENDMENT OF COMPLAINTS, ANSWERS, AND COUNTERCLAIMS; CONTINUANCES

The court shall be lenient in the allowance of changes or amendments to complaints, answers, and counterclaims, and in granting continuances of trials for good cause shown when necessary to serve the ends of justice. However, except in unusual circumstances, no party shall be allowed more than one continuance in any case and all continuances must have the specific approval of the court. Continuances shall be for as short a period as possible, and, where feasible, the wishes of the party not requesting the continuance shall be considered in scheduling a new hearing date. Raising a claim, defense, or counterclaim for the first time at trial shall constitute grounds for a continuance when necessary to serve the ends of justice.

RULE 15-EXCHANGE OF INFORMATION BETWEEN PARTIES; SETTLEMENT

(a) Recognizing the unique nature of the court's jurisdiction and the need for a speedy determination of actions filed in the court, the prompt voluntary exchange of information and documents by parties prior to trial is encouraged, but in no event shall the court require such exchange.

(b) The court, with both parties present, shall confer with the parties before any trial whenever it appears that a conference might simplify the issues, shorten the trial, or lead to a voluntary exchange of information which might promote settlement. The court in its discretion may order that a list of exhibits a party intends to offer into evidence at the trial be furnished to the opposing party and/or that the opposing party be given a reasonable opportunity to copy or examine the exhibits.

RULE 16-DIRECTED VERDICT; JUDGMENT NOTWITHSTANDING THE VERDICT

(a) At the close of evidence offered by a party, if the case presents only questions of law, the court may direct a verdict on its own motion or on motion of either party. The order of the court granting a directed verdict is effective without any assent of a jury.

(b) If, at the close of all the evidence, a directed verdict is not granted, the court is deemed to have submitted the action to the jury subject to a later determination of the legal questions raised during the trial of the case if the case is being tried before a jury. If a jury verdict is returned, the court may allow the judgment to stand or may reopen the judgment and either order a new trial or direct the entry of judgment as if a directed verdict had been granted. A jury verdict is final if no motion for a new trial or judgment notwithstanding the verdict is filed with the court within ten (10) days of the rendering of the jury verdict and the court has not on its own motion ordered a new trial or directed a verdict notwithstanding the jury verdict. However, in cases involving landlords and tenants under Chapters 37 and 40, Title 27 of the South Carolina Code, a jury verdict is final if no motion for a new trial or judgment notwithstanding the verdict is filed with the court within five (5) days of the rendering of the jury verdict and the court has not on its own motion ordered a new trial or directed a verdict notwithstanding the jury verdict.

RULE 17-COSTS; NOTICE OF JUDGMENT; ENFORCEMENT

(a) The party recovering judgment shall also recover those costs provided for by law, which shall not be included when determining the jurisdictional amount of the court.

(b) The court shall deliver written notice of judgment to all parties or their attorneys using the procedure described in Rule 8, except that no written notice need be delivered to a party if the judgment is announced at the trial in the presence of that party or the party's attorney.

(c) The process to enforce a judgment for the payment of money shall be by writ of execution and shall be conducted as provided by law.

(d) Upon payment in full, the judgment creditor shall file a statement of collection with the magistrates court and with the Clerk of the Circuit Court, if the judgment had been previously filed with the Clerk of the Circuit Court.

RULE 18-APPEALS

(a) All appeals of judgments rendered by the magistrates court shall be to the circuit court of the county where the judgment was rendered. Within thirty (30) days after delivery of written notice of judgment to the parties or their attorneys, a party wishing to appeal shall serve on the respondent and file a notice of appeal containing a statement of the grounds for appeal with the magistrate rendering the judgment and with the Circuit Court of the County where the judgment was rendered. If the judgment is announced at the trial in the presence of the parties or their attorneys, the notice of appeal shall be served and filed within thirty (30) days of the date the judgment is announced. At the time of the filing of the notice of appeal, the appropriate filing fee shall be paid by the appellant to the clerk of the circuit court to which the appeal is taken, unless a motion for leave to proceed in forma pauperis and an affidavit showing the appellant's inability to pay the fee required to appeal the action

accompanies the filing of the notice of appeal. The right of appeal from a judgment exists for thirty (30) days after the denial of a motion for a new trial.

(b) Within thirty (30) days of the date of filing of the notice of appeal with the Circuit Court, the magistrate shall file the return to the notice of appeal with the Clerk of the Circuit Court for the county wherein the judgment was rendered, together with the record, a statement of all proceedings in the case, and, if necessary, the testimony taken at trial. Upon motion for good cause shown, the Circuit Court may allow a definite extension of time in which to file the return.

(c) Pursuant to Rule 75, SCRCP, upon receipt of the magistrate's return, the clerk of the Circuit Court to which the appeal is taken shall give notice in writing to the parties that the return has been filed.

RULE 19-NEW TRIAL; AMENDMENT OF JUDGMENTS

(a) A new trial may be granted to all or any of the parties and on all or part of the issues for any of the reasons for which new trials previously have been granted in the courts of this state. On motion for a new trial in an action tried without a jury, the court may open the judgment, if one has been entered, may take additional testimony, may amend findings of fact and conclusions of law, may make new findings and conclusions, and may direct the entry of a new judgment.

(b) The motion for a new trial shall be made in writing and filed with the court no later than ten (10) days after notice of the judgment. However, a motion for a new trial in cases involving landlords and tenants under Chapters 37 and 40, Title 27 of the South Carolina Code, must be filed within five (5) days after notice of the judgment. The court shall notify all opposing parties that the motion has been filed and shall provide those parties a copy of the motion in a manner provided for in Rule 8.

(c) Not later than ten (10) days after entry of judgment, the court, on its own initiative, may order a new trial for any reason for which it might have granted a new trial on motion of a party. However, the court may order a new trial under this paragraph not later than five (5) days after entry of judgment in cases involving landlords and tenants under Chapters 37 and 40, Title 27 of the South Carolina Code. After giving the parties notice and an opportunity to be heard on the matter, the court may grant a motion for a new trial, timely served, for a reason not stated in the motion. In either case, the court shall specify in the order the grounds for granting a new trial.

(d) A motion to alter or amend the judgment shall be filed no later than ten (10) days after notice of the judgment, except that in cases involving landlords and tenants under Chapters 37 and 40, Title 27 of the South Carolina Code, the motion shall be filed no later than five (5) days after notice of the judgment. The court shall notify all opposing parties that the motion has been filed and shall provide those parties a copy of the motion in a manner provided for in Rule 8.

(e) Except by consent of the parties, argument on a motion for a new trial or to alter or amend the judgment shall be heard by the magistrate before whom the trial was held. However, the motion may, in the discretion of the court, be decided on briefs filed by the parties without oral argument.

RULE 20-OFFER OF JUDGMENT; CONSEQUENCES OF NON-ACCEPTANCE

(a) Offer of Judgment. No later than ten (10) days prior to trial, either party may serve upon the adverse party an offer to allow judgment to be taken against the party for the money or property or to the effect specified in the offer with costs accrued to the date of the offer. If, within ten (10) days after service of the offer, or at least five (5) days prior to the trial date, whichever date is earlier, the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service, and the court shall enter judgment. An offer that

is not accepted shall be deemed rejected and evidence of the offer is not admissible except in a proceeding to determine costs.

(b) Consequences of Non-Acceptance. If an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall recover from the offeree: (1) any administrative, filing, or other court costs from the date of the offer until the entry of the judgment; (2) if the offeror is a plaintiff, eight percent interest computed on the amount of the verdict or award from the date of the offer to the entry of judgment; or (3) if the offeror is a defendant, reduction from the judgment or award of eight percent interest computed on the amount of the verdict or award from the date of the offer to the entry of the judgment.

(c) This rule shall not abrogate the contractual rights of any party concerning the recovery of attorney's fees or other monies in accordance with the provision of any written contract between the parties to the action.

RULE 21-BUSINESS REPRESENTATION

A business, as defined by S.C. Code Ann. § 33-1-103, may be represented in a civil magistrates court proceeding by a non-lawyer officer, agent, or employee, including attorneys licensed in other jurisdictions and those possessing Limited Certificates of Admission pursuant to Rule 405, SCACR. The representation may be compensated and shall be undertaken at the business's option and with the understanding that the business assumes the risk of any problems incurred as the result of the representation. The court shall require a written authorization from the entity's president, chairperson, general partner, owner, or chief executive officer, or in the case of a person possessing a Limited Certificate, a copy of that certificate, before permitting the representation.

RULE 22-ARGUMENTS ON MOTIONS AND AT TRIAL

The moving party upon a motion shall have the right, at that party's option, to both open and close argument, and the plaintiff shall have the option to have the right to open and close argument upon the trial; except that a party admitting the adverse party's claim in his pleading, and taking upon him the burden of proof, shall have the same privilege. The party having the right to open shall be required to open in full, and in reply may respond in full but may not introduce any new matter.

RULE 23-SUBPOENAS

(a) Any magistrate, on the application of any party to a cause pending in the magistrates court, shall issue a subpoena citing any person whose testimony may be required in the cause to appear and give evidence. The Court may issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney as officer of the court may also issue and sign a subpoena on behalf of a court in which the attorney is authorized to practice. Every subpoena shall state the name of the court, and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place specified.

(b) A subpoena may be served by the sheriff of any county in which the witness may be found, by the sheriff's deputy, by a constable of the court, or by any other person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena upon a person named in the subpoena shall be made as provided by Rule 6 and Rule 8 (c).

(c) No subpoena shall require a witness to appear in any proceeding not held within the county where that witness resides.

(d) Failure by any person without adequate excuse to obey a subpoena served upon the person may be deemed in contempt of court from which the subpoena issued.

(e) A witness subpoenaed to attend a proceeding under these rules shall receive for each day's attendance and for the time necessarily occupied in going to and returning from the proceeding \$25.00 per day and mileage in the same amount as provided by law for official travel of State officers and employees.

(f) In case it shall appear to the satisfaction of any magistrate that the attendance of any witness whose testimony may be required in any case pending before the magistrate cannot be had because of just cause for the witness' absence, extreme age, sickness or infirmity, or when the witness does not reside in the county of the court's jurisdiction, the magistrate may take the examination of such witness or cause it to be done by another magistrate or other officer authorized by law to administer oaths, to be used in evidence on the trial of the case. All parties to the cause shall have notice of the examination so that they may examine or cross-examine the witness. When the examination is made by another, it shall be recorded and sealed, with the title of the case endorsed, and conveyed by a disinterested person to the magistrate authorizing it or mailed postage prepaid to that magistrate.