Select Topics in South Carolina Civil Procedure

Friday, November 8, 2019

presented by
The South Carolina Bar
Continuing Legal Education Division

http://www.scbar.org/CLE

SC Supreme Court Commission on CLE Course No. 198230
Select Topics in South Carolina Civil Procedure
Friday, November 8, 2019

This program qualifies for 6.0 MCLE; 1.0 LEPR
SC Supreme Commission on CLE Course #198230

8:30 a.m.  Registration

8:55 a.m.  Welcome and Opening Remarks

9:00 a.m.  Book Overview
Prof. James F. Flanagan
University of South Carolina School of Law

9:15 a.m.  Civil Procedure Rules Update & Changes Since the Last Edition
Prof. Colin Miller
University of South Carolina School of Law
John S. Nichols
Office of Disciplinary Counsel
Prof. Joel H. Samuels
University of South Carolina School of Law

10:15 a.m.  Break

10:30 a.m.  E-Filing
Jason M. Bobertz
South Carolina Supreme Court

11:30 a.m.  E-Discovery
Lucile H. Cohen
Nelson Mullins Riley & Scarborough, LLP

12:15 p.m.  Lunch (on your own)

1:30 p.m.  The Theoretical Foundations of the Rules of Civil Procedure; Applied in Real Cases with Real People
Justice John C. Few
South Carolina Supreme Court

2:15 p.m.  View from the Bench-Panel Discussion
Hon. Huntley S. Crouch
South Carolina Family Court
Hon. Brian M. Gibbons
South Carolina Circuit Court
Hon. Aphrodite K. Konduros
South Carolina Court of Appeals

3:30 p.m.  Break

3:45 p.m.  Ethics for Civil Litigators
Dean Robert M. Wilcox
University of South Carolina School of Law

4:45 p.m.  Adjourn
Select Topics in South Carolina Civil Procedure

SPEAKER BIOGRAPHIES
(by order of presentation)

Professor James F. Flanagan
University of South Carolina School of Law

Professor Flanagan is Distinguished Emeritus Professor of Federal Practice, and the co-author (with Dean Harry Lightsey) of the first edition of South Carolina Civil Procedure in 1985, and the second and third editions, and a co-author of the fourth edition. He served as Reporter for the South Carolina Supreme Court in the revision of the civil rules in 1985, and as a member of the Court’s Rules Committee for many years. He was the reporter for the Rules for the S.C. Administrative Court. During this career he also served on many bar committees involving the courts and procedure and frequently spoke at CLEs. He taught civil procedure, evidence and remedies at the law school before retiring in 2013.

Professor Colin Miller
University of South Carolina School of Law

Colin Miller is a Professor of Law at the University of South Carolina School of Law. Previously, he served as a professor at The John Marshall Law School and a visiting professor at the William and Mary Law School. Professor Miller is the creator and Blog Editor of EvidenceProf Blog, which addresses recent developments in Evidence precedent, legislation, and scholarship. His areas of expertise include Evidence, Criminal Law and Procedure, and Civil Procedure. Professor Miller is a graduate of the William and Mary Law School, where he served on the William and Mary Law Review and the William and Mary Bill of Rights Journal.

John S. Nichols
Office of Disciplinary Counsel
(Course Planner)

John Nichols received a BS in mathematics from Francis Marion College in 1978 and a JD from the USC School of Law in 1985. He first worked with Rogers & Koon focusing primarily on property litigation. In 1986, the SC Court of Appeals hired John as a staff attorney, and he became chief staff counselor in 1993. John also served at times as a law clerk for Chief Judge Alex M. Sanders, Jr., Judge Randall T. Bell, and Acting Judge C. Bruce Littlejohn. From 1996 until 2000, John worked with Suggs & Kelly, primarily on pharmaceutical mass tort litigation around the country. In 2000, John and Marti Bluestein founded Bluestein & Nichols which is now Bluestein Thompson & Sullivan. John’s primary focus was on appellate practice, general tort litigation and representing attorneys
before the Office of Disciplinary Counsel. In 2017, the Supreme Court of SC appointed John to serve as Disciplinary Counsel and he took over the office in January 2018.

John is admitted to practice in South Carolina's state and federal courts as well as the United States Courts of Appeals for the Fourth Circuit, the Eleventh Circuit and the Federal Circuit, the United States Court of Appeals for Veterans Claims, and the Supreme Court of the United States.

From 2003 to 2018, John served on the SC Board of Law Examiners by Supreme Court appointment. In 2012 Governor Nikki Haley appointed John to the SC Commission on Indigent Defense and was reappointed by Governor Henry McMaster. From 2013 to 2017 John served as special counsel to the SC House Ethics Committee and the SC Senate Ethics Committee.

John has spoken at seminars for a number of groups, including the SC Bar, the SC Judicial Branch, SCAJ/SCTLA, the SCIWA, the SCDTAA, the SC Public Defenders Association, and the SC Prosecution Commission. He served on the Education Committee for the ABA's Council of Appellate Staff Attorneys and assisted the SC Judicial Branch in developing orientation seminars for new members of the SC Appellate Court, Circuit Court and Family Court as well as for attorneys employed by the Judicial Branch.

John has also authored, co-authored or edited several books and other publications for the SC Bar or Thomson Reuters (West). From 1995 through 2000, John served as editor of "What's New," the case summaries prepared by law professors for the South Carolina Lawyer magazine (SC Bar). He also served on the South Carolina Lawyer magazine's Editorial Board, serving as Editor-in-Chief from 2004 through 2006. John also served as editor of "The Bulletin," the magazine for the SCAJ.

John serves on USC's "B-Ball - Coaches versus Cancer" committee and is an officer with the Columbia USC Tip-Off Club. He enjoys painting, playing guitar, traveling and hiking with his wife, Michelle, and spending time with daughter, Beth, and grandson, Max.

Professor Joel H. Samuels
University of South Carolina School of Law

Joel H. Samuels is Professor of Law and Director of the Rule of Law Collaborative at the University of South Carolina. Professor Samuels has authored articles on international boundary disputes, maritime piracy and domestic civil procedure, and he is a lead co-author of one of the premier casebooks on international law, Transnational Law (West Academic Press). Professor Samuels also lectures extensively on litigation matters involving foreign parties involved in cases in U.S. courts.

As Director of the Rule of Law Collaborative, he oversees programming focused on rule of law development across the globe. In addition, he regularly lectures to U.S. Government officials from the State Department, the U.S. Agency for International Development, the Department of Justice and the Department of Defense on rule of law development abroad.

Honored by the USC School of Law student body in 2007 and 2016 as the Outstanding Faculty Member for teaching excellence, Professor Samuels received his A.B., magna cum laude, in politics from Princeton University in 1994. At Princeton, he also received certificates in Russian Studies
and European Cultural Studies and was awarded the Asher Hinds Prize in European Cultural Studies, the Montgomery Raiser Prize in Russian Studies, and the Caroline Picard Prize in Politics. Professor Samuels received his J.D., cum laude, from the University of Michigan Law School in 1999, where he was a Clarence Darrow Scholar. While at Michigan, he also earned a master’s degree in Russian and East European Studies.

Following law school, Professor Samuels clerked for Judge Barry Ted Moskowitz of the Southern District of California. After completing his clerkship, he practiced law with Covington & Burling in Washington, D.C., where he was involved in a wide range of international litigation matters, including several international arbitration cases at the International Centre for the Settlement of Investment Disputes (ICSID), litigation in U.S. courts involving the Alien Tort Claims Act, and the ad hoc arbitration of the Eritrea-Ethiopia boundary dispute.

In 2001, Professor Samuels left private practice and accepted a position as a Visiting Assistant Professor at the University of Michigan Law School. At Michigan, he taught Civil Procedure, Transnational Law, International Litigation and International Arbitration. In his first full year of teaching, he was nominated for the L. Hart Wright award for teaching excellence — the only visiting faculty member to be so honored. He maintains an ongoing affiliation with the University of Michigan, where he regularly teaches a course on International Litigation.

Professor Samuels has also worked at the World Bank in both Washington (in the Office of the Vice President for Africa) and in Zimbabwe (at the African Capacity Building Foundation). During that time, he was a member of the World Bank team that drafted the Initiative for Capacity Building in Africa. In addition, he has been a contributor to several Russian newspapers and magazines and a variety of African publications.

Jason M. Bobertz
South Carolina Supreme Court

Jason Bobertz is a Deputy Clerk of Court for the Supreme Court of South Carolina. Among other responsibilities, Mr. Bobertz has been involved in assisting the Judicial Branch in implementing the E-Filing Pilot Program.

Mr. Bobertz has served as a Staff Attorney with the Supreme Court and as a law clerk to the Honorable John H. Waller, Jr. Mr. Bobertz was also previously an associate attorney with the Columbia law firm of Callison, Tighe, & Robinson, LLC, where he concentrated on litigation matters, including ERISA, title insurance, personal injury, and workers’ compensation.

Mr. Bobertz is a 1998 graduate of the University of Georgia, where he majored in criminal justice. He received a Juris Doctor from the University of South Carolina School of Law in 2002. Mr. Bobertz served as an adjunct legal writing professor at the University of South Carolina School of Law from 2003 to 2004, and as an adjunct professor at Midlands Technical College from 2007 to 2008, where he taught Introduction to Civil Litigation in the Paralegal Program.

Lucile H. Cohen
Nelson Mullins Riley & Scarborough, LLP

Lucie Cohen is a partner with Nelson Mullins Riley & Scarborough, LLP. She serves as discovery counsel to clients in complex litigation matters and government investigations, developing
discovery response strategies, negotiating ESI protocols and other discovery orders, and
advocation on behalf of clients regarding scope of discovery burden issues a, and culling and
search methodologies.

**Education**

University of South Carolina School of Law, JD, cum laude (2007)
- John Belton O’Neall Inn of Court
- Order of Wig and Robe
- Editor in Chief, ABA's *Real Property, Probate and Trust Journal*

College of Charleston, MS, Environmental Studies (2002)
Loyola University New Orleans, BS, Biology, Minors in Chemistry and History (1999)

**Admissions**

South Carolina
U.S. District Court for the District of South Carolina

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**Justice John C. Few**

*South Carolina Supreme Court*

John Cannon Few was born in Anderson, South Carolina. He grew up in Greenwood and graduated from Greenwood High School in 1981. He attended college at Duke University, where he served as Duke’s athletic mascot - the Blue Devil - during his junior year. John graduated from Duke in 1985 with an A.B. degree in English and Economics.

John went on to attend the University of South Carolina School of Law, where he was a member of The Order of Wig and Robe and The Order of the Coif. He also served as Student Works Editor of the South Carolina Law Review. He received his Juris Doctor degree in 1988.

John began his legal career as law clerk to The Honorable G. Ross Anderson, Jr., United States District Judge. He practiced law in Greenville from 1989 until 2000, and is admitted to practice in South Carolina, the United States District Court for the District of South Carolina, the United States Court of Appeals for the Fourth Circuit, and the Supreme Court of the United States. John served as a trial judge on the Circuit Court of South Carolina from July 2000 until February 2010. He then became the Chief Judge of the South Carolina Court of Appeals, a position he held until February 2016. John was sworn in as a Justice on the Supreme Court of South Carolina on February 9, 2016.

John is a frequent public speaker. In 1996, he gave a speech entitled "Citizen Participation in the Legal System," for which he was awarded first place in the American Bar Association's nationwide Edward R. Finch Law Day speech contest. Since then he has given numerous speeches to bar associations and civic groups throughout the country. In December 2012, he delivered the commencement speech, entitled "What it Means to be a Lawyer," to the graduates of the Charleston School of Law. In April 2016, he delivered the commencement speech to Lander University. His most frequent speech is entitled "The Courage of a Lawyer," which he has delivered to lawyers’ groups in South Carolina, North Carolina, Georgia, Florida, Arizona, and California. John
wrote an article based on the speech that appeared under the same name in the Winter 2013 edition of the ABA's "Litigation" journal.

John has also been active in teaching law. He served on the faculty at the National Judicial College in Reno, Nevada, from 2005 to 2009. He was an Adjunct Professor of Law and later a Distinguished Visiting Professor at the Charleston School of Law from 2008 to 2012. John is now an Adjunct Professor at the University of South Carolina School of Law. He has also given or moderated over one hundred and twenty-five continuing legal education seminars in South Carolina and numerous other states.

John is a Fellow in Liberty Fellowship, and as a part of Liberty Fellowship is a member of the moderator corps at The Aspen Institute. John completed the Diversity Leaders Initiative through The Riley Institute at Furman University in 2010. In December 2012, the Charleston School of Law awarded him an honorary Doctor of Laws degree.

John has always been active in community service, even outside of his primary employment in public service. Before becoming a judge, for example, he read to pre-school children on a weekly basis for years in the Greenville Head Start program, tutored middle-school children through Save our Sons, taught middle and high school classes as part of the Junior Achievement program, and served on the board of Friends of the Reedy River. While he was a circuit judge, John served on the 2003-04 Governor’s Water Law Review Committee. John now chairs the South Carolina Access to Justice Commission.

John is married to Stephanie Leonard Few, a partner in the law firm Womble Bond Dickinson, practicing in the field of economic development. They live on Daniel Island in the City of Charleston, Berkeley County. Together, they have six children. John’s daughter Reed is a 2012 graduate of Duke University with a B.S. in Economics. Reed works for Concerto HealthAI, a platform technology company focused on applications of artificial intelligence to oncology. She lives in the Williamsburg neighborhood of Brooklyn. John’s daughter Anna is a 2016 graduate of Clemson University Calhoun Honors College with a B.S. in Nursing. Anna lives in Denver where she works as a registered nurse at Rose Medical Center. His son Cannon is a senior at Boston College majoring in English. Cannon is also a recording artist performing under the name "Cannon." John is the son of J. Kendall Few of Greenville, and Belva Beasley Few of Greenwood.

Honorable Anne Gue Jones
South Carolina Family Court

Anne Gue Jones was born in Orangeburg, South Carolina. Her parents are Bert V. Gue, a retired internist, and Jeanne B. Gue, a retired nurse. She graduated from Furman University in 1987 with a Bachelor’s Degree in History. She received her Juris Doctorate from the University of South Carolina School of Law in 1990. While in law school, she served as an assistant editor of the Real Property, Probate and Trust Journal. Upon graduation, she worked for one year as a staff attorney with the SC Supreme Court before returning to Orangeburg to private practice with Bryant, Fanning and Shuler. Anne practiced law for nine years before being elected to the Family Court Bench in February 2001. Anne is a past President of the SC Conference of Family Court Judges. Anne has served in her community on the Orangeburg County Chamber of Commerce, the
Drug Free Advisory Committee for Orangeburg School District Five, past President of the Junior Service League of Orangeburg, and she currently serves as the judge for juvenile drug court for Orangeburg and Calhoun counties. She is an active member of First Baptist Church of Orangeburg, where she has served as a deacon, including as chairman of the deacons. Anne was married to the late Carl Jones, and she resides in Orangeburg with their three children.

Honorable Aphrodite K. Konduros  
South Carolina Court of Appeals

Judge Aphrodite Konduros is a member of the S.C. Court of Appeals. She currently serves as vice-chairman of the Chief Justice’s Commission of the Profession, a member of the S.C. Senate Judiciary Sentencing Reform Commission, subcommittee chairman of the Supreme Court Family Court Docketing Committee, a member of the Supreme Court E-Filing Committee, a member of the S.C. Bar’s Vulnerable Adult Task Force, and a member of the S.C. Bar Pro Bono Board. She is also the 2013 recipient of the American Board of Trial Advocates’ Jurist of the Year Award. She was elected to the Family Court in February 2002 to fill the unexpired term of the Hon. Amy C. Sutherland, retired. On February 6, 2008, Judge Konduros was elected to the S.C. Court of Appeals to finish the unexpired term of Chief Justice Donald W. Beatty. She was reelected to the S.C. Court of Appeals in 2015. She and her husband, Sam Konduros, live in Greenville and Seabrook Island, South Carolina.

Honorable Letitia H. Verdin  
South Carolina Circuit Court

Judge Verdin graduated from Furman University in 1992 with a Bachelor of Science degree in Biology and received her Juris Doctor from the University of South Carolina in 1997. While in law school, she was a member of the National Moot Court team and was named the outstanding student volunteer at the University of South Carolina.

After graduation from law school, she became an Assistant Solicitor with the Office of the 13th Circuit Solicitor, and later, the Office of the 8th Circuit Solicitor. It was during this time that she headed the Family Court unit for juvenile prosecution in both circuits. In 2000, she accepted a position as an Associate Attorney with the firm of Clarkson, Walsh, Rheney, & Turner, P.A. in Greenville, SC, practicing in the areas of governmental and general civil liability defense, criminal defense, and family law. In 2005, she returned to the Office of the 13th Circuit Solicitor where she prosecuted cases in the areas of child abuse and neglect and domestic violence.

Judge Verdin was elected to the Family Court as a resident judge in the Thirteenth Judicial Circuit in 2008. In 2011, the South Carolina Legislature elected her to the Circuit Court, Seat 2, Thirteenth Judicial Circuit.

Dean Robert M. Wilcox  
University of South Carolina School of Law

Robert M. Wilcox has served as Dean of the University of South Carolina School of Law since 2011 and has been a professor at the School of Law since 1986.
A Charleston native, Dean Wilcox earned his undergraduate degree from Duke University and his law degree from University of South Carolina in 1981. He practiced at Dow, Lohnes & Albertson in D.C. and Atlanta (now Cooley LLP) before joining the USC Law School faculty. In addition to teaching property law and wills and trust law, he has taught courses for many years in professional responsibility and has been active in developing professionalism initiatives within the school and the South Carolina Bar. From 2003-08, he served as Director of the Center on Professionalism at the School of Law, which is a national leader in lawyer mentoring initiatives.

Dean Wilcox has been a member of the South Carolina Bar since 1981. He serves currently on the South Carolina Chief Justice’s Commission on the Profession. He formerly served on the South Carolina Judicial Merit Selection Commission and the South Carolina Commission on Judicial Conduct and is a former chair of the South Carolina Bar Ethics Advisory Committee. He is a member of the John Belton O’Neall Inn of Court in Columbia.
Book Overview

Professor James F. Flanagan

No materials provided
Civil Procedure Rules Update & Changes Since the Last Edition

Professor Colin Miller
John. S. Nichols
Professor Joel H. Samuels

No materials provided
E-Filing

Jason M. Bobertz
Tips of the Week

1. **E-Filing Tip of the Week: E-Filing the Summons and Complaint**
   Did you know that you no longer have to fill out and file a Civil Action Coversheet when you E-File a summons and complaint? All of the information you would normally include in the Civil Action Coversheet will be inputted by you in the E-Filing System. Also, the summons and complaint should be saved in a single document before being converted to PDF to be E-Filed.

2. **E-Filing Tip of the Week: E-Filing Motions**
   Did you know that you no longer have to submit a Motion and Order Information Form and Coversheet when you E-File a motion? You can simply submit the motion and indicate whether you are requesting a hearing in the E-Filing System. Only use the Motion and Order Information Form and Coversheet if you wish to E-File a proposed order *without* an accompanying motion.

3. **E-Filing Tip of the Week: Electronic Signatures**
   A document or pleading prepared by an attorney, such as a summons and complaint, answer, or motion, should be electronically signed by that attorney. If you are an attorney, simply insert your typed name, i.e. "s/John Doe", and include your bar number, physical address, telephone number, and email address below your electronic signature. The document should then be converted from a word-processing format to PDF for E-Filing. However, only attorneys may use an electronic signature. Any time a document is signed by a person who is not the attorney E-Filing the document, such as certificate of service signed by a paralegal or any notarized document, that document must be hand-signed and E-Filed as a scanned PDF image.

4. **E-Filing Tip of the Week: Uploading Pleadings to the E-Filing System**
   The E-Filing System is designed to upload documents individually using specific "Actions". For example, a motion to compel generally includes the written motion to compel, a copy of the previously served discovery requests, and a certificate of service (assuming the opposing party is not an E-Filer). To E-File in this example, you would upload: (1) the motion to compel using the action "Motion/Compel"; (2) the previously served discovery requests using the action "Exhibit/Filing of Exhibits"; and (3) the certificate of service under "Service/Certificate of Service". All of these separate documents would be E-Filed simultaneously, but will appear as individual documents in the E-Filing System and on the Public Index.

5. **E-Filing Tip of the Week: Accessing Cases in the E-Filing System**
To review what filings have been made in any case in a county where E-Filing is active, we recommend you go to the "CASES" screen, enter the case number, and click the "HISTORY" button. Also, remember that in some counties, images of documents filed before E-Filing begins may not be available to view over the internet.

6. E-Filing Tip of the Week: Motions and Proposed Orders
Motions with proposed orders are treated differently in E-Filing than in traditionally filed cases. While the motion you E-File should be converted to PDF for E-Filing, the proposed order you E-File should be E-Filed in Word format. If you need to E-File a Form 4 Order, that should also be filed in Word. There is also no need to include a signature line on the proposed order, as the judge or the clerk will sign the order electronically.

7. E-Filing Tip of the Week: Cover Letters Not Necessary
In the E-Filing System, there is no need to submit a cover letter with your E-Filing. Many attorneys continue to E-File the same cover letters they use to mail documents to the clerk of court, which often state an original and a copy of a pleading are enclosed for filing, and request that the clerk file and return a clocked copy in the envelope provided. If you need to communicate with the clerk you can utilize the "Special Filing Instructions for the Clerk" text box on the Review and Approve Filing Page, or E-File a cover letter together with your E-Filing submission, but separately from your pleading, by using the Letter/Letter Action choice.

8. E-Filing Tip of the Week: Special Referees
Due to a recently discovered technical problem in the E-Filing System, orders signed and submitted by attorneys acting as special referees may NOT be E-Filed, but should be submitted by the special referee using a Traditional filing method, such as (1) submitting documents to the clerk of court directly or mailing the documents to the clerk; or (2) with advance permission of the clerk of court, via email. The Judicial Department is working on a technical solution that will solve the problem and allow special referees to E-File signed orders.

Attorneys who are special referees should continue to E-File in cases where they are counsel for a party.

9. E-Filing Tip of the Week: Proposed Orders and Signature Lines
Generally, Judges and other Court Officials electronically sign proposed orders with an electronic signature page. Therefore, when you E-File a proposed order in Microsoft Word, you should omit signature and date lines. The E-Filing system
will automatically add a page containing the E-Signature and indicating the date Judge or other appropriate Court Official signed the order.

10. **E-Filing Tip of the Week: E-Filing "Additional Parts"**
When E-Filing documents, attorneys are required to pick from a number of Actions that describe nearly all types of filings in the Court of Common Pleas. A number of E-Filers have been using the Action choice of "E-Filing/Additional Parts" to E-File certificates of service. "E-Filing/Additional Parts" is meant to be used when a document exceeds the size limits of 8 MB. See [ARG-16](#). Attorneys should use the Action choice that best represents the kind of document they are seeking to E-File. In the case of a certificate of service, "Service/Certificate of Service" should be used.

11. **E-filing Tip of the Week: Uploading Pleadings to the E-Filing Systems**
The E-Filing System is designed to upload documents individually using specific "Actions". For example, a motion to compel generally includes the written motion to compel, a copy of the previously served discovery requests, and a certificate of service (assuming the opposing party is not an E-Filer). To E-File in this example, you would upload: (1) the motion to compel using the action "Motion/Compel"; (2) the previously served discovery requests using the action "Exhibit/Filing of Exhibits"; and (3) the certificate of service under "Service/Certificate of Service". All of these separate documents would be E-Filed simultaneously, but will appear as individual documents in the E-Filing System and on the Public Index.

12. **E-Filing Tip of the Week: Do Not E-File Discovery**
The E-Filing Policies and Guidelines state the E-Filing System should not be used for the electronic exchange of discovery materials and other communications between the parties that are not intended to be filed with the court. See Section 11(a), SCEF. Therefore, discovery requests, such as interrogatories, requests for production, or requests to admit, and any responses to discovery requests should not be E-Filed. This is consistent with current circuit court practice.

13. **E-filing Tip of the Week: E-Filing Versus E-Mailing Proposed Orders**
Proposed Orders which have been specifically requested by a Judge should be e-mailed directly to the requesting Judge and should not be E-Filed. However, unsolicited orders should always be E-Filed as a Proposed Order, which allows the Clerk of Court to properly direct them for signature. This includes all routine, Administrative Orders. Before e-mailing an order directly to a judge, you should contact the judge’s clerk or assistant to find out the judge’s preferences. Also, make sure your staff always CCs the other attorneys of record with all e-mails to a judge.
14. **E-Filing Tip of the Week: Omit Signature Lines on Proposed Orders**

Generally, proposed orders must be either E-Filed or emailed directly to a judge or master-in-equity in Microsoft Word .doc or .docx format. The court official permitted to sign the proposed order—a judge, master-in-equity, or the clerk of court—will not sign the order with a Traditional Signature. Rather, the electronic signature of the court official will be inserted on a separate signature page that will be attached to the proposed order when it is electronically signed and converted to .pdf for entry in the record. Therefore, you do not need to include a signature and date line on proposed orders.

15. **E-Filing Tip of the Week: Electronic Payments and Account Encumbrances**

When you "make a payment" for an electronic filing with your credit card and receive a receipt from SCGov, it actually signifies only an encumbrance against your account. Your account will not actually be charged until your filing is accepted by the Clerk of Court. If your filing is rejected, the encumbrance will be released; however the timing of that release is at the discretion of your credit card company (much like when you reserve a hotel room in advance, and later cancel that reservation). Additionally, if your filing is partially approved, the payment will be reduced, if appropriate, to the amount actually owed to the court.

16. **E-filing Tip of the Week: Excluded Documents**

Although E-Filing is mandatory, some documents are excluded from the requirement that they be E-Filed because they cannot, for technical reasons, be E-Filed. These excluded documents are detailed in Section 2(d) of the E-Filing Policies and Guidelines and include a motion to quash a subpoena filed by or on behalf of a non-party, any document intended to be filed ex parte, and other pleadings that are filed by an individual or an entity that is not a party to the case.

**NOTE:** By Order dated October 12, 2017, the E-Filing Policies and Guidelines were amended based on a technical upgrade that allows lawyers to E-File documents on behalf of non-parties, including a motion to quash a subpoena.

17. **E-Filing Tip of the Week: Motion for Protection from a Court Appearance**

The E-Filing System has been modified to make it easier for attorneys to seek an order of protection from a court appearance. While you may still E-File a motion and proposed order in each case, you may also:
1. Send a letter and proposed order via U.S. mail to the Chief Administrative Judge for that county listing the dates of protection and all cases on which the attorney is seeking protection.

2. The Chief Administrative Judge will hand-sign the order and return it to the attorney, who can scan the order and E-File the order in each case on which protection was granted. The attorney should use the Action Type "Filing" and the Action "Order/Signed Order/Protection from Court Appearance."

18. E-Filing Tip of the Week: Proposed Orders and Combination Motion/Proposed Orders.
There are two ways to E-File a motion and proposed order granting that motion. First, you can E-File a written motion in PDF together with a proposed order in Word. The E-Filing System automatically connects any motion filing fee with the type of motion you choose.

Second, you may combine a motion and proposed order in one document. To do this, you will need to E-File the Motion Cover Sheet in PDF, and the combined motion/proposed order in Word. You should sign this motion using an electronic signature, and you may insert the electronic signature of other Authorized E-Filers in consent motions if you obtain their written permission. See Section 5(b), SCEF.

NOTE: Since this Tip was issued, the process to E-File the Cover Sheet has been changed. The Cover Sheet is now entirely electronic, and no PDF version of the Cover Sheet is required. To E-File the Cover Sheet, choose Order/Order Cover Sheet $25 and fill in the required information. The Cover Sheet will add the motion fee and route the document to a judge or clerk for a signature.

19. E-filing Tip of the Week: E-Filing on behalf of an insurance company in an uninsured (UM) or underinsured (UIM) motorist case.
If you represent an insurance company in a UM or UIM situation, you may file your answer, response, or other pleading together with an electronic action (no document upload is required) called Add Party to Case, and select the "Other Party" tab when the Add Party to Case form is displayed. This will allow you to file on behalf of the insurance carrier. For detailed instructions, please refer to attorney reference guide ARG-25, Adding Additional Parties.

20. E-Filing Tip of the Week: Accessing Electronically Served Documents
When you receive an NEF serving you with notice that a pleading or proposed order has been E- Filed in a case, you can access the E-Filed document immediately—before the Clerk of Court has reviewed the document and entered it in the record. From the E-Filing Home Page, click on "Notifications" and find the
Notification specified in the NEF you received via email. Simply click on the blue hyperlink that contains the title of the document(s), which is contained below the description of the filing that was contained in your NEF. You can then print or save a copy of the document(s) to your file.

21. **South Carolina Judicial Department E-Filing Announcement**

Effective July 20, 2016, an enhancement will be made to the E-Filing System concerning the E-Filing of Form 4 (Judgment in a Civil Case) orders that are required to be E-Filed together with proposed orders. At the request of circuit court judges, masters-in-equity, and the clerks of court, E-Filers should combine their proposed order and Form 4 order into a single Word document for E-Filing, rather than E-Filing them as two separate Word documents.

Specifically, E-Filers are asked to incorporate the Form 4 at the end of any proposed order, save the document as a single Word document, and upload the combined proposed order and Form 4 order as a single document under a number of new "Actions" that have been created for this purpose. Judges will use a single signature page to electronically sign the proposed order and the Form 4 order. Note that a Form 4 may still be E-Filed individually, if necessary, by using the action "Proposed Order/Form 4."

The new actions are:

- Proposed Master/Order for Partition and Form 4
- Proposed Master/Order for Supplemental Foreclosure & Sale and Form 4
- Proposed Master/Order for Quiet Title and Form 4
- Proposed Master/Order for Deficiency Judgment and Form 4
- Proposed Master/Order of Foreclosure & Sale and Form 4
- Proposed Order/Judgment and Form 4
- Proposed Order/Judgment Amended and Form 4
- Proposed Order/Judgment by Default and Form 4
- Special Referee/Order for Deficiency Judgment and Form 4
- Special Referee/Order of Foreclosure and Sale and Form 4

22. **Amendments to the Electronic Filing Policies and Guidelines**

By Order dated August 10, 2016, the Supreme Court has amended Section 2(d) of the E-Filing Policies and Guidelines to provide for an E-Filing exemption in cases
where a settlement is initiated as a new case by the defendant, rather than the plaintiff. For technical reasons, a defendant cannot initiate a new case. Therefore, an attorney representing a defendant and attempting to file a new case as a minor settlement or a death settlement should Traditionally file the settlement documents with the Clerk of Court (via paper).

Section 2(d) has been further amended to provide that, if an attorney is Traditionally filing a document under Section 2(d) of the Policies and Guidelines, that an attorney should also submit a Certificate of Technical Difficulty with the documents to ensure they are accepted by the clerk of court. The form has been amended to reflect this change.

23. **E-Filing Tip of the Week: Multiple Browser Windows**
Recently, several E-Filers have experienced problems when they have E-Filed pleadings with required fees in one county, and also on another case in another county nearly simultaneously. The end result is that the credit card order number attaches to the wrong filing submission.

IT Staff has determined that this issue is likely caused by the E-Filer working in multiple browser windows and E-Filing to different cases/counties nearly simultaneously within the different windows. To avoid this problem, **it is recommend that filers do not use multiple browser window sessions when E-Filing.**

24. **E-Filing Tip of the Week: Updating AIS**
The IT Help Desk is currently receiving a high volume of calls seeking assistance with password and login information for E-Filing. It appears attorneys are verifying their information in the Attorney Information System (AIS), as required to pay license fees, but failing to inform employees who E-File on their behalf that a change has been made. If you are an attorney, it is recommended that you inform those who assist you with E-Filing whenever you change your password. If you are a paralegal or other legal assistant who assists an attorney in E-Filing documents, it is recommended that you check with any attorney you assist to ensure you have current and correct information to login and E-File.

25. **E-Filing Tip of the Week: Non-Attorney User Accounts**
SCJD recognizes there has been a great deal of confusion with regard to persons requesting "Non-Attorney User Accounts" via the E-Filing system. At the present time and until further notice, the only type of non-attorney user account available in E-Filing is that of Firm Financial Manager ("FFM"). This type of account is appropriate for office managers, billing clerks, accounts receivable clerks, or other law firm personnel who may need to review credit card transactions processed via
the E-Filing System. Please be advised that this is the only functionality available to an FFM user -- FFM users may not E-File documents.

Information concerning E-Filing eligibility and registration, as well as supervised E-Filing by non-attorneys, is contained in Section 3(a) and (c) of the South Carolina Electronic Filing Policies and Guidelines.

26. **E-Filing Tip of the Week: Using My Filings and Notifications to Track Filings and View NEFs**
The best way to track the progress of a document you submitted via E-Filing is to use the My Filings tab on the home page. Each entry in My Filings will identify the case, the date submitted, the type of filing, the county, and the status of your filing. The status will indicate whether the filing is awaiting approval, has been filed or rejected, and includes a hyperlink to view more information and view a filed copy of the document.

Notices of Electronic Filing (NEFs) for documents or orders in a case are emailed to all counsel of record, and they are also stored in Notifications for ninety days. Each Notification ID will identify the filer, the case, and the type of filing, and includes a link to the document and the NEF. In the event a document is rejected by the clerk at a later time, a Retraction NEF will be issued.

Filers should also be aware that while you have no option regarding the receipt of NEFs, you may elect to NOT receive emails regarding received, approved, or rejected filings. You can change these settings by clicking My Profile under the My Profile tab, and then clicking the Modify User Profile button. By default, attorneys are set to receive all status update emails when they register for E-Filing through AIS.

27. **E-Filing Tip of the Week: Orders Hand-Signed by Judges**
In the E-Filing System, there is only one situation where an attorney may E-File an order that has been hand-signed by a judge—a Signed Order for Protection from a Court Appearance. See E-Filing Tip of the Week No. 17. In all other cases, the judge or a clerk of court must upload the hand-signed order to the E-Filing System.

The Clerks of Court have been instructed that, if an order has been hand-signed in court, a clerk who is present in the courtroom should intervene and accept the order and E-File it. However, a judge may also provide you with a hand-signed order when a clerk is not present. Again, attorneys cannot E-File the order (unless it is a signed order of protection from a court appearance). The clerks of court have been instructed that they must develop alternative procedures to handle accepting orders from attorneys that have been hand-signed by judges, such as hand-delivery, U.S.
Mail, or Email submission so that the signed order may be properly uploaded to the E-Filing System.

28. **E-Filing Tip of the Week: Error Message on Proposed Orders**
E-Filers attempting to E-File proposed orders without accompanying motions often receive an error message indicating "Error: Document - is invalid. At least one document is required per filing. Please choose a value from the list of documents." If you receive this error message, simply E-File an Electronic Order Coversheet so that any motion fee can be paid and the proposed order can be routed to a judge for a signature. The electronic version of the Order Coversheet is available under the Action titled "Order/Order Cover Sheet $25.00."

29. **E-Filing Tip of the Week: E-Filing Transcripts of Judgment**
Transcripts of Judgments from other county circuit courts, federal courts, and magistrates courts are required to be E-Filed. When E-Filing a Transcript of Judgment, you will need to initiate a new case. Choose Case Subtype 720 "Magistrate Judgment" for a magistrate judgment, and Case Subtype 740 "Transcript Judgment" for a judgment from another circuit court or the federal court. When E-Filing the actual Transcript of Judgment PDF document for a circuit court or federal court judgment, choose the Action Type "Filing" and the Action "Transcript of Judgment." If filing a Magistrate Judgment, use the Action "Magistrate Judgment." Please note that, while there is a filing fee for a magistrate court judgment or a federal court judgment, there is no filing fee owed for a judgment from another county. You may request a waiver of the filing fee when you file a judgment from a circuit court in another county.

30. **E-Filing Tip of the Week: E-Filing Mechanics’ Liens**
This tip serves to distinguish between the filing of the actual lien and the filing of a Common Pleas case for the purpose of enforcing or defending against said lien.

The lien itself is filed with the Register of Deeds together with a $10.00 fee. These may not be E-Filed, even in counties in which the Clerk of Court and Register of Deeds offices are occupied by the same individual. The Common Pleas case, together with the $150.00 filing fee, must be E-Filed in all counties active in the E-Filing program. A bond deposited in order to release a lien against property is also a function of the Register of Deeds, and may not be E-Filed.

31. **E-Filing Tip of the Week: Exhibits to Proposed Orders and Other Pleadings**
Ordinarily, exhibits should not be attached to proposed orders submitted via E-Filing. However, in the event it is necessary to attach a document as an exhibit to a proposed order, the exhibit should not be a document that already has been E-Filed.
and has an electronic file stamp. If the attached exhibit already has an electronic file stamp, the order and attachments will fail after being signed by the judge or other court personnel, resulting in delays in entering the order.

Exhibits attached to other pleadings, such as motions, memoranda, or affidavits, may not have more than one electronic file stamp. Attached exhibits with more than one electronic file stamp will be rejected by the clerk.

32. E-Filing Tip of the Week—Filings Made in Error
Some filers have attempted to use the E-Filing System to delete or retract submitted filings by deleting information about the filing from the "My Filings" tab in the E-Filing System. E-Filers should be aware that, once the filing has been submitted and is shown as "Awaiting Approval," deleting information about the filing in "My Filings" will not remove or retract the filing from the Clerk of Court's system, and it may prevent the E-Filer from accessing information about the filing at a later date. If you believe you have submitted a filing in error, and it has not yet been accepted or rejected by the Clerk of Court, you should immediately contact the Clerk of Court's office.

33. E-Filing Tip of the Week: Important E-Filing Announcement Regarding Filings and Exhibits
1. All documents, including Exhibits, should be inspected prior to E-Filing to ensure the documents are not password protected. Password protected documents cannot be file-stamped by the E-Filing System. The Clerk of Court will ordinarily have to reject a filing that contains password protected documents.

2. You should avoid attaching file-stamped exhibit copies to filings whenever possible because documents may only be electronically file-stamped a maximum of two times. This is particularly important in the case of proposed orders, which are processed differently. Exhibits attached to Proposed Orders may not contain any electronic file-stamps.
SOUTH CAROLINA E-FILING
AND THE RULES OF CIVIL PROCEDURE

Jason Bobertz
Deputy Clerk of Court
Supreme Court of South Carolina

Columbia, South Carolina
November 8, 2019
TOPICS

1. Adopting E-Filing: Why?
2. E-Filing and the SCRCP-Paper to Electronic
3. Common E-Filer Issues: Tips and Tricks
4. S&C Tutorial
GOALS OF E-FILING

- Court System:
- Storage Issues: No physical space left for paper files
- File up-to-date, available for multiple users
- Reduce errors in handling of paper documents and files
GOALS OF E-FILING

- Court System:
  - Reduce costs for mailing and printing
  - More file security
  - Better, easier, and free public access to court records
GOALS OF E-FILING

- Attorneys and Litigants:
  - File, serve, and view documents via the Internet
  - Extend the time for filing
  - Electronic Service of pleadings and other documents served under Rule 5, SCRCP
GOALS OF E-FILING

- Attorneys and Litigants:
  - Save money on postage and paper
  - Quicker turn-around times for filings
  - Easier access to complete file
E-FILING & SCRCP

SOUTH CAROLINA
RULES OF CIVIL PROCEDURE

Published by The Judicial Council of South Carolina
April, 1984
Revised, October, 1984
SCRCP & E-FILING PREP.

- SCRCP Modeled after FRCP

- What did the Federal Courts do?
  - No systemic changes
  - Minor amendments only
SCRCP Amendments

- April 2014 Amendments to SCRCP
  - Rule 11: E-Signatures
  - Rule 41.2: Redaction
  - Rule 77(d): Notice of judgment via E-File
Rule 11:

- Permits use of E-signature in E-Filed pleadings
- Normal Rule 11 obligations apply regardless of method of signing
- Simple signing process and conversion to PDF
SCRCP AMENDMENTS

- Rule 41.2: Entirely New Rule
- Redaction of Personal Identifying Information (PII)
- Consistent with S.C. Code Sec. 30-2-330
- E-Filed Documents available online—Measure of protection
**SCRCP AMENDMENTS**

- **Rule 77(d):**
  - Permits clerk of court to serve notice of entry of order or judgment via E-Filing System
  - Easier, less expensive method of notice
  - Only proper for those proceeding as E-Filers
OTHER ISSUES

- S.C. E-Filing Policies and Guidelines
- Explain how the SCRCP apply in E-Filing
- Federal Court ECF Rules as a model
- **Caveat:** Significant differences in Federal ECF and SC E-File Systems
TYBERA E-FILING

- Federal CM/ECF and PACER Not for Sale
- Sought E-Filing to work with Existing CMS
- State Procurement
- Tybera Development Group won Procurement
E-File Process
Basic Procedures

- Electronic Filing/Service
- E-Filing Available 24 Hours a Day
- Filing Day Ends at 11:59:59 p.m.
- Scope, Formatting, Signatures, Technical Difficulties Rules
- Proposed Orders/Electronic Entry of Orders
BASIC PROCEDURES

- AIS is Repository of Email Service Addresses
- E-Filing Mandatory for Attorneys
- SRLs not Currently Permitted to E-File
- Instruction about E-Filing “Quirks”
Electronic Version is Official Court Record

Section 4(b): If a document is E-Filed, the electronic version of that filing constitutes the official record.

Paper documents converted to electronic format, the electronic version constitutes the official court record.
E-FILING AND E-SERVICE

[Diagram showing the process of e-filing and e-service, with arrows illustrating the flow from one party to another, involving the eFiling system and NEF.]
ELECTRONIC FILING

- Transmit Pleadings to the Clerk of Court Via the Internet
- Immediate Confirmation of Submission, Receipt, & Filing
- Quicker Responses from the Clerk
- Lower Labor, Copy and Postage Costs
ELECTRONIC SERVICE

➢ Automatic E-Service via Notice of Electronic Filing (NEF) at Submission

➢ E-Service Complete at the Time of Submission

➢ Timely E-Filing = Timely E-Service

➢ NEF Transmitted to AIS Email Address of All E-Filers in the Case
What can be e-served?

- Service of Pleadings Subsequent to Complaint:
  - Answers, Counterclaims, Replies
  - Motions, Affidavits, Memoranda, Notices

- For Paper, Service is Complete Upon Mailing.
  Rule 5(b)(1), SCRCP.
TIMELY E-SERVICE

- Complete at Submission to E-Filing
- Most Rules in SCRCP Require Service, not Filing
- Answer, Reply to Counterclaim, Rule 59(e) Motion - Timely Serve
- Summons and Complaint - Timely File
TERMINOLOGY

- SCRCP Contain Differing Terms about perfecting Filings/Service

- Rule 3: S&C Filed with the Clerk (if subsequently personally served)

- Rule 59(e) Alter/Amend: Served w/in 10 days

- Rule 59(b) New Trial: Made w/in 10 days
E-FILING IS E-SERVICE

- Section 4(e), SCEF:

- If “a pleading, motion, or other paper must be filed, made, or served under the SCRCP, the E-Filing of that pleading, motion, or other paper, together with the transmission of an NEF, constitutes proper service under Rule 5, SCRCP, as to all other parties who are E-Filers in that case.”
FILING TIME = SERVICE TIME

- **Filing Time** is Time of Submission of Document

- **Service Time** for Rule 5, SCRCP, is also Time of Submission
E-SERVICE

- E-Filing System Sends the NEF
- No Certificate of Service Required*
- NEF’s Migrate into the Court Record - Attorneys do Not Need to Save/Print, etc.*
- You Will Need to Access the System to See the Documents **
***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2016CP2203644

Official File Stamp: 03-02-2017 09:34:01 AM

Common Pleas
Georgetown

Case Caption: Mary Davis VS John Hunter, defendant, et al

Document(s) Submitted: Service/Affidavit Of Service

Document(s) Submitted: Service/Affidavit Of Service

Filed by or on behalf of: Jason M. Bobertz

The following people were served electronically:

Jason M. Bobertz for Mary Davis

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

Hunter Electric
John Hunter
Why No NEF for my Summons and Complaint?

- No NEF produced for any document that initiates a new case
  - NEF not Proof of Filing, Proof of Service
  - Cannot Serve the S&C via E-Filing
  - No one to Serve – Defendant May Retain Counsel after Personal Service
E-SERVICE v. TRADITIONAL SERVICE

1. Attorneys in the Case = E-Service

2. Attorneys will Traditional Serve SRLs and Non-Registered Attorneys

3. SRLs Will Traditionally File and Serve all Documents
Computation of Time

- No Change in How Time is Calculated
  - Service by U.S. Mail: Measure Time to Respond from Date Pleading Mailed
  - Service by NEF: Measure Time to Respond from Date NEF Transmitted by E-Email

- Rule 6(e), SCRCP Applies – Add 5 Days
**COMPUTATION OF TIME**

- Rule 6(e), SCRCP Additional 5 Days is the Mailbox Rule
- Only Effective for Pleadings/Motions that Are Served by Other Parties
- Orders Signed By Court Are Different
E-SERVICE – NOTICE OF ENTRY OF ORDER/JUDGMENT

- Court Orders will be Entered Electronically, NEF Sent by the E-Filing System

- Time to Appeal or Respond Runs from Receipt of the NEF

- Highly Recommend: Calendar Official File Stamp Date on NEF
***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2016CP2203644


Court: CIRCUIT COURT
Common Pleas
Georgetown

Case Caption: Mary Davis VS John Hunter, defendant, et al
Document(s) Submitted: Motion/Compel
Filed by or on behalf of: Jason M. Bobertz

This notice was automatically generated by the Court’s auto-notification system.

The following people were served electronically:

Jason M. Bobertz for Mary Davis

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:
STATE OF SOUTH CAROLINA  )
COUNTY OF GEORGETOWN  )
MARY DAVIS,  )
   Plaintiff.  )
   )
v.  )
JOHN HUNTER, d/b/a HUNTER ELECTRIC.  )
   Defendant.  )
   )
______________________________

TO: BILL SMITH, ESQ. ATTORNEY FOR THE DEFENDANTS:

PLEASE TAKE NOTICE THAT the PLAINTIFF, MARY DAVIS, will ten (10) days following the filing of this Notice of Motion and Motion to Compel or as soon thereafter as counsel may be heard, move, before the presiding judge of the Court of Common Pleas for the County of Georgetown, for an Order in this action Compelling the Defendants to answer the Interrogatories and respond to the Requests for Production served upon counsel for the Defendants on September 1, 2019, copies of which are attached to and incorporated by reference. This motion is made pursuant to Rules 26, 33, 34, and 37, SCRCP.

Undersigned Counsel affirms that he has communicated with counsel for the Defendants, and although counsel for the Defendants has indicated he will respond, no responses have been received. Accordingly, counsel for the Plaintiff has complied with Rule 11, SCRCP.

Plaintiff moves for all costs and attorneys' fees incurred as a result of this motion, and for such other and further relief as this Court shall deem just and proper.

[SIGNATURE PAGE TO FOLLOW]
STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

MARY DAVIS,
Plaintiff,
v.
JOHN HUNTER, d/b/a HUNTER ELECTRIC,
Defendant.

CASE NO: 2016-CP-22-03644

FIFTEENTH JUDICIAL CIRCUIT

NOTICE OF MOTION AND
MOTION TO COMPEL
RESPONSES TO DISCOVERY REQUESTS

TO: BILL SMITH, ESQ, ATTORNEY FOR THE DEFENDANTS:

PLEASE TAKE NOTICE THAT the PLAINTIFF, MARY DAVIS, will ten (10) days following the filing of this Notice of Motion and Motion to Compel or as soon thereafter as counsel may be heard, move, before the presiding judge of the Court of Common Pleas for the County of Georgetown, for an Order in this action Compelling the Defendants to answer the Interrogatories and respond to the Requests for Production served upon counsel for the Defendants on September 1, 2019, copies of which are attached to and incorporated by reference. This motion is made pursuant to Rules 26, 33, 34, and 37, SCRCP.

Undersigned Counsel affirms that he has communicated with counsel for the Defendants, and although counsel for the Defendants has indicated he will respond, no responses have been received. Accordingly, counsel for the Plaintiff has complied with Rule 11, SCRCP.

Plaintiff moves for all costs and attorneys' fees incurred as a result of this motion, and for such other and further relief as this Court shall deem just and proper.

[SIGNATURE PAGE TO FOLLOW]
COMMON E-FILER ISSUES

1. Documents E-Filed by Me or Others Not Available for Long Period of Time?

2. Proposed Order Not in the Case Record?
WHERE IS MY FILING?

- Clerk Review Process is Different in State Court Than Federal Court:
  - Document Will Not Appear in Case History/Official Record Until Accepted by the Clerk
  - Proposed Order Will Not Appear in Case History/Record Until Signed and Entered

- Those Docs Are Available in E-Filing System
ACCESSING DOCUMENTS NOT YET ACCEPTED BY THE CLERK

- Documents You Have Submitted are Available in ‘My Filings’

- Documents Submitted by Other Parties to a Case are in ‘Notifications’

*Except for Filing that Starts a New Case, All Documents Submitted by You are Also in ‘Notifications’*
Welcome to South Carolina Statewide E-Filing.

This service will allow you to initiate a case or file to an existing case electronically. Attorneys will register to E-File through AIS. 

Non-attorney users who are employed by an attorney may request a Firm Financial Manager (FFM) Account. Once approved, the non-attorney FFM may access the E-Filing System but is not authorized to E-File documents.

Thank you for your participation in the use of our E-Filing system.

Log In

Enter your User Name and Password.

User Name: 

Password: 

(Do not use/enter leading zeros in user name)

Notice: [ ] I have read, understand, and will comply with the redaction rules.

Log In

E-Filing Tip of the Week: Omit Signature Lines on Proposed Orders

Generally, proposed orders must be either E-Filed, or emailed directly to a Judge or Master-in-Equity in Microsoft Word .doc or .docx format. The court official permitted to sign the proposed order--a Judge, Master-in-Equity, or the Clerk of Court--will not sign the order with a Traditional Signature. Rather, the electronic signature of the court official will be inserted on a separate signature page that will be attached to the proposed order when it is electronically signed and converted to .pdf for entry in the record. Therefore, you do not need to include a signature and date line on proposed orders.

Announcements

E-Filing is now available in the following counties:

- Clarendon County (effective December 9, 2015)
- Lee County (effective January 19, 2016)
- Sumter County (effective January 19, 2016)

Log-In Information is AIS User Name and Password
Non-Attorney Users Have NO Filing Privileges
Welcome to South Carolina Statewide E-Filing.

This service will allow you to initiate a case or file to an existing case electronically and register to E-File through AIS.

Non-attorney users who are employed by an attorney may request a FFM (FFM) Account. Once approved, the non-attorney FFM may access the court-authorized to E-File documents.

Thank you for your participation in the use of our E-Filing system.

E-Filing Tip of the Week: Omit Signature Lines

Orders

Generally, proposed orders must be either E-Filed, or emailed directly to the Equity in Microsoft Word .doc or .docx format. The court official in the order proposal--a Judge, Master in-Equity, or the Clerk of Court--will sign the Traditional Signature. Rather, the electronic signature of the court office on a separate signature page that will be attached to the proposed order will be signed and converted to .pdf for entry in the record. Therefore, you do not need to include signature and date line on proposed orders.

Announcements

E-Filing is now available in the following counties:

- Clarendon County (effective December 9, 2015)
- Lee County (effective January 19, 2016)
- Sumter County (effective January 19, 2016)

Log In

Enter your User Name and Password.

User Name: 69142

(do not use/enter leading zeros in user name)

Password: ***************

Notice: I have read, understand, and will comply with the redaction rules.

Log In

Forgot Your Password?
Forgot Your Username?

New E-Filing Users

Attorney:  
Non-attorney users: AIS Registration

Request Account
Home

- New Case
- Cases
- My Filings: (1) Check the status of my filings (There are 1 filing(s) awaiting payment processing)
- Notifications: (24) Review your Notifications

File new case
Perform case actions: E-File, Search, View History, Service List
## My Filings

**Jason M. Bobertz Filings**

### Report Criteria:

**View Filings Between:** 07/01/2018 **AND** 08/23/2018

- **Filing ID:**
- **Court Case #:**
- **Client #:**
- **Status:** All

[Go]  [Clear Search]

### My Filings Between 07/01/2018 and 08/23/2018

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**Number of Filings:** 4  - [Message from the court/klrk]
### My Filings Between 07/01/2018 and 08/23/2018

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Number of Filings: 4

- Message from the court/-clerk

- **Awaiting Approval**

- **Rejected**

- **Filed**
Filing Status

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Filing ID: 13180
Clerk Tracking ID: 17431
Submitted By: Bobertz, Jason M.
Date Submitted: 07-20-2018 09:38:24 AM
Official File Stamp:

Case Caption: Nef Test V5 Fake Defendant
Court Case #: 2016CP2203593
Case Subtype: (199) Contract/Other
Court Agency: Common Pleas
County: Georgetown

Processed by:

Note: This filing will be removed from eFlex on 10-18-2018

Access Your Submitted, But Not Yet Filed Document Here
My Filings Between 07/01/2018 and 08/23/2018

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Number of Filings: 4
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**Filing ID:** 13188

**Clerk Tracking ID:** 17441

**Submitted By:** Bobertz, Jason M.

**Date Submitted:** 08-23-2018 08:48:52 AM

**Official File Stamp:** 08-23-2018 08:48:52 AM

**Case Caption:** Mary Davis VS John Hunter, defendant, et al

**Court Case #:** 2016CP2203644

**Case Subtype:** (320) Motor Vehicle Accident

**Court Agency:** Common Pleas

**County:** Georgetown

**Processed by:** jbobertz

Note: This filing will be removed from eFlex on 11-21-2018
### Document Name | View Document
--- | ---
Affidavit/Default | aff of default Training.pdf
Main Document | receipt.html
Notification of Electronic Filing | NEF.html

**Response:**

**Description:** Receipt

**Author:** System Administrator

<table>
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<tbody>
<tr>
<td>Main Document</td>
<td>receipt.html</td>
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<tr>
<td>Affidavit/Default</td>
<td>aff of default Training.pdf</td>
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<tr>
<td>Notification of Electronic Filing</td>
<td>NEF.html</td>
</tr>
</tbody>
</table>
STATE OF SOUTH CAROLINA

COUNTY OF CLARENDON

MARY DAVIS,

Plaintiff,

v.

JOHN HUNTER,

Defendant.

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

CASE NO: 2015-CP-14-00498

AFFIDAVIT OF DEFAULT

Personally appeared before me, the undersigned attorney, who first being duly sworn, deposes and says:

That is the attorney for the plaintiff above named, that the summons and complaint were served upon the defendant John Hunter, and that more than thirty (30) days has expired since such service during with the defendant John Hunter has failed to answer, appear, or otherwise plead in this matter and, consequently, that defendant John Hunter is not in default.

LAW OFFICE OF JASON M. BOBERTZ

S.C. Bar No. 54321
1000 Gervais Street
Columbia, South Carolina 29211
803-555-0001
jbobertz@email.com

Sworn before me this 7th Day of December, 2015

Notary Public for South Carolina
My Commission Expires 1/11/18
ACCESSING SERVED DOCUMENTS

- Attorney Comments:
  - “We cannot see any of the documents listed in the Notice of Electronic Filing until the clerk of court accepts the filing.”
  - “This causes problems when documents are filed on the eve of trial or after hours.”
  - “Are they Properly Served? Did I violate the RPC?”
SERVICE: FED. V. STATE

1. No hyperlink in the NEF to Access Served Document

2. Document Not in Case Record Until Approved by the Clerk
ACCESSING SERVED DOCUMENTS

- Documents Listed in the NEF are Immediately Available in “Notifications”

- True Even if Not Yet Reviewed/Accepted by the Clerk of Court

- Those Documents are Properly Served: Section 4(e)(3), SCEF

- **Suggestion:** Use Notifications Like an Online Email Inbox
***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2015CP2202657

Court: CIRCUIT COURT
Common Pleas
Georgetown

Case Caption: Tammie Jones VS Rick Barnes, defendant, et al
Document(s) Submitted: Motion/Compel
Filed by or on behalf of: Stephanie Anne Nye

This notice was automatically generated by the courts auto-notification system.

The following people were served electronically:

Jason M. Bobertz for Rick Barnes
William Frederick Schumacher, IV for John Stanford, Dan Wilson
Brett Lamb Stevens for Rick Barnes
Stephanie Anne Nye for Tammie Jones

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:
Home

New Case

Cases

My Filings

Notifications

File new case

Perform case actions: E-File, Search, View History, Service List

(1) Check the status of my filings There are 1 filing(s) awaiting payment processing finalization that require your attention.

(5) Review your Notifications
<table>
<thead>
<tr>
<th>Notification Id</th>
<th>Document(s) filed by...</th>
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</thead>
<tbody>
<tr>
<td>5047</td>
<td>Offer Of Judgment was filed by or on behalf of Jason M. Bobertz</td>
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<td>Documents:</td>
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<tr>
<td></td>
<td>Offer Of Judgment</td>
</tr>
<tr>
<td>5039</td>
<td>Motion/Compel was filed by or on behalf of Stephanie Anne Nye</td>
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<td>Documents:</td>
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<tr>
<td></td>
<td>Motion/Compel</td>
</tr>
<tr>
<td>4978</td>
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<td>Documents:</td>
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<tr>
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<td>Response</td>
</tr>
<tr>
<td>4929</td>
<td>Motion/Dismiss was filed by or on behalf of Stephanie Anne Nye</td>
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<td>Motion/Dismiss</td>
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<td>Notice/Notice of Appearance</td>
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<td>Motion/Alter and/or Amend was filed by or on behalf of Jason M. Bobertz</td>
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<td>Documents:</td>
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<tr>
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<td>Motion/Alter and/or Amend</td>
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</table>
Same NEF
Received Via Email

A filing has been submitted to the court RE: 2015CP2202657


Court: CIRCUIT COURT
Common Pleas
Georgetown

Case Caption: Tammie Jones VS Rick Barnes, defendant, et al

Document(s) Submitted: Motion/Compel

Filed by or on behalf of: Stephanie Anne Nye

This notice was automatically generated by the courts auto-notification system.

The following people were served electronically:

Jason M. Bobertz for Rick Barnes
William Frederick Schumacher, IV for John Stanford, Dan Wilson
Brett Lamb Stevens for Rick Barnes
Stephanie Anne Nye for Tammie Jones

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:
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</tr>
<tr>
<td>4925</td>
<td>Motion/Alter and/or Amend was filed by or on behalf of Jason M. Bobertz</td>
</tr>
</tbody>
</table>
STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN
TAMMIE JONES,

Plaintiff,

v.

RICK BARNES and DAN WILSON,

Defendants,

DAN WILSON
Third-Party Plaintiff

v.

JOHN STANFORD,
Third-Party Defendant.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
MOTION TO COMPEL RESPONSES TO INTERROGATORIES AND REQUESTS FOR PRODUCTION
2 WAYS TO CHECK STATUS

1. Rely On Emails Sent from the System
   - Received
   - Accepted/Filed

2. Use E-Filing Website to Monitor the Status of Your Filings
   - Received/Awaiting Approval
   - Filed
EMAIL v. ONLINE

- Online Data Contains More Details
  - Case Party Names
  - Links to the Documents

- Emailed Notice Includes Fewer Details
  - No Case Party Names
  - No Links to the Documents
To: Jason M. Bobertz
From: efiledonotreply@sccourts.org
Date: 2017-01-10 13:56:38.683
Subject: Your electronic filing, Re: 2017-0125 - (320) Motor Vehicle Accident - Summons & Complaint, was accepted by CIRCUIT COURT.

Case Number: 2017CP2200001
Case Type: (320) Motor Vehicle Accident
Document Type: Summons & Complaint
Reason(s): (none provided)
### My Filings

#### Jason M. Bobertz Filings

**Report Criteria:**

- **View Filings Between:** 01/10/2017 AND 01/10/2017

**Filing ID:** [ ]

**Court Case #:** [ ]

**Client #:** [ ]

**Status:** [All] [ ]

**Go** [ ]  **Clear Search** [ ]

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### My Filings Between 01/10/2017 and 01/10/2017

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<td><strong>New Case: Davis, Hunter</strong></td>
<td>01-10-2017 01:56:38 PM</td>
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</table>
Status of Awaiting Approval Means the Filing Has Reached the Clerk of Court Successfully and is Awaiting Review
MANAGING EMAILS

- E-Filing System Sends out LOTS of Email Notifications
- Modify Your Settings to Receive All or Only Some of the Emails
- Monitor Filings Online via “My Filings”
- **Cannot** Alter NEFs – You will Always Receive NEFs via Email
File new case

Perform case actions: E-File, Search, View History, Service List

Check the status of my filings

Review your Notifications
## User Profile

**Jason M. Bobertz**

- **User Name:** 69142
- **Organization:** S.C. Supreme Court
- **Bar Number:** 69142
- **User Identifier:**
- **Phone:** 8037341160
- **EMail:** jbobertz@sccourts.org
- **1st Alternate EMail:** cmstest@sccourts.org
- **Address:** PO Box 11330, Columbia, SC 292111330, US
- **Role:** Attorney
- **Date Approved:** 2014-12-18 10:49:33.050

[Modify User Profile]
The Email Will Include the Reason for the Rejection
### My Filings Between 07/01/2018 and 08/23/2018

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<td>2016CP2203593</td>
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- **Status**: Payment Pending
- **NEF**: [Make Payment]
- **Additional**: [Resubmit]

**Number of Filings: 4** - Message from the court/clerk

**Filed**

**Rejected**

**Awaiting Approval**
**Handling Rejections**

- Save Materials and Communications From Clerk in ‘My Filings’

- **Section 4(d)(2), SCEF:** If document is rejected and is therefore untimely, may seek relief upon good cause shown, such as when the clerk of court erroneously rejects or where rejection was result of improper formatting.
DISCOVERY

- **Section 11(a), SCEF:** The E-Filing System shall not be used for the electronic exchange of discovery materials and other communications between the parties that are not intended to be filed with the court.

- **Rule 26(g)(1), SCRCP:** party requesting discovery shall serve the request on other counsel or parties, but not file the notice or materials or matters discovered.
REDACTION

- Rule 41.2, SCRCP – Requires Redaction of Personal Identifying Information (PII)
- Discovery Materials are Filled with PII that is not Relevant to the Case
- Discovery Materials Will be Available on the Internet if E-Filed
- If EFiled You Will Need to Perform Countless Redactions;
- If Served, No Redactions
E-Filing Not Intended to Change the Way Legal Documents Appear

Follow Rule 10, SCRCP

Your Documents Will Continue to Look the Same, but will be in PDF or Word, Instead of Paper Copies
Basic Formatting:

- Pleadings and Motions Filed in PDF
- Exhibits Filed in PDF - Electronically Connected to Another PDF Document
- Proposed Orders Filed in Word*
1. Tutorial/Basic Tips

- Searching for a Case in E-File
- Action Types and Action Choices to Upload Documents, i.e. Summons and Complaint; Motion, Proposed Order
Home

- **New Case**: File new case
- **Perform case actions**: E-File, Search, View History, Service List
- **My Filings**: Check the status of my filings
- **Notifications**: Review your Notifications
1. Enter Entire Case Number
2. 13 Characters: No Dashes
3. Choose a County
Cases

<table>
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<tr>
<th>Case Number</th>
<th>Court</th>
<th>County</th>
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<tbody>
<tr>
<td>2017CP2200050</td>
<td>CIRCUIT COURT</td>
<td>Georgetown</td>
<td>Common Pleas</td>
</tr>
</tbody>
</table>

Ex: 2013CP0100001

Search applies to cases listed below only, not the court's entire database
2017CP2200050 : Legal Services Plaintiff VS Bad Defendant
Common Pleas

Case Number: 2017CP2200050
Case Subtype: Use 370 or 380
Filed Date: 09-15-2017
Status: Pending/ADR

Show/Hide Participants

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<td>ADR/Alternative Dispute Resolution (Workflow)</td>
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<tr>
<td>Legal Services Plaintiff</td>
<td>Letter/Letter</td>
<td>Filing</td>
<td>04-05-2018 11:21:49 AM</td>
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<td>Legal Services Plaintiff</td>
<td>Letter/Letter-EX_1</td>
<td>Filing</td>
<td>04-05-2018 11:21:49 AM</td>
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<tr>
<td>Legal Services Plaintiff</td>
<td>Letter/Letter-EX_2</td>
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<td>Filing</td>
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2017CP2200050 : Legal Services Plaintiff VS Bad Defendant
Common Pleas

Case Number: 2017CP2200050
Case Subtype: Use 370 or 390
Filed Date: 09-15-2017
Status: Pending/ADR

Plaintiff: Legal Services Plaintiff

Defendant: Bad Defendant

Assigned Judge: Clerk Of Court C P, G S, And Family Court
Mediator-Jury: Mediator-Jury

File Type: Mediator-Jury

Plaintiff[s]
Legal Services Plaintiff

Counsel of Record
Jason M. Bobertz
Mary E.A Lucas

Defendant[s]
Bad Defendant

Counsel of Record

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<th>Name</th>
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### Cases

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<td>CIRCUIT COURT</td>
<td>Georgetown</td>
<td>Common Pleas</td>
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</table>

Ex: 2013CP0100001

Search applies to cases listed below only, not the court's entire database.
## Service List

**Case Number:** 2017CP2200050  
**Court:** CIRCUIT COURT  
Common Pleas  
Georgetown  

**Case Caption:** Legal Services Plaintiff VS Bad Defendant  

---  

This list was automatically generated by the Court's auto-notification system.

**Date Generated:** 11-28-2018 12:07:31 PM

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As of 11-28-2018, the electronic filing system will send a Notice of Electronic Filing (NEF) to the following parties:

- Mary Lucas for Legal Services Plaintiff  
- Jason Bobertz for Legal Services Plaintiff  

The electronic filing system will not send a Notice of Electronic Filing (NEF) to the following parties, who must be notified by a traditional method of service:

- Bad Defendant
Cases

<table>
<thead>
<tr>
<th>Case Number</th>
<th>Court</th>
<th>County</th>
<th>Court Agency</th>
</tr>
</thead>
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<td>Georgetown</td>
<td>Common Pleas</td>
</tr>
</tbody>
</table>

Ex: 2013CP0100001

Search applies to cases listed below only, not the court's entire database
The Type of Document You E-File Depends on the Action Type and Action Title
SEPARATE DOCUMENTS

- Action Types:

- 1. **Action**-Proof of ADR, NOA to Ct. App. or Sup. Ct.

- 2. **Filing**-Summons and Complaint, Answer, Affidavits, Proof of Service, Exhibits, Electronic NOA/Cover Sheets. Will Charge a Fee if Owed
SEPARATE DOCUMENTS

- Four Action Types:

- 3. **Motion** - Any Type of Motion. Will Charge You a Fee if Owed.

- 4. **Order** - Any Type of *Proposed* Order. Can Use Electronic Cover Sheet in Place of Filing Formal Written Motion.
Many Choices, But No Free Form Typing

Motion/Other - Use for Motions

Order/Other - Use for Proposed Orders

Do Not Use Filing/Other for Motions or Orders
**SEPARATE DOCUMENTS**

- Do Not Scan All Documents into One PDF
- Summons and Complaint is a Separate PDF from Exhibits
- Motion is Separate Document From Proposed Order
MOTION FOR AN ORDER OF
REFERENCE, PROPOSED ORDER,
CERT. OF SERVICE

- Prepare and Save Separately.

- Written Motion to Refer to MIE:
  - Prepare in Word, Electronically Sign, Convert to PDF and Save
TO THE DEFENDANTS ABOVE NAMED:

PLEASE TAKE NOTICE that the undersigned, as attorney for the plaintiff, moves before the presiding judge or the Clerk of Court for Georgetown County for an Order, pursuant to Rule 53(b), SCRCP, referring this matter to the Master in Equity for Georgetown County, to hear any issues, including motions, involving this matter. Any appeal from the final judgment entered by the Master in Equity shall be filed with the Supreme Court, as appropriate.

THE ROBERT LOBLAW LAW FIRM, P.A.

s/Jason M. Bobertz
Jason M. Bobertz, Esq.
S.C. Bar No. 12345
1231 Gervais Street
Columbia, South Carolina 29211
803-734-2898
jbobertz@loblaw.com

March 2, 2017

ATTORNEYS FOR THE PLAINFIGHT
SAVE PROPOSED ORDER IN MS WORD

- Proposed Order of Reference: Prepare in Word

- *Do Not Covert* to PDF
STATE OF SOUTH CAROLINA  
COUNTY OF GEORGETOWN  
MARY DAVIS,  
Plaintiff.

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
Case No. 2016-CP-22-02644

JOHN HUNTER, d/b/a HUNTER ELECTRIC,  
Defendant.

ORDER OF REFERENCE  
(Non-jury)

Foreclosure of Real Estate Mortgage

IT APPEARING that the above entitled case is an action for the foreclosure of a real estate mortgage and, pursuant to Rule 53(b) SCRCP, may be referred to the Master In Equity in the above entitled county by Order of the Clerk of Court; and,

IT IS HEREBY ORDERED that this matter is referred to Master In Equity for Georgetown County, to make his findings of fact and conclusions of law; to take testimony and to direct entry of final judgment in this action under Rule 53(b), SCRCP; to hear any issues, including motions, after sale or judgment including, but not limited to, the issuance of Supplemental Orders, Writs of Assistance and hearing of any issues involving possession and/or removal of property and appraisal proceedings under S.C. Code Ann. § 29-3-580, et seq. (1976 SC Code of Laws, as amended). Any appeal from the final judgment entered by the Master in Equity shall be directly to the Supreme Court or Court of Appeals, as appropriate.
Motion/Order Granted

s/ Honorable Perry H. Gravely, #2755
E-File Documents Separately

- Certificate of Traditional Service: Sign by Hand (signed by paralegal);
- Scan to PDF and Save
STATE OF SOUTH CAROLINA  IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN  FIFTEENTH JUDICIAL CIRCUIT
MARY DAVIS, Case No. 2016-CP-22-03644
Plaintiff,

&

JOHN HUNTER, d/b/a HUNTER ELECTRIC,
Defendant.

CERTIFICATE OF SERVICE

I, George Oscar Bluth, an employee paralegal of the Robert Loblaw Law Firm, certify that a copy of the Plaintiff’s Motion to Refer to Master and Proposed Order of Reference have been served by mailing copies with postage prepaid, to the following person on March 2, 2017:

John Hunter d/b/a Hunter Electric
123 Any Street
Columbia, SC 29211

BY: George Oscar Bluth,
Paralegal to Jason M. Bobertz
<table>
<thead>
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<th>On Behalf of</th>
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</table>

Total Size: 0.07 MB
Tutorial-New Case

- New Case-Breach of Contract

- What Documents Need to be Filed?

1) Summons and Complaint
2) Exhibit to Summons and Complaint
   (contract for services)
8. The defendant was driving a van and crashed his van into the rear of the Plaintiff’s vehicle.

9. In crashing his van into Plaintiff’s vehicle, Defendant was careless, negligent, willful, wanton, and reckless in the following particulars:
   a. In failing to maintain a proper lookout;
   b. In driving too fast for conditions;
   c. In acting a reckless manner;
   d. In failing to act as a reasonable and prudent person would have done under the circumstances then and there prevailing.

10. As a direct and proximate result of the carelessness, negligence, willfulness, wantonness, and recklessness of the Defendant, the Plaintiff was seriously and permanently injured. She sustained injuries to her abdomen, left shoulder, chest, and neck.

11. Plaintiff has incurred medical bills, suffered lost wages, endured pain and suffered and loss of enjoyment of life, and continues to suffer from great physical and mental problems as a direct and proximate result of the actions of the Defendant.

WHEREFORE the Plaintiff prays for a judgment against the Defendant for actual and punitive damages in an amount to be determined by the trier of fact.

SOUTH CAROLINA LEGAL SERVICES

s/Jason M. Bobertz
Jason M. Bobertz, Esq.
S.C. Bar No. 69142
1231 Gervais Street
Columbia, South Carolina 29201
803-771-7777
jbobertz@sccourts.org

ATTORNEYS FOR THE PLAINTIFF
HUNTER ELECTRIC
PO BOX 1255
COLUMBIA, SC 29211
803-555-5555
CONTRACT FOR SERVICES

THIS IS A TERRIBLE CONTRACT WITH TERRIBLE CONTRACT LANGUAGE ENTERED INTO WITH A TERRIBLE CONTRACTOR, WHO HAS EVERY INTENTION OF TAKING YOUR MONEY, NOT FIXING YOUR TERRIBLE ELECTRICAL ISSUES, AND USING THE MONEY FOR TERRIBLE THINGS

S/John Hunter
A Terrible Crook

S/Mary Davis
A Poor Old Lady Who Got Swindled
Home

- **New Case**: File new case
- **Cases**: Perform case actions: E-File, Search, View History, Service List
- **My Filings**: Check the status of my filings
- **Notifications**: Review your Notifications
Case Type

Description

Appeal
Application: Transfer Structured Settlement
Common Pleas
Lis Pendens
Notice of Intent to File Medical Malpractice

Back
## Case Subtype

<table>
<thead>
<tr>
<th>Description</th>
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<tbody>
<tr>
<td>(100) Constructions</td>
</tr>
<tr>
<td>(110) Debt Collections</td>
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<tr>
<td>(130) General Contract</td>
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<td>(140) Breach of Contract</td>
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<tr>
<td>(160) Failure to Deliver/Warranty</td>
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<tr>
<td>(170) Employment Discrimination</td>
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<td>(180) Employment</td>
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<tr>
<td>(199) Contract/Other</td>
</tr>
<tr>
<td>(200) Dental Malpractice</td>
</tr>
<tr>
<td>(210) Legal Malpractice</td>
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<tr>
<td>(220) Medical Malpractice</td>
</tr>
<tr>
<td>(299) Malpractice/Other</td>
</tr>
<tr>
<td>(310) Conversion</td>
</tr>
<tr>
<td>(320) Motor Vehicle Accident</td>
</tr>
<tr>
<td>(330) Premises Liability</td>
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<tr>
<td>(340) Products Liability</td>
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<tr>
<td>(350) Personal Injury</td>
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<td>(360) Wrongful Death</td>
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<tr>
<td>(370) Assault/Battery</td>
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<td>(380) Slander/Libel</td>
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<td>(399) Torts/Other</td>
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<td>(400) Claim &amp; Delivery</td>
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<tr>
<td>Other (199)</td>
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</table>

| **Torts - Professional Malpractice**   |
| Dental Malpractice (200)               |
| Legal Malpractice (210)                |
| Medical Malpractice (220)              |
| Previous Notice of Intent Case #       |
| 20 __________________________________  |
| Notice/ File Med Mal (230)             |
| Other (299)                            |

| **Torts - Personal Injury**            |
| Conversion (310)                       |
| Motor Vehicle Accident (320)           |
| Premises Liability (330)               |
| Products Liability (340)               |
| Personal Injury (350)                  |
| Wrongful Death (360)                   |
| Assault/Battery (370)                  |
| Slander/Libel (380)                    |
| other (399)                            |

| **Real Property**                      |
| Claim & Delivery (400)                 |
| Condemnation (410)                     |
| Foreclosure (420)                      |
| Mechanic’s Lien (430)                  |
| Partition (440)                        |
| Possession (450)                       |
| Building Code Violation (460)          |
| Other (499)                            |

| **Inmate Petitions**                   |
| PCR (500)                              |
| Mandamus (520)                         |
| Habeas Corpus (530)                    |
| Other (599)                            |

| **Administrative Law/Relief**          |
| Reinstate Drv. License (800)           |
| Judicial Review (810)                  |
| Relief (820)                           |
| Permanent Injunction (830)             |
| Forfeiture-Petition (840)              |
| Forfeiture—Consent Order (850)         |
| Other (899)                            |

| **Judgments/Settlements**              |
| Death Settlement (700)                 |
| Foreign Judgment (710)                 |
| Magistrate’s Judgment (720)            |
| Minor Settlement (730)                 |
| Transcript Judgment (740)              |
| Lis Pendens (750)                      |
| Transfer of Structured Settlement      |
| Payment Rights Application (760)       |
| Confession of Judgment (770)           |
| Petition for Workers                   |
| Compensation Settlement                |
| Approval (780)                         |

| **Appeals**                            |
| Arbitration (900)                      |
| Magistrate-Civil (910)                 |
| Magistrate-Criminal (920)              |
| Municipal (930)                        |
| Probate Court (940)                    |
| SCDOT (950)                            |
| Worker’s Comp (960)                    |
| Zoning Board (970)                     |
| Public Service Comm. (990)             |
| Employment Security Comm (991)         |
| Other (999)                            |
## Case Subtype

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<td>(400) Claim &amp; Delivery</td>
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</tbody>
</table>
Case Initiation

Jury Demand
Yes ☐ No ☐

Alternative Dispute Resolution (ADR)
Arbitration ☐ Mediation ☐ Exempt ☐

Case Participants
Add a Plaintiff  Add a Defendant
Remove

Participant Name
Seq

Back  Save to Draft  Next
Add a Party: (320) Motor Vehicle Accident

Plaintiff

Person Type:  ○ Company  ○ Person

Party Type:  PLAINFTEST/APPELLANT/TRANSFEREE

First Name: *  Mary

Middle Name:

Last Name: * (or Business Name)  Davis

Name Suffix: (Jr, Sr, ...)

Address Type:  ○ Home  ○ Business  ○ Other

Address Line 1:

Address Line 2:

City:

State:

Zip / Postal Code:
## Add an Attorney for this Party

**Last Name:** Johnson  
**Bar #:** 12345  

<table>
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<tr>
<th>Last Name</th>
<th>Bar #</th>
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</thead>
<tbody>
<tr>
<td>Bobertz</td>
<td>69142</td>
</tr>
</tbody>
</table>

## Doing Business As/Also Known As

- [ ] Company  
- [ ] Person

**First Name:**  
**Middle Name:**  
**Last Name:**  
**Suffix Name:**  

**First Name Middle Name Last Name - Business Suffix**
Add a Party: (320) Motor Vehicle Accident

Plaintiff

Person Type: ☐ Company ☐ Person

Party Type: PLAINTIFF/APPELLANT/TRANSFEREE

First Name: *
Mary

Middle Name:

Last Name: *
Davis

(or Business Name)

Name Suffix:
(Jr, Sr, ...)

---Select Phone Type--- ☐ (000) 000-0000 ☐ Ext
---Select Phone Type--- ☐ (000) 000-0000 ☐ Ext

Address Type: ☐ Home ☐ Business ☐ Other

Address Line 1:

Address Line 2:

City:

State:

Zip / Postal Code:

---Add an Attorney for this Party---

Last Name:

Bar #:

Add

<table>
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<tr>
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---Doing Business As/Also Known As---

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<td>☐ Person</td>
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First Name:

Middle Name:

Last Name: *

(or Business Name)

Suffix Name:

Add

First Name Middle Name Last Name - Business Suffix Delete
Case Initiation

Jury Demand  ○ Yes  ○ No

Alternative Dispute Resolution (ADR)  ○ Arbitration  ○ Mediation  ○ Exempt

Case Participants

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<tr>
<td>☒</td>
<td>Mary Davis</td>
<td>Main</td>
<td>PLAINTIFF/APPELLANT/TRANSFEREE Bobertz</td>
</tr>
</tbody>
</table>

Back  Save to Draft  Next
Add a Party: (140) Breach of Contract

Defendant
Person Type:  
○ Company  ○ Person
Party Type:  
DEFENDANT/RESPONDENT/TRANSFEROR  
First Name: *  
John
Middle Name:  
Last Name: *  
(or Business Name)
Hunter
Name Suffix:  
(Jr, Sr, ...)
Address Type:  
○ Home  ○ Business  ○ Other
Address Line 1:  
Address Line 2:  
City:  
State:  
Zip / Postal Code:  
Doing Business As/Also Known As
○ Company  ○ Person
First Name:  
Middle Name:  
Last Name: *  
(or Business Name)
Hunter Electric
Suffix Name:  
Add
First Name Middle Name Last Name - Business Suffix Delete
Add a Party: (140) Breach of Contract

Defendant

Person Type:  ○ Company  ○ Person

Party Type:  DEFENDANT/RESPONDENT/TRANSFEROR

First Name: *  John

Middle Name:  

Last Name: *  (or Business Name)  Hunter

Name Suffix:  (Jr, Sr, ...)  

---Select Phone Type---  (000) 000-0000  Ext  

Address Type:  ○ Home  ○ Business  ○ Other

Address Line 1:  

Address Line 2:  

City:  

State:  

Zip / Postal Code:  

Doing Business As/Also Known As

○ Company  ○ Person

First Name:  

Middle Name:  

Last Name: *  (or Business Name)  

Suffix Name:  Add

First Name Middle Name Last Name - Business Suffix Delete  Hunter Electric  

Back  Next
Case Initiation

Jury Demand  
- Yes  
- No

Alternative Dispute Resolution (ADR)  
- Arbitration  
- Mediation  
- Exempt

Case Participants

<table>
<thead>
<tr>
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<tbody>
<tr>
<td></td>
<td>Mary Davis</td>
<td>Main</td>
<td>PLAINTIFF/APPELLANT/TRANSFEREE Bobertz</td>
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<tr>
<td></td>
<td>John Hunter</td>
<td>Main</td>
<td>DEFENDANT/RESPONDENT/TRANSFEROR</td>
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</table>
**County:** Georgetown  **Court Agency:** Common Pleas  **Case Type:** Common Pleas  **Case Subtype:** (1)

*Action Type*  
-- Please Select Action Type From List Below --

*Action*  
Summons & Complaint

*Acceptable File Format(s):* pdf

*Document Location*  
P:\JASON\Electronic Filing\Litigation Cases\Davis v. Hunter Electric (Georg)

*Add to Submission*  
Add

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<tr>
<td>Judgment (Clerks only)</td>
<td>Motion</td>
<td>Order</td>
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### Filer Interface

**County:** Georgetown  
**Court Agency:** Common Pleas  
**Case Type:** Common Pleas  
**Case Subtype:** (140) Breach of Contract

#### Action Type
- **Filing**

#### Action
- **Exhibit/Filing of Exhibits**

**Acceptable File Format(s):** pdf;

#### Document Location
- P:\JASON\Electronic Filing\Litigation Cases\Davis v. Hunter Electric (George)\Browse...

#### Add to Submission
- [Add]

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#### Document Name | View Document | On Behalf of
---|---|---
Case Data | form.xml |  
Summons & Complaint | Davis v. Hunter FINAL PDF Summons and Complaint.pdf | [Show/Hide Participants] Add

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**Back**  **Move to Draft**  **Next**
## Attach Exhibit/Filing of Exhibits to a Document

### Attach Exhibit/Filing of Exhibits to:

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<tr>
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[Back] [Next]
Draft Filings ⇒ Add a Document ⇒ Attach a SubDocument

Case Number: 2015CP2400514  Case Caption: Thomas

Attach Exhibit/Filing of Exhibits to a Document

Attach Exhibit/Filing of Exhibits to:

- Notice/Notice of Appearance
- Answer/Answer
- Filing/Other
- Affidavit/Attorney

Back  Next
Attach Exhibit/Filing of Exhibits to a Document

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County: Georgetown  Court Agency: Common Pleas  Case Type: Common Pleas  Case Subtype: (140) Breach of Contract

Action Type
-- Please Select Action Type From List Below --

Action *

Document Location

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County: Georgetown  Court Agency: Common Pleas  Case Type: Common Pleas  Case Subtype: (140) Breach of Contract

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Action *  -- Please Select Action From List Below --  

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## County: Georgetown  Court Agency: Common Pleas  Case Type: Common Pleas  Case Subtype: (140) Breach of Contract

### Action Type
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### Action *
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### Document Location

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Draft Filings ⇒ Add a Document ⇒ Review and Approve Filing

Review and Approve Filing

County: Georgetown Court Agency: Common Pleas Case Type: Common Pleas Case Subtype

Client #

Payment on behalf of: 

Payment Method:
- Pay by Credit Card

- Estimated Court Fees: $150.00
- Technology Fee: $25.00
- SC.Gov Convenience Fee: $5.32
- Total Fees: $180.32

- Waiver - Indigency (Use when filing with Certification of Indigent Representation)
- Bankruptcy (Use when filing proposed Order to Stay due to Bankruptcy)
- Waiver Requested (Fee not Required)

Case Initiation/Party Data:

Document(s) to be Submitted:

Add/Remove Documents

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Special Filing Instructions for the Clerk:

Back Cancel (Delete) Move to Draft Submit the Filing
Review and Approve Filing

County: Georgetown  Court Agency: Common Pleas  Case Type: Common Pleas

Client #: 2017-159

Payment on behalf of: Mary Davis

Payment Method:
- Pay by Credit Card
  - Estimated Court Fees: $150.00
  - Technology Fee: $25.00
  - SC.Gov Convenience Fee: $5.32
  - Total Fees: $180.32

- Waiver - Indigency (Use when filing with Certification of Indigent Representation)
- Bankruptcy (Use when filing proposed Order to Stay due to Bankruptcy)
- Waiver Requested (Fee not Required)
Review and Approve Filing

County: Georgetown  Court Agency: Common Pleas  Case Type: Common Pleas  Case Initiation

Client #: 2017-159

Payment on behalf of: Mary Davis

Payment Method:
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- Waiver - Indigency (Use when filing with Certification of Indigent Representation)
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**Document(s) to be Submitted:**

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**Special Filing Instructions for the Clerk:**

You can use this in place of a traditional cover letter to the clerk of court.
STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

MARY DAVIS,
Plaintiff,
v.
JOHN HUNTER, d/b/a HUNTER ELECTRIC,
Defendant.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

SUMMONS
(Jury Trial Demanded)

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this
action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the
Complaint on the Attorney for the Plaintiff, at the address below, within thirty (30) days after
service hereof, exclusive of the day of service, and if you fail to answer the Complaint with the
time aforesaid, judgment by default will be rendered against you for the relief demanded in the
Complaint.

SOUTH CAROLINA LEGAL SERVICES

/s/ Jason M. Bobertz
Jason M. Bobertz, Esq.
S. C. Bar No. 69142
1231 Gervais Street
Columbia, South Carolina 29201
803-771-7777
jbobertz@scgcourts.org

ATTORNEYS FOR THE PLAINTIFF
Case Initiation/Party Data:

Document(s) to be Submitted:

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</table>

Special Filing Instructions:

You can use this in place of:

Back  Cancel (Delete)  Move to Draft  Submit the Filing
PAYMENT OF FILING FEES

➢ Fees Paid by Credit Card at Time of E-Filing

➢ SCGov is Payment Vendor

➢ SCGov will NOT Retain Credit Card Numbers

➢ Develop Office Procedures so that E-Filers have Access to Credit Card Information
PAYMENT OF FILING FEES

- Credit Card Encumbered When you File
- Not Charged Until Accepted by Clerk
- Filing Rejected by the Clerk-Hold Released and you are Not Charged
- Will Need to Re-Submit Payment Information when Re-Filing
TRAINING AND INSTRUCTION

- More Training Materials Available for Attorneys and Paralegals

- E-Filing Page: www.sccourts.org/efiling/
  - Contains Resources for Instruction and Self-Help
Court News ...

- SCCA Form 800 Transcript Request (08-13-2018)
- Expansion of Electronic Filing Pilot Program - Court of Common Pleas (08-09-2018)
- Amendments to the South Carolina Appellate Court Rules (08-08-2018)
- E-Filing Pilot Program to Expand to Calhoun County on August 7, 2018 (07-18-2018)
- Fee Memorandum - County Treasurers (07-03-2018)
- ...more
SC Courts E-Filing Portal

SC Courts E-Filing System will permit you to file your case directly with the Court of Common Pleas in any county where E-Filing is available. Please review the E-Filing Policies and Guidelines prior to using the E-Filing system. As other courts and counties are implemented, they will be listed on this page.

Before using the E-Filing system you must register. If you are a South Carolina attorney in Good Standing, you will register by following the instructions on the E-Filing tab of AIS.

E-Filing Online Help and Instructions:

- Training Videos
- Attorney Reference Guides
- Webinars
- Support/Help
- Technology Fees
- Email Addresses/Fax Numbers for Technical Failures/Difficulties

E-Filing Policies and Guidelines
Data Entry Standards for Lawyers
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Announcements

Electronic Filing - Important Announcement for Attorney E-Filers - 10/13/2016
Summary of E-Filing Public Comments and Responses - 09/29/2016
Electronic Filing - Important Announcement for Attorneys Serving as Special

Scheduled Maintenance will take place on Tuesday, September 19, 2017 from 10:00 PM to 2:00 AM, Wednesday, September 20, 2017.
Start: 09/19/2017 10:00 PM
End: 09/20/2017 02:00 AM
Type: Scheduled
SC Courts E-Filing Portal

SC Courts E-Filing System will permit you to file your case directly with the Court of Common Pleas in any county where E-Filing is available. Please review the E-Filing Policies and Guidelines prior to using the E-Filing system. As other courts and counties are implemented, they will be listed on this page.

Before using the E-Filing system you must register. If you are a South Carolina attorney in Good Standing, you will register by following the instructions on the E-Filing tab of AIS.

E-Filing Online Help and Instructions:
- Training Videos
- Attorney Reference Guides
- Webinars
- Support/Help
- Technology Fees
- Email Addresses/Fax Numbers for Technical Failures/Difficulties
- E-Filing Policies and Guidelines
- Data Entry Standards for Lawyers
- Filer Interface User Guide
- Frequently Asked Questions
- Attorney Search
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- System Outage Log

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E-Filing Attorney FAQs

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Document Requirements

E-Filing to an Existing Case

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Summary of E-Filing Public Comments and Responses

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Technology Requirements

Tips of the Week
Tips of the Week

1. E-Filing Tip of the Week: E-Filing the Summons and Complaint

Did you know that you no longer have to fill out and file a Civil Action Coversheet when you E-File a summons and complaint? All of the information you would normally include in the Civil Action Coversheet will be inputted by you in the E-Filing System. Also, the summons and complaint should be saved in a single document before being converted to PDF to be E-Filed.

2. E-Filing Tip of the Week: E-Filing Motions

Did you know that you no longer have to submit a Motion and Order Information Form and Coversheet when you E-File a motion? You can simply submit the motion and indicate whether you are requesting a hearing in the E-Filing System. Only use the Motion and Order Information Form and Coversheet if you wish to E-File a proposed order without an accompanying motion.

3. E-Filing Tip of the Week: Electronic Signatures

A document or pleading prepared by an attorney, such as a summons and complaint, answer, or motion, should be electronically signed by that attorney. If you are an attorney, simply insert your typed name, i.e. "s/John Doe", and include your bar number, physical address, telephone number, and email address below your electronic signature. The document should then be converted from a word-processing format to PDF for E-Filing. However, only attorneys may use an electronic signature. Any time a document is signed by a person who is not the attorney E-Filing the document, such as certificate of service signed by a paralegal or any notarized document, that document must be hand-signed and E-Filed as a scanned PDF image.

4. E-Filing Tip of the Week: Uploading Pleadings to the E-Filing System

The E-Filing System is designed to upload documents individually using specific "Actions". For example, a motion to compel generally includes the written motion to compel, a copy of the previously served discovery requests, and a certificate of service (assuming the opposing party is not an E-Filer). To E-File in this example, you would upload: (1) the motion to compel using the action "Motion/Compel"; (2) the previously served discovery requests using the action "Exhibit/Filing of Exhibits"; and (3) the certificate of service under "Service/Certificate of Service". All of these separate documents would be E-Filed simultaneously, but will appear as individual documents in the E-Filing System and on the
QUESTIONS?
E-Discovery

Lucile H. Cohen

No Materials Provided
The Theoretical Foundations of the Rules of Civil Procedure: Applied in Real Cases with Real People

Justice John C. Few

No Materials Provided
Panel View from the Bench

Honorable Huntley S. Crouch
Honorable Brian M. Gibbons
Honorable Aphrodite K. Konduros

No Materials Provided
Evolving Duties of Confidentiality

Dean Robert M. Wilcox
RECENT ETHICAL ISSUES FOR THE CIVIL LITIGATOR

I. CONFIDENTIALITY AND THE HANDLING OF CLIENT INFORMATION

A. Amendment to South Carolina Rule 1.6 Regarding Confidentiality

- In June 2019, the South Carolina Supreme Court amended Rule 1.6 by adding a new Comment [7]:

[7] Disclosure of information related to the representation of a client for the purpose of marketing or advertising the lawyer's services is not impliedly authorized because the disclosure is being made to promote the lawyer or law firm rather than to carry out the representation of a client. Although other Rules govern whether and how lawyers may communicate the availability of their services, paragraph (a) requires that a lawyer obtain informed consent from a current or former client if an advertisement reveals information relating to the representation. This restriction applies regardless of whether the information is contained in court filings or has become generally known. See Comment [3]. It is important the client understand any material risks related to the lawyer revealing information when the lawyer seeks informed consent in accordance with Rule 1.0(g). A number of factors may affect a client's decision to provide informed consent, including the client's level of sophistication, the content of any lawyer advertisement and the timing of the request. General, open-ended consent is not sufficient. (Emphasis Added)

- In the Order adding Comment [7], the Court declined to amend Rule 1.6 as proposed by the S.C. Bar “to allow lawyers to reveal citations to published opinions without being required to obtain client consent.”

- “Blogging about the case, publishing in social media, or even discussing at a CLE the case in which you were the counsel would seem to be unethical in light of the new comment 7 unless you obtain the informed consent of your client.” Nathan Crystal, ETHICS WATCH Advertising and Confidentiality: Is New Comment 7 Constitutional?, S.C. LAWYER, Sept. 2019, at 16.
B. Cybersecurity Protections

- ABA Model R. Prof. Cond. 1.6 (c): A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

- ABA Model R. Prof. Cond. 1.6, Comments [18] and [19]:

Acting Competently to Preserve Confidentiality

[18] Paragraph (c) requires a lawyer to act competently to safeguard information relating to the representation of a client against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer’s supervision. See Rules 1.1, 5.1 and 5.3. The unauthorized access to, or the inadvertent or unauthorized disclosure of, information relating to the representation of a client does not constitute a violation of paragraph (c) if the lawyer has made reasonable efforts to prevent the access or disclosure. Factors to be considered in determining the reasonableness of the lawyer’s efforts include, but are not limited to, the sensitivity of the information, the likelihood of disclosure if additional safeguards are not employed, the cost of employing additional safeguards, the difficulty of implementing the safeguards, and the extent to which the safeguards adversely affect the lawyer’s ability to represent clients (e.g., by making a device or important piece of software excessively difficult to use). A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to forgo security measures that would otherwise be required by this Rule. Whether a lawyer may be required to take additional steps to safeguard a client’s information in order to comply with other law, such as state and federal laws that govern data privacy or that impose notification requirements upon the loss of, or unauthorized access to, electronic information, is beyond the scope of these Rules. For a lawyer’s duties when sharing information with nonlawyers outside the lawyer’s own firm, see Rule 5.3, Comments [3]-[4].

[19] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent the information
from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer's expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this Rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this Rule. Whether a lawyer may be required to take additional steps in order to comply with other law, such as state and federal laws that govern data privacy, is beyond the scope of these Rules.

- South Carolina has not adopted paragraph (c) of Model Rule 1.6. S.C. R. Prof. Cond. 1.6, Comment [20] differs significantly from Model Comment [18] and does not mention protection against unauthorized access by third parties:

  [20] A lawyer must act competently to safeguard information relating to the representation of a client against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are subject to the lawyer's supervision. See Rules 1.1, 5.1 and 5.3.

- Cyber Security Measures
  - Routine Risk Assessment
  - Restrict Employee Access to Data They Need
  - Password Management
  - Backup Systems
  - Training
  - Appropriate Encryption
  - Third-Party Vendor Agreements
  - Incident Response Plan and Team
  - Insurance

- Ransomware Threats May Come After Other Loss
C. Attorney-Client Privilege

- Use of Forensic Firms to Investigate a Cyber Intrusion

_In re Target Corp. Customer Data Security Breach Litigation_, 2015 WL 6777384 (D. Minn. Oct. 23, 2015). In response to a major data breach, Target created a Data Breach Task Force. Target argued that the task force was “not involved in an ordinary-course-of-business investigation of the data breach.” Target asserted that it had created the task force at the request of its in-house counsel in order to better educate the lawyers on the breach and to enable them to provide better legal advice to the company in defending class action lawsuits arising out of the breach. Target argued that a second investigation was non-privileged and designed to allow for a quick investigation of the causes of and best response to the breach. The court found many communications involving the task force were privileged because Target had been able to establish “that the work of the Data Breach Task Force was focused not on remediation of the breach, … but on informing Target’s in-house counsel and outside counsel about the breach” in order that they could defend the company against reasonably anticipated litigation.

A later Oregon case involving a breach at Premera distinguished _Target_. “This situation is unlike the _Target_ data breach case relied upon by Premera. In _Target_, the company performed its own independent data breach investigation that was produced in discovery and the attorneys performed a separate investigation through a retained expert company that was privileged and protected from discovery. With Premera, however, there was only one investigation, performed by Mandiant, which began at Premera's request. When the supervisory responsibility later shifted to outside counsel, the scope of the work performed did not change. Thus, the change of supervision, by itself, is not sufficient to render all of the later communications and underlying documents privileged or immune from discovery as work product.” _In re Premera Blue Cross Customer Data Sec. Breach Litig_, 296 F. Supp. 3d 1230, 1245 (D. Or. 2017).

- Hospital Counsel’s Communications with Nonemployee Physician

_Hermanson v. Multi-Care Health Sys., Inc._, 448 P.3d 153 (Wash. App. 2019). A patient, who had suffered injuries in a car accident, sued the operator of a hospital on a variety of claims including defamation after the hospital allegedly released the patient’s blood alcohol level to law
enforcement. Along with other medical facilities, the defendant hospital had created a non-profit entity, known as Trauma Trust, which employed physicians to provide trauma services at the various participating medical centers. There were no allegations of malpractice and neither the physician nor Trauma Trust, which employed the physician, were named defendants. However, because of concerns of potential liability, the physician, Trauma Trust, and the hospital jointly hired counsel to protect their interests.

Hospital counsel argued that communications with the physician were privileged on both the grounds that he was an agent of the hospital and because of the joint representation agreement. The plaintiff successfully argued that no corporate attorney-client privilege attached to communications with the physician because he was not an employee of the hospital. Washington refused to extend the corporate attorney-client privilege to someone who is only the “functional equivalent of an employee.”

The court also found that the plaintiff had not waived a statutory physician-patient privilege because he had not claimed personal injury from malpractice. Thus, the physician-patient privilege precluded the hospital’s lawyer from engaging in ex parte privileged communications with the physician. The joint representation agreement could not be used to essentially abrogate the privilege.

- Corporate Disclosures to a PR Firm

  - *In re Signet Jewelers Ltd. Securities Litigation*, 2019 WL 4197201 (S.D.N.Y. Sept. 5, 2019). After publication of a series of articles accusing Signet of fraud, the company’s outside counsel hired two public relations firms, which joined a “strategic communications steering committee,” including both outside and in-house counsel, for the purpose of neutralizing legal and reputational risks faced by the company. The lawsuit followed, and the company refused to produce in discovery certain communications that included the PR firms, claiming attorney-client privilege.

  The court recognized that some communications with a PR firm may be privileged, if the engagement of the PR firm is necessary to perform the function of providing legal representation to the client. Specifically, the privilege may exist when the PR firm is
hired to assist the lawyers in dealing with media and when the communications are made for the purpose of handling the client’s legal matters.

In this case no privilege attached because of several factors. The PR firm was hired to burnish the company’s image, not to “perform a specific litigation task.” The communications concerned responses to media inquiries, not the provision of legal advice. The inclusion of counsel on the communications did not cloak them in privilege.

- *Stardock Systems, Inc. v. Reiche*, 2018 WL 62599536 (N.D. Cal. 2018). In an intellectual property infringement case, the defendants’ lawyers retained a PR firm for the purpose, according to defendants, of providing “input on legal strategy.” Plaintiffs alleged that the PR firm was used to “orchestrate a social and other media assault” on plaintiffs. The court found it to be important that the lawyers had hired the PR firm directly and for the purpose of assisting in litigation strategy; thus, any communications related to the giving or receipt of legal advice were privileged. These included communications about pleadings and potential exhibits.

D. Retaining Client Electronic Data Over a Client’s Objection


The advisory opinion addresses a situation in which a lawyer received a large amount of digital data from the client. The client then changed counsel, and the lawyer delivered to the client’s new counsel all of the data in the client’s file. The lawyer, however, retained back-up copies of some of the data that the client had provided. An eventual settlement required the former client to retrieve and destroy all data that was the subject of the dispute. The former client demands that the lawyer do so and certify that the files were destroyed. Concerned about the possibility of litigation against the lawyer by the former client or the other party (the client’s former employer), the lawyer demands a release and indemnification agreement before the lawyer will destroy files that could be used to protect the lawyer’s interests. The opinion advises that the lawyer’s position is ethical.
E. Disclosure to Force Payment of Fees

- *Disciplinary Counsel v. Shimko*, 131 N.E.3d 52 (Ohio 2019). Client retained the lawyer to represent him at a deposition, but not beyond. The lawyer estimated total fees of $2,300. Afterwards he sent a bill for $4,350. When the client offered to pay only $3,300, the lawyer threatened to put a lien on his property and eventually sued the client for the balance after the client paid $3,300. The client asked the lawyer to dismiss the lawsuit, and the lawyer “responded by threatening to disclose” the client’s confidential information if he was not paid the full amount. The lawyer then followed through with threat, making disclosures in various court filings. The lawyer claimed that the client had lied under oath to avoid losing his insurance claim, a claim the court later rejected.

The court found that the fee was clearly excessive for various reasons. It also found that the lawyer had improperly threatened to disclose, and had disclosed, confidential client information without making any effort to limit the access to those disclosures. “[T]he sole purpose of Shimko’s threats and subsequent exposure of confidential information was … to compel” payment of the fee. The lawyer was suspended from practice indefinitely.

II. JUDICIAL CONDUCT AND OTHER HIGHLIGHTS OF 2019

A. Judicial Ex Parte Meeting with Jurors

- *United States v. Mehta*, 919 F.3d 175 (2d Cir. 2019). In a criminal trial involving allegations of marriage fraud and immigration fraud, the judge met ex parte with five jurors at their request. The jurors expressed safety concerns based upon their observations of the defendants outside of the courtroom. The judge described the conduct they had observed as “disturbing” and “inappropriate” and offered to assign a security officer to accompany the jurors to their cars. The judge also implied that such behavior was unusual, but not unprecedented. The judge did not inquire as to whether the jurors could remain unbiased. The judge then informed counsel of the meeting, summarized his discussion with the jurors, and told counsel to keep their clients away from the jurors. The judge did not specifically tell the lawyers that he had described the conduct as disturbing or inappropriate. The Second Circuit vacated the subsequent convictions because of the ex parte meeting, noting not only that it denied defendants the opportunity to be heard, but also that the judge had not fully described the conversation to
counsel afterwards and had never informed the other jurors of the content of the meeting, “leaving the other jurors to speculate as to what had happened.”

B. Relationship Disqualification of Judges


Judges need not disqualify themselves because a lawyer or party is an acquaintance, nor do they need to disclose that relationship. If the lawyer or party is a friend or enjoys a close personal relationship with the judge, recusal depends upon circumstances, and disqualification may be waived, unless there is personal bias or prejudice.

By example, an acquaintance includes a member of the same church or club; a fellow parent who greets the judge at school events; a former co-counsel on a case prior to the judge being named to the bench; or a neighbor.

Friendships may be professional or social, and the term “connotes some degree of mutual affection.” Friendships require disqualification only if the friendship is sufficiently close that “the judge’s impartiality might reasonably be questioned.” However, the judge should disclose friendships to allow parties an opportunity to object to the judge’s continued involvement in the case.

Close personal relationships go beyond friendship and may include romantic connections or former spouses. A romantic relationship requires disqualification, and other close personal relationships should be disclosed.

C. Public Settlement Conference Order Reversed

- In re Univ. of Mich., 936 F.3d 460 (6th Cir. 2019). The underlying lawsuit was a claim that the university denied a student due process in a school disciplinary hearing involving allegation of sexual assault. The trial judge became frustrated by the pace of the university’s actions in the case and ordered a settlement conference, requiring the attendance of the university’s president, although the judge acknowledged that others with full settlement authority likely knew more about the case at issue. Two days before the conference, the judge ordered that it be open to the public. The university sought mandamus to remove the requirement of the president’s personal appearance and to prevent the conference from being open to the public.
The Sixth Circuit found no basis for either contested aspect of the trial court’s order. The reason given by the trial judge for requiring the president to appear in person was that he “had a duty to explain university policy to his constituents.” The Sixth Circuit declared that to be “not a valid reason” and found that the personal appearance was not necessary to achieve a settlement. As for the public nature of the proceeding, the Sixth Circuit found that the trial judge had scheduled the conference so that the university could “explain [policy choices] to the media, to the public, and perhaps most importantly to the faculty and the students.” That is not a valid purpose of a settlement conference. “[T]o achieve the purposes that the Rules do permit, settlement conferences should be private, not open to the media and the public.” To order otherwise was held to be an abuse of discretion. The court ultimately held that neither the Constitution nor the Congress had given the federal judge the power to compel the appearance of a high ranking state official at a public settlement conference. “Either of these actions alone may warrant mandamus. Together, they certainly do.”

D. **Payment of Fees to Successor Counsel**

- ABA Formal Op. 487 (June 18, 2019).

This advisory opinion addresses the situation in which counsel from one law firm succeeds counsel from another firm in a contingency fee matter and must divide the fee at the end of the representation. It interprets Rule 1.5 to require that when a lawyer assumes a representation from another law firm the new lawyer must notify the client in writing that the prior counsel may be paid a portion of the fee. Precision as to the amount of the fee to be paid may not be possible, but that does not preclude giving notice that some amount may be paid. The client’s consent to a fee division is also required at the end of the case.

**III. FUTURE OF THE LEGAL PROFESSION**


In adopting the Report of the Work Group two days after the report was issued, the Utah Supreme Court issued the following statement on August 29, 2019:

“In what is being called one of the most significant moves to narrow the access-to-justice gap ordinary people confront when faced with legal issues, the Utah Supreme Court on Wednesday voted unanimously to
approve pursuing changes to the regulatory structure for legal services.

“The changes, recommended by a joint Supreme Court/Utah Bar work group, focus on updating rules governing lawyers and allowing non-traditional legal services to be tested and approved in a, ‘regulatory sandbox.’

“The result could mean expanding legal services that will meet the unmet legal needs of a large swath of society.”