

# The Supreme Court of South Carolina

Re: Amendments to Rule 3 and Rule 5, South Carolina  
Court-Annexed Alternative Dispute Resolution Rules

Appellate Case No. 2018-001828

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## ORDER

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Pursuant to Article V, § 4 of the South Carolina Constitution, Rule 3 and Rule 5 of the South Carolina Court-Annexed Alternative Dispute Resolution Rules are amended as set forth in the attachment to this order. These amendments shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty \_\_\_\_\_ C.J.

s/ John W. Kittredge \_\_\_\_\_ J.

s/ Kaye G. Hearn \_\_\_\_\_ J.

s/ John Cannon Few \_\_\_\_\_ J.

s/ George C. James, Jr. \_\_\_\_\_ J.

Columbia, South Carolina  
January 31, 2019

**Rule 3, South Carolina Court-Annexed Alternative Dispute Resolution Rules, is amended to provide:**

**Rule 3  
Actions Subject to ADR**

**(a) Mediation.** All civil actions filed in the circuit court, all cases in which a Notice of Intent to File Suit is filed pursuant to the provisions of S.C. Code 15-79-125(A), and all contested issues in domestic relations actions filed in family court, except for cases set forth in Rule 3(b) or (c), are subject to court-ordered mediation under these rules. Except for exempt cases, in all civil actions filed in the circuit court and all contested issues in domestic relations actions filed in family court, the parties may agree, in lieu of mediation, to conduct an arbitration or early neutral evaluation under these rules. The parties may select their own neutral and may mediate, arbitrate or submit to early neutral evaluation at any time.

**(b) Exceptions.** ADR is not required for:

- (1)** special proceedings, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
- (2)** requests for temporary relief;
- (3)** appeals;
- (4)** post-conviction relief (PCR) matters;
- (5)** contempt of court proceedings;
- (6)** forfeiture proceedings brought by governmental entities;
- (7)** mortgage foreclosures;
- (8)** family court cases initiated by the South Carolina Department of Social Services; and
- (9)** cases that have been previously subjected to an ADR conference, unless otherwise required by this rule or by statute.

**(c) Motion to Exempt from ADR.** A party may file a motion to exempt a case from ADR for case specific reasons. For good cause, the Chief Judge for Administrative Purposes of the circuit may grant the motion. For example, it may be appropriate to completely exempt a case from the requirement of ADR where a party is unable to participate due to incarceration or physical condition.

**(d) Motion to Refer Case to Mediation.** In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

**Rule 5(e), South Carolina Court-Annexed Alternative Dispute Resolution Rules, is amended to provide:**

**(e) Motion to Defer.** A party may file a motion to defer an ADR conference for case specific reasons. For good cause, the Chief Judge for Administrative Purposes of the circuit may grant the motion. For example, it may be appropriate to defer an ADR conference where a party is unable to participate due to incarceration or mental or physical condition.