

The Supreme Court of South Carolina

RE: Amendments to the South Carolina Rules of Civil Procedure

O R D E R

Pursuant to Article V, § 4 of the South Carolina Constitution, Rule 3 of the South Carolina Rules of Civil Procedure (SCRCP) is amended as shown in the attachment to this order. These amendments shall be submitted to the General Assembly as provided by Article V, § 4A of the South Carolina Constitution.

IT IS SO ORDERED.

s/ Jean H. Toal _____ C.J.

s/ Costa M. Pleicones _____ J.

s/ Donald W. Beatty _____ J.

s/ John W. Kittredge _____ J.

s/ Kaye G. Hearn _____ J.

Columbia, South Carolina
January 27, 2011

Amendments to South Carolina Rules of Civil Procedure (SCRCP)

- (1) Rule 3, SCRCP, is amended to read as follows:

RULE 3 COMMENCEMENT OF ACTION

(a) Commencement of civil action. A civil action is commenced when the summons and complaint are filed with the clerk of court if:

- (1) the summons and complaint are served within the statute of limitations in any manner prescribed by law; or
- (2) if not served within the statute of limitations, actual service must be accomplished not later than one hundred twenty days after filing.

(b) Filing *In Forma Pauperis*.

- (1) Except as provided in (2) below, a plaintiff who desires to file an action *in forma pauperis* shall file in the court a motion for leave to proceed *in forma pauperis*, together with the complaint proposed to be filed and an affidavit showing the plaintiff's inability to pay the fee required to file the action. If the motion is granted, the plaintiff may proceed without further application and file the complaint in the court without payment of filing fees.
- (2) Where a party is represented in a civil action by an attorney working on behalf of or under the auspices of a legal aid society or a legal services or other nonprofit organization funded in whole or substantial part by funds appropriated by the United States Government or the General Assembly of the State of South Carolina, which has as its primary purpose the furnishing of legal services

to indigent persons, or the South Carolina Bar Pro Bono Program, fees related to the filing of the action shall be waived without the necessity of a motion and court approval. Before the filing fees will be waived, the attorney representing the party must file with the clerk a written certification that representation is being provided on behalf of or under the auspices of the society, organization or program, and that the party is unable to pay the filing fees.

- (2) The following note is added to the end of Rule 3, SCRPC:

Note to 2011 Amendment:

This amendment added the language of (b)(2) which allows for the waiver of the filing fees for an action when a party is represented by an attorney working on behalf of or under the auspices of a legal aid society, a legal services or other nonprofit organization, or the South Carolina Pro Bono Program.

RULE CHANGE SUBMITTED TO THE GENERAL ASSEMBLY