

The Supreme Court of South Carolina

Re: Amendments to South Carolina Appellate Court
Rules

Appellate Case No. 2016-002561

ORDER

Pursuant to Article V, § 4, of the South Carolina Constitution, Rules 208, 215, 218, 221, 240, 245, 260, and 267 of the South Carolina Appellate Court Rules are hereby amended as provided 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.

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, 2018

Rule 208(b), South Carolina Appellate Court Rules, is amended to provide:

(b) Content. The initial briefs under this Rule and the final briefs under Rule 211 shall contain:

(1) Brief of Appellant. The brief of appellant shall contain under appropriate headings and in the order here indicated:

(A) Table of Contents and Cases. A table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(B) Statement of Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue, and may be stated in question form. Broad general statements may be disregarded by the appellate court. Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.

(C) Statement of the Case. The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain, as a minimum, the following information: the date of the commencement of the action or matter; the nature of the action or matter; the nature of the defense or of the response; the action of the court, jury, master, or administrative tribunal; the date(s) of trial or hearing; the mode of trial; the amount involved on appeal; the date and nature of the order, judgment or decision appealed from; the date of the service of the notice of appeal; the date of and description of such orders, judgments, decisions and proceedings of the lower court or administrative tribunal that may have affected the appeal, or may throw light upon the questions involved in the appeal; and any changes made in the parties by death, substitution, or otherwise. Any matters stated or alleged in appellant's statement shall be binding on appellant.

(D) Standard of Review. If all the issues are governed by the same standard of appellate review, the Brief shall contain a section with the heading "Standard of Review," which shall concisely set forth the applicable standard of review with citations to relevant case law establishing the standard. If the same standard of review is not applicable to all of the issues, a separate section with a heading of "Standard of Review" shall be included at the start of the argument on each issue with citations to relevant case law establishing this standard of review.

(E) Argument. The brief shall be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, followed by discussion and citations of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize the party's contentions.

(F) Conclusion. A short conclusion stating the precise relief requested.

(2) Brief of Respondent. The brief of respondent shall conform to the requirements of Rule 208(b)(1)(A)-(F), except that a statement of the issues, of the case, or of the standard of review need not be made unless the respondent is dissatisfied with the statement of the issues, of the case, or of the standard of review by appellant. If a respondent does not include his own statement of the case, he shall be bound by the matters stated or alleged in appellant's statement of the case. If a respondent does include his own statement of the case, he shall be bound by the matters stated or alleged in his statement of the case. Respondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c).

Rule 215, South Carolina Appellate Court Rules, is amended to provide:

**RULE 215
SUBMISSION WITHOUT ORAL ARGUMENT**

The appellate court may decide any case without oral argument if it determines that oral argument would not aid the court in resolving the issues.

Rule 218(a), South Carolina Appellate Court Rules, is amended to provide:

(a) Conduct of Argument. The appellant shall open and close the argument. Unless otherwise permitted by the court, counsel will not be permitted to read from books, briefs, records or authorities cited, although brief references therefrom may be read to illustrate points and argument.

Rule 221(a), South Carolina Appellate Court Rules, is amended to provide:

(a) Rehearing. Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court. No return to a petition for rehearing may be filed unless requested by the appellate court. Ordinarily, however, rehearing will not be granted in the absence of such a request. No petition for rehearing shall be allowed from an order denying a petition for a writ of certiorari under Rule 242, SCACR.

Rule 240(e), South Carolina Appellate Court Rules is amended to provide:

(e) Return to Motion. Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve on all parties a copy of the return; provided, however, that a return to a petition for rehearing may only be filed if permitted under Rule 221(a). The court

may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.

Rule 245(a), South Carolina Appellate Court Rules, is amended to provide:

(a) When Appropriate. The Supreme Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the first instance, without material prejudice to the rights of the parties. If the public interest is involved, or if special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised, the facts showing the reasons must be stated in the petition.

Rule 260(b), South Carolina Appellate Court Rules, is amended to provide:

(b) Agreed Dismissal. If the parties to an appeal or other proceeding shall sign and file with the clerk of the appellate court an agreement that the proceeding be dismissed, the appellate court may enter an order of dismissal. The agreement may contain a provision altering the costs to be assessed under Rule 222 and/or other settlement terms subject to the provisions of Rule 261. An agreement that the proceeding be dismissed need not be in the form of a motion unless the parties request that the appellate court alter the costs assessed; approve a settlement agreement; modify the requirements of an Appellate Court Rule; or vacate a prior order, opinion, or judgment.

Rule 267(f), South Carolina Appellate Court Rules, is amended to provide as follows, and the current version of paragraph (f) is reordered as paragraph (g):

(f) Number of Copies. The number of copies required to be filed are specified in the applicable Appellate Court Rule. However, the number of copies required to be filed may be reduced by order of the Supreme Court.