

December 17, 2009

Via U.S. Regular Mail and Electronic Mail

The Honorable Daniel E. Shearhouse
Clerk of Court Supreme Court of South Carolina
P.O. Box 11330
Columbia, South Carolina 29211

RE: Amendment to Rule 6 of the South Carolina Rules for Civil
Procedure

Dear Mr. Shearhouse

That is a great change to the Rules. I have one observation and one criticism. The moving party has weeks or months to put together a motion and the affidavits, documents, and deposition testimony to present an effective argument supported properly by the evidence.

My observation is that there is typically a long length of time between when a motion is filed and when courts are able to conduct a motion hearing. My only criticism of either version is that, in complex litigation with motions that are substantial or even simple cases with a complex issue presented in a motion, the amended rule does not give the non-moving party sufficient time to respond. Ten days is not enough time in complex cases to respond properly to a motion of any substance.

Further, there is no practical reason from a scheduling standpoint to create such a short time period within which a party has to respond given the length of time it takes before a motion is heard. For those of us with a heavy litigation practice that ten day period could be very onerous and disruptive to our practice (and our personal lives). It gives the moving party too much of an advantage.

I strongly urge that the Court lengthen that time period to at least thirty (30) days. For all motions I would require any memorandum and supporting evidence to be filed with the motion.

I would like the opportunity to speak at the hearing but am already scheduled to take a deposition.

With kind regards, I am

Very truly yours,

Frank E. Grimball

FEG:sdh

PS: Some years ago I wrote Chief Justice Finney a letter requesting that Court Administration NOT schedule JURY trials for the week after a holiday weekend. Those weeks could easily be used to hear motions which typically take less time to prepare for and often get worked out. Making this simple change would allow lawyers to enjoy holiday weekends, improving the quality of their lives. When I had a volume defense practice I spent way too many holiday weekends preparing a case for trial. It was awful. I note once again that in 2010 jury trials are scheduled for the weeks after New Year's Day, Easter, and Memorial Day. The poor lawyer who has a case on the jury docket beginning January 4, 2010, is not going to have an enjoyable holiday season. I suggest that the Court consider this modest proposal for improving the quality of life of trial lawyers in S.C.