

South Carolina Bar Petition :

THE STATE OF SOUTH CAROLINA
In The Supreme Court

PETITION
South Carolina Bar
Ex Parte

IN RE: Amendment of Rule 6, SCRCP

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1. The South Carolina Bar is empowered under Rule 410, SCACR, with the specific purposes set forth in section b. The undersigned as President of the Bar has general charge of the affairs of the organization and is thus empowered to seek this relief in the Court.

2. On May 14, 2009, at a properly called and convened meeting of the House of Delegates, the House adopted a proposal from the Practice and Procedure Committee to amend Rule 6, SCRCP, as set forth in Attachment A.

3. The Committee had received comments from lawyers and members of the judiciary that motions practice needed to be improved. Concerns had been raised about having memoranda of law submitted and served on opposing counsel shortly before or during a motions hearing and the absence of a uniform rule.

4. The Committee received comments from the Chief Judges for Administrative Purposes in each of the sixteen Judicial Circuits. Some of the judges wished to adopt the local federal rule requiring submission of the memorandum with the motion; others wanted submission at least thirty days prior to a hearing; still others felt filing contemporaneous with the hearing

was acceptable. The Committee reported that some judges have established their own filing preferences, which preferences vary from judge to judge and circuit to circuit.

5. The Committee proposed adoption of a new subsection in Rule 6. The proposal, as amended by the House, is set forth in Attachment A. The proposal seeks to establish time intervals which will permit a meaningful opportunity to receive and respond to legal arguments. The intervals would also permit the judge to review and consider the arguments upon which a ruling is sought. The court is given discretion to modify the intervals upon request of a party.

WHEREFORE, the South Carolina Bar prays that the Supreme Court of South Carolina amend Rule 6, SCRCP, as set forth in Attachment A.

Fred W. Suggs, Jr.
President

June 22, 2009

ATTACHMENT A

The following subsection would be added as (e), with the present subsection (e) becoming (f).

Rule 6(e)

Except for written motions that may be heard ex parte, or written motions for which notice of the hearing is not received in writing at least 30 days in advance from either the court or another party, or as otherwise provided in Rules 56(c) and 59(c), a moving party, if intending to do so, shall file and serve a memorandum of law in support of the motion no later than 20 days before the hearing. The nonmoving party, if intending to do so, shall file and serve a memorandum of law in opposition to the motion no later than 10 days before the hearing. The moving party, if intending to do so, shall file and serve a memorandum of law in reply no later than 2 days before the hearing. The court in its discretion may modify these deadlines upon request of a party.