

STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT FOR THE
)
 _____ COUNTY) _____ JUDICIAL CIRCUIT
)
 _____)
 Plaintiff)
)
 vs.) COVER SHEET FOR
) CIVIL ACTIONS
 _____)
 Defendant)
)
 _____) Docket No. _____

The cover sheet and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. **A copy of this Cover Sheet must be served on the defendant(s) along with the Summons and Complaint.**

NATURE OF ACTION: *(check one category for the main cause of action)*

- | | |
|--|---|
| <input type="checkbox"/> TORT - Motor Vehicle | <input type="checkbox"/> CONTRACT - Debt Collection |
| <input type="checkbox"/> TORT - Professional Malpractice | <input type="checkbox"/> CONTRACT - Employment |
| <input type="checkbox"/> TORT - Unfair Trade Practices,
Other Economic or Business-
Related Wrongs | <input type="checkbox"/> CONTRACT - Construction |
| | <input type="checkbox"/> CONTRACT - Wrongful Breach |
| | <input type="checkbox"/> CONTRACT - General or Other |
| <input type="checkbox"/> TORT - Products Liability | <input type="checkbox"/> REAL PROPERTY |
| <input type="checkbox"/> TORT - General or Other | <input type="checkbox"/> MINOR SETTLEMENTS |
| <input type="checkbox"/> PCR | <input type="checkbox"/> DOMESTIC FOREIGN JUDGMENT |
| <input type="checkbox"/> GOV/ADM - Workers Comp | <input type="checkbox"/> OTHER <i>(Please Describe)</i> |
| <input type="checkbox"/> GOV/ADM - General or Other | |

JURY DEMAND YES NO

Note: Information requested on this form is preliminary in nature, and for administrative purposes only. The response to this request for information on jury demand merely indicates a likelihood that a jury trial will or will not be requested and does not constitute a demand for or a waiver of trial by jury pursuant to applicable rules or statutes.

DOCKETING INFORMATION *(Check one box.)*

- This case is subject to **arbitration** (all cases with monetary damages less than \$25,000 are subject to arbitration, unless otherwise exempt).
- This case is subject to **mediation** (all cases not subject to arbitration must be mediated, unless otherwise exempt.)
- This case is exempt from ADR, and certificate is attached.

 Date:

SEE REVERSE SIDE FOR FURTHER IMPORTANT INFORMATION

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral within 210 days of the filing of this action, and the Plaintiff shall file a Stipulation of Neutral Selection on or before the 224th day after the filing of the action. If the parties cannot agree upon the selection of the neutral within 210 days, the Plaintiff shall notify the Court by filing a written Request for the Appointment of a Neutral on or before the 224th day after the filing of this action. The Court shall then appoint a neutral from the Court-approved mediator/arbitrator list.
2. The initial ADR conference must be held within 300 days after the filing of this action.
3. Cases are exempt from ADR only upon the following grounds:
 - (a) Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - (b) Cases which are appellate in nature such as appeals or writs of certiorari;
 - (c) Post conviction relief matters;
 - (4) Contempt of Court proceedings;
 - (5) Forfeiture proceedings brought by the State;
 - (6) Cases involving mortgage foreclosures; and
 - (7) Cases that have been submitted to mediation with a certified mediator prior to the filing of this action.
4. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
 _____ COUNTY)
)
 _____)
 Plaintiff)
)
 vs.)
 _____)
 Defendant)
)
 _____)

IN THE CIRCUIT COURT FOR THE
 _____ JUDICIAL CIRCUIT

CERTIFICATE OF EXEMPTION
 FROM ADR

Docket No. _____

I certify that this action is exempt from ADR because:

___ this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus or prohibition;

___ this action is appellate in nature;

___ this is a post-conviction relief matter;

___ this is a contempt of court proceeding;

___ this is a forfeiture proceeding brought by the State;

___ this is a case involving a mortgage foreclosure; or

___ the parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this civil action.

Plaintiff/Attorney(s) for Plaintiff(s) Defendant/Attorney(s) for Defendant

Date: _____

STATE OF SOUTH CAROLINA)
)
 _____ COUNTY)
)
 _____)
 Plaintiff)
)
 vs.)
 _____)
 Defendant)
)
 _____)

IN THE CIRCUIT COURT FOR THE
 _____ JUDICIAL CIRCUIT

STIPULATION OF
 NEUTRAL SELECTION

Docket No. _____

THE PARTIES select the following person as mediator/arbitrator (circle one) under Rule 3, Rules of Circuit Court ADR:

(Name of Neutral)

(Mailing Address of Neutral)

(City, State and Zip Code)

(Telephone Number)

This _____ day of _____, _____

Attorney for Plaintiff

Attorney for Defendant

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT FOR THE
)	
_____ COUNTY	)	_____ JUDICIAL CIRCUIT
)	
_____)	
Plaintiff	)	REQUEST FOR THE APPOINTMENT
	)	OF A NEUTRAL
vs.)	
_____)	
Defendant)	
)	
_____	)	Docket No. _____

Pursuant to Rule 3(c) of the Rules for Circuit Court ADR, the Plaintiff advises the Court that:

1. 210 days have elapsed since the filing of this civil action; and,
2. The parties cannot agree upon the selection of the neutral.

Therefore, the Plaintiff requests that the Court appoint a mediator/arbitrator (circle one) in this case.

Date

Signature of Plaintiff/Plaintiff=s Attorney

_____, S.C.

STATE OF SOUTH CAROLINA)
)
 _____ COUNTY)
)
 _____)
 Plaintiff)
)
 vs.)
 _____)
 Defendant)
)
 _____)

IN THE CIRCUIT COURT FOR THE
 _____ JUDICIAL CIRCUIT

ORDER APPOINTING NEUTRAL

Docket No. _____

TO: _____
Name of Court-Appointed Neutral

Mailing Address

City, State, Zip Code

Telephone

Pursuant to Rule 3, Rules for Circuit Court ADR, the court appoints you as mediator/arbitrator (circle one) in this case. The ADR conference is to be held within 300 days of the filing of this action. I have mailed a copy of this order to the parties, or their attorneys, as follows:

_____ Name of Plaintiff/Plaintiff=s Attorney	_____ Name of Defendant/Defendant=s Attorney
_____ Mailing Address	_____ Mailing Address
_____ City, State, Zip Code	_____ City, State, Zip Code
_____ Telephone	_____ Telephone

_____ Date	_____ Clerk of Court
---------------	-------------------------

STATE OF SOUTH CAROLINA)
)
 _____ COUNTY)
)
 _____)
 Plaintiff)
)
 vs.)
 _____)
 Defendant)
)
 _____)

IN THE CIRCUIT COURT FOR THE
 _____ JUDICIAL CIRCUIT

MOTION TO DEFER ADR
 ORDER GRANTING/DENYING MOTION

Docket No. _____

The undersigned moves this Court to defer court ordered ADR conference(s) in the above matter because:

For the foregoing reasons, it is requested that this court enter an order for court-ordered ADR to be completed on or before _____.

Movant certifies to the court that opposing counsel or pro se opposing parties have been contacted regarding this motion, and that they:

- ___ 1. Consent to this deferral;
 - ___ 2. Join in this motion for deferral;
 - ___ 3. Oppose this motion for deferral, but do not request to be heard;
 - ___ 4. Oppose this motion for deferral and request a telephone conference or other hearing.
- _____, 20 ____.

Attorney for _____

ORDER

___ The Motion to Defer ADR conference is **DENIED**.
___ The Motion to Defer ADR conference is **GRANTED**, upon good cause shown and based upon these facts:

IT IS FURTHER ORDERED that the ADR conference shall be completed by _____ (date).

Date

APPOINTMENT
Signature of Chief Judge for Administrative Purposes

STATE OF SOUTH CAROLINA	)	IN THE CIRCUIT COURT FOR THE
)	
COUNTY	)	_____ JUDICIAL CIRCUIT
)	
Plaintiff)	
)	
vs.	)	AGREEMENT REGARDING MEDIATION
	)	PROCEDURES
)	
Defendant)	
)	
	)	Docket No. _____

THE UNDERSIGNED PARTIES and their attorneys hereby agree that the above matter shall be submitted to a mediated settlement conference pursuant to the applicable rules, guidelines, and court orders, and further acknowledge that:

1. Communications during the mediated settlement conference are confidential, and the parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding any oral or written communications having occurred in a mediation proceeding, including, but not limited to:
 - (a) Views expressed or suggestions made by another party with respect to a possible settlement of the dispute;
 - (b) Admissions made by another party in the course of the mediation proceeding;
 - (c) Proposals made or views expressed by the mediator;
 - (d) The fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; or,
 - (e) All records, reports or other documents created solely for use in the mediation.

2. The mediator may meet and consult individually with any party or parties or their counsel during the conference. Confidential information disclosed to a mediator by parties or by witnesses in the course of mediation shall not be divulged by the mediator.

3. No communication by a party or attorney to the mediator in private session shall operate to waive any attorney-client privilege.

4. The mediator shall not be compelled by subpoena or otherwise to divulge any records or to testify in regard to the mediation in any adversary proceeding or judicial forum. All records, reports, and other documents received by the mediator while serving in that capacity shall be confidential.

5. The parties acknowledge that the mediator shall have no liability for any act or omission in connection with mediation conducted under these rules.

STATE OF SOUTH CAROLINA _____)
)
 _____ COUNTY)
)
 _____)
 Plaintiff)
)
 vs.)
 _____)
 Defendant)
)
 _____)

IN THE CIRCUIT COURT FOR THE _____
 _____ JUDICIAL CIRCUIT

MEDIATION RESULTS REPORT

Docket No. _____

(THIS FORM TO BE COMPLETED BY THE MEDIATOR WITHIN 10 DAYS OF CONCLUSION OF THE CONFERENCE, WHETHER OR NOT AGREEMENT WAS REACHED BY THE PARTIES.)

1. Mediated settlement conferences were held before me on _____, 20__.

2. As a result of these conferences, this case should be considered (*please check one*):

() Fully Settled (*please check one*):

() by Consent Judgment, to be filed by _____ or,
 (Name of Designee)

() by Voluntary Dismissal, to be filed by _____
 (Name of Designee)

() Partially Settled, with agreement of the parties on the following issues:

(*attach separate sheet, if necessary*):

() At an impasse. The mediation session was productive and there is the possibility that further discussion over settlement options could lead to an agreement.

() In need of further mediation. (I **am**/ **am not** willing to mediate this case further.)

() Continued (Date)

3. Plaintiff **was**/ **was not** present.
Defendants **were**/ **was not** present.

4. Other participants were:

attorney for plaintiff:

attorney for defendants:

representatives for insurance carrier

guardian ad litem

experts

others

5. This case was co-mediated with: _____.

6. Choice of the mediator was by:

Stipulation

Court Order.

7. The total number of hours spent in mediation was: _____ hours.

8. The total mediator fees were \$_____.

9. Further comments of the mediator:

Date: _____

Signature of Mediator: _____

Print Name of Mediator:

STATE OF SOUTH CAROLINA

)

IN THE COURT OF COMMON PLEAS

)

_____ JUDICIAL CIRCUIT

COUNTY OF _____

)

)

)

)

Plaintiff,

)

vs.

)

DEMAND FOR TRIAL DE NOVO

)

AFTER ARBITRATION AWARD

)

)

)

Docket No.

Defendant.

)

Pursuant to the provisions of Rule 7(c) of The Circuit Court ADR Rules, I demand a trial de novo.

The party making this demand is not in default for any reason subjecting that party to judgment by default. This demand is made within 30 days of receipt of the arbitrator=s award which was received

on _____.

_____, 20 _____

_____, S.C.

Attorney for _____

CIRCUIT COURT ALTERNATIVE DISPUTE RESOLUTION (ADR) RULES

Rule 1 Definitions

(a) **Mediation.** Mediation is an informal process in which a third-party mediator facilitates settlement discussions between parties. Any settlement is voluntary. In the absence of settlement, the parties lose none of their rights to trial by judge or jury.

(b) **Mediator.** A neutral person who acts to encourage and facilitate the resolution of a dispute.

(c) **Arbitration.** Arbitration is an informal process in which a third-party arbitrator issues an award deciding the issues in controversy. The award may be binding or non-binding. In the event that the parties have chosen binding arbitration, then the arbitrator=s award may be entered as the judgment of the court. If the award issued by the arbitrator is non-binding, the parties lose none of their rights to proceed to trial by judge or jury. The arbitration process identified in these rules is non-binding arbitration, provided that any party dissatisfied with the arbitrator=s award files a timely demand for trial de novo pursuant to Rule 7(c).

(d) **Arbitrator.** A neutral person who acts to decide the issues in controversy of a dispute.

(e) **Neutral.** A mediator or arbitrator.

(f) **Certified.** The term Acertified@ as used herein shall mean a mediator or arbitrator who is certified by the South Carolina Supreme Court Board of Arbitrator and Mediator Certification.

(g) **ADR Conference.** A mediation or arbitration.

Rule 2 Actions Subject to ADR

(a) **Mediation.** All civil actions filed in the circuit court in which there is a claim or there are claims for monetary relief exceeding \$25,000 total, exclusive of interest, costs and attorney fees, are subject to court-ordered mediation under these rules. This Rule does not prohibit the parties from voluntarily agreeing to submit the civil action to arbitration without further court order, provided that the parties comply with the arbitration rules provided for herein.

(b) **Arbitration.** All civil actions filed in the circuit court in which there is a claim or there are claims for monetary relief not exceeding \$25,000 total, exclusive of interest, costs and attorney fees, are

subject to court-ordered arbitration under these rules. If any party certifies to the court that to the best of counsel's knowledge, reached in good faith and after reasonable inquiry, the monetary relief in issue is in excess of \$25,000, then the action is subject to court-ordered mediation under these rules. This Rule does not prohibit the parties from voluntarily agreeing to submit the civil action to mediation without further court order, provided that the parties comply with the mediation rules provided for herein.

(c) **Exceptions.** ADR shall not be required for:

- (1) special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
- (2) cases which are appellate in nature such as appeals or writs of certiorari;
- (3) post-conviction relief matters;
- (4) contempt of court proceedings;
- (5) forfeiture proceedings brought by the State;
- (6) cases involving mortgage foreclosures; and
- (7) cases that have been submitted to mediation with a certified mediator prior to the filing of the civil action.

Certification that an action is exempt from court-ordered ADR shall be on a form approved by the Supreme Court or its designee.

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

(e) **Voluntary ADR.** This rule does not prohibit voluntary agreement of parties to mediate or arbitrate (non-binding or binding) cases independent of court order, provided that the parties and neutral comply with all reporting requirements herein. In the event the parties have agreed to submit their case to binding arbitration, the case should be removed from the docket utilizing SCRC Form 4.

Rule 3 Appointment of Neutral

(a) **Eligibility.** A neutral may be a person who:

(1) is a certified neutral under Rule 13; or

(2) is not a certified neutral but in the opinion of all of the parties is otherwise qualified by training or experience to mediate or arbitrate all or some of the issues in the action.

(b) Roster of Certified Neutrals. The court in each county shall maintain a roster of neutrals certified under Rule 13 who are willing to serve in the county. A certified neutral shall notify the Supreme Court=s Board of Arbitrator and Mediator Certification if the neutral desires to be added to or deleted from the roster. This roster shall be available to the public.

(c) Selection of the Neutral by Agreement of the Parties. The parties must select a neutral within two hundred and ten (210) days after the civil action is filed; within fourteen (14) days thereafter, the plaintiff=s attorney shall file with the Clerk of Court a Stipulation of Neutral Selection on a form approved by the Supreme Court or its designee. The Stipulation of Neutral Selection shall state the name, address, and phone number of the neutral.

(d) Appointment of Neutral By Circuit Court. If the parties can not agree upon the selection of a neutral within two hundred and ten (210) days after the filing of the civil action, the plaintiff=s attorney shall within fourteen (14) days thereafter file with the Clerk of Court a written notice advising the court of this fact and request the appointment of a neutral. If no stipulation or notice is filed within two hundred and twenty-four (224) days, the court shall select a certified neutral from the roster of neutrals on a rotating basis. An Order Appointing Neutral shall be issued upon a form approved by the Supreme Court or its designee.

(e) Disqualification of Neutral. Any party may move the Chief Judge for Administrative Purposes of the circuit where the action is pending for an order disqualifying the neutral. If the motion is granted and the neutral is disqualified, an order shall be entered appointing a replacement neutral pursuant to this Rule. Nothing in this provision shall prohibit neutrals from disqualifying themselves subject to timely notice to the court and parties.

Rule 4 The ADR Conference

(a) Location of the Conference. The ADR Conference is to be held within the county where the case is filed at a site designated by the neutral or any other site agreed upon by the parties and the neutral.

(b) Discovery and Motions. The ADR conference shall not be cause for delay of other proceedings in the case, including the completion of discovery, the filing and hearing of motions, or any other matter which would preclude the trial of the case, except by order of the court.

(c) **Recesses.** The neutral may recess the ADR conference at any time and may set times for reconvening. No further notification is required for persons present at the recessed conference.

(d) **Privacy.** ADR conferences are private and reserved for the parties and their representatives and witnesses. Other persons may attend only with the permission of the parties and the neutral.

(e) **Deadline for the ADR Conference.** The ADR conference shall be held on or before three hundred (300) days from the date of the filing of the action.

(f) **Motion to Defer ADR.** A party may file a motion on or before the 224th day after the civil action is filed to defer the ADR conference. For good cause, the Chief Judge for Administrative Purposes of the Circuit may grant the motion.

Rule 5

Duties of the Parties, Representatives and Attorneys - Mediation

(a) **Attendance.** The following persons shall physically attend a mediated settlement conference unless otherwise agreed to by the mediator and all parties or as ordered or approved by the Chief Judge for Administrative Purposes of the circuit:

- (1) The mediator;
- (2) All individual parties; or an officer, director or employee having full authority to settle the claim for a corporate party; or in the case of a governmental agency, a representative of that agency with full authority to negotiate on behalf of the agency and recommend a settlement to the appropriate decision-making body of the agency;
- (3) The party=s counsel of record, if any; and
- (4) For any insured party against whom a claim is made, a representative of the insurance carrier who is not the carrier=s outside counsel and who has full authority to settle the claim.

(b) **Identification of Matters in Dispute.** The mediator may require, prior to the scheduled mediation conference, that each party provide a brief memorandum setting forth their position with regard to the issues that need to be resolved. The memorandum should be no more than five (5) pages in length unless permitted by the mediator. With the consent of all parties, such memoranda may be mutually exchanged by the parties.

(c) **Cooperation.** The parties and their representatives shall cooperate with the mediator.

(d) **Confidentiality.** Communications during the mediated settlement conference shall be confidential. Additionally, the parties, their attorneys, and any other person present must execute an approved Agreement to Mediate that protects the confidentiality of the process. To that end, the parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial or other proceeding, any oral or written communications having occurred in a mediation proceeding, including, but not limited to:

- (1) Views expressed or suggestions made by another party with respect to a possible settlement of the dispute;
- (2) Admissions made by another party in the course of the mediation proceeding;
- (3) Proposals made or views expressed by the mediator;
- (4) The fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; or
- (5) All records, reports or other documents created solely for use in the mediation.

(e) **Finalizing Agreement.** Upon reaching an agreement, the parties shall, before the adjournment of the mediation, reduce the agreement to writing and sign along with their attorneys. If the agreement executed by the parties and their attorneys in mediation envisions the execution of a more formal agreement, the mediator shall assign one of the parties' attorneys to prepare the formal agreement. A consent judgment or one or more voluntary dismissals shall be filed with the court by such persons as may be designated by the mediator.

Rule 6

Duties of the Parties, Representatives and Attorneys - Arbitration

(a) **Attendance.** The following persons shall physically attend an arbitration unless otherwise agreed to by the arbitrator and all parties or as ordered or approved by the chief judge for administrative purposes of the circuit:

- (1) The arbitrator;
- (2) All individual parties; or an officer, director, or employee for a corporate party; or in the case of a governmental agency, a representative of that agency; and
- (3) The party's counsel of record, if any.

(b) Identification of Matters of Dispute. The arbitrator may require, prior to the scheduled arbitration conference, that each party provide a brief memorandum setting forth their position with regard to the issues that need to be resolved. The memorandum should be no more than five (5) pages in length unless permitted by the arbitrator. Such memoranda shall be exchanged by the parties at the same time and in the same manner as the memorandum is furnished to the arbitrator.

(c) Cooperation. The parties and their representatives shall cooperate with the arbitrator.

Rule 7 Arbitration Hearing and Award

(a) Arbitration Hearings. The following shall apply to arbitration hearings:

(1) witnesses may be compelled to testify under oath or affirmation and produce evidence by the same authority and to the same extent as if the hearing were at trial. The arbitrator is empowered and authorized to administer oaths and affirmations.

(2) Rule 45, SCRCPC, shall apply to subpoenas for attendance of witnesses and production of documentary evidence at an arbitration hearing under these rules.

(3) The arbitrator shall have the authority of a trial judge to govern the conduct of hearings, except for the power to punish for contempt. The arbitrator shall refer all contempt matters to the court.

(4) The law of evidence does not apply, except as to privilege, in an arbitration hearing but shall be considered as a guide toward full and fair development of the facts. The arbitrator shall consider all evidence presented and give it the weight and effect the arbitrator determines appropriate.

(5) No ex parte communications between the parties or their counsel and the arbitrator are permitted.

(6) The arbitration hearing shall be limited to two hours unless the arbitrator determines that more time is necessary to insure fairness and justice to the parties. The arbitrator is not required to receive repetitive or cumulative evidence.

(7) No recording or transcript of an arbitration hearing shall be made.

(b) Award.

(1) The award shall be in writing, signed by the arbitrator, and served by the arbitrator upon all parties and filed with the court together with a Certificate of Service within five (5) business days after the hearing is concluded. The arbitration hearing is concluded when all the evidence is in and any arguments or post-hearing briefs the arbitrator permits have been completed or received.

(2) The award must resolve all issues raised by the pleadings and may exceed \$25,000 dollars.

(3) Findings of facts and conclusions of law or opinions supporting an award are not required unless the award exceeds \$25,000 dollars. In the latter event, the arbitrator must provide written reasons for exceeding \$25,000 dollars.

(c) Trial De Novo as a Right. Any party not in default for a reason subjecting that party to judgment by default who is dissatisfied with an arbitrator=s award may have a trial de novo of right upon filing a written demand for trial de novo with the court, and service of the demand on all parties on a form approved by the Supreme Court or its designee within thirty (30) days after receipt of the arbitrator=s award. No evidence that there has been an arbitration proceeding or any fact concerning the arbitration may be admitted in a trial, or in any subsequent proceeding involving any of the issues in or parties to the arbitration, without the consent of all parties and the court=s approval.

(d) Judgment Entered on Award. If the case is not terminated by agreement of the parties, and no party files a demand for trial de novo under Rule 7(c), the award shall have the same effect as a Consent Judgment in the action and may be enforced accordingly.

Rule 8

Authority and Duties of Mediators

(a) Authority of Mediators. The mediator shall at all times be authorized to control the conference and the procedures to be followed.

(b) Duties. The mediator shall set up the mediated conference. The mediator shall define and describe the following to the parties:

(1) The mediation process;

(2) The fact that the mediated conference is not a trial, the mediator is not a judge, jury or arbitrator, and the parties retain the right to trial if they do not reach a settlement;

(3) The inadmissability of conduct and statements as evidence in any arbitral, judicial or other proceeding;

(4) The circumstances under which the mediator may meet alone with either of the parties or with any other person;

(5) Whether and under what conditions communications with the mediator will be held in confidence during the conference;

(6) The duties and responsibilities of the mediator and the parties;

(7) The fact that any agreement will be reached by mutual consent of the parties; and

(8) The costs of the mediated settlement conference.

(c) **Private Consultation/Confidentiality.** The mediator may meet and consult individually with any party or parties or their counsel during the conference. Confidential information disclosed to a mediator by parties in the course of mediation shall not be divulged by the mediator without that party's consent.

(d) **No Waiver of Privilege.** No communication by a party or attorney to the mediator in private session shall operate to waive any attorney-client privilege.

(e) **Mediator Not to be Called as Witness.** The mediator shall not be compelled by subpoena or otherwise to divulge any records or to testify in regard to the mediation in any adversary proceeding or judicial forum. All records, reports, and other documents received by the mediator while serving in that capacity shall be confidential.

(f) **Duty of Impartiality.** The mediator has a duty to be impartial and to advise all parties of any circumstances bearing on possible bias, prejudice or partiality.

(g) **Declaring Impasse.** It is the duty of the mediator to timely determine when the mediation is not viable, that an impasse exists, or that the mediation should end. A mediation cannot be unilaterally ended without the permission of the mediator.

(h) **Reporting Results of Conference.** The mediator shall file with the Clerk of Court a Mediation Results Report within ten (10) days of conclusion of the conference on such form approved by the Supreme Court or its designee. South Carolina Court Administration may require the mediator to provide additional statistical data for evaluation of the mediated settlement conference.

(i) **Immunity.** The mediator shall not be liable to any person for any act or omission in connection with any mediation conducted under these rules.

Rule 9

Authority and Duty of Arbitrators

(a) **Authority of Arbitrators.** The arbitrator shall at all times be authorized to control the hearing and the procedures to be followed.

(b) **Duties.** The arbitrator shall set up the arbitration hearing. The arbitrator shall define and describe the following to the parties:

- (1) The arbitration process;
- (2) The duties and responsibilities of the arbitrator and the parties; and
- (3) The cost of the arbitration hearing.

(c) **Arbitrator Not to be Called as Witness.** The arbitrator shall not be compelled by subpoena or otherwise to divulge any records or to testify in regard to the arbitration in any adversary proceeding or judicial forum. All records, reports, and other documents received by the arbitrator while serving in that capacity shall be confidential.

(d) **Duty of Impartiality/Disclosure.** The arbitrator has a duty to be impartial and to disclose any circumstance likely to affect impartiality or independence, including any bias or financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives.

(e) **Reporting Results of Hearing.** The arbitrator shall file with the court an Award within five (5) business days of conclusion of the hearing as set forth in Rule 7(b). South Carolina Court Administration may require the arbitrator to provide additional statistical data for evaluation of the arbitration hearing.

(f) **Immunity.** The arbitrator shall not be liable to any person for any act or omission in connection with any arbitration hearing under these rules.

Rule 10

Compensation of Neutral

(a) **By Agreement.** When the neutral is stipulated by the parties, compensation shall be agreed upon by the parties and the neutral.

(b) **By Court Order - Mediation.** When the mediator is appointed by the court, the mediator shall be compensated by the parties at a rate of \$125 per hour together with expenses actually and

necessarily incurred in connection with the mediation, provided that the court-appointed mediator shall charge no greater than one hour of time in preparing for the initial mediation conference, and shall not be entitled to charge for travel time unless otherwise ordered by the Chief Judge for Administrative Purposes of the circuit.

(c) **By Court Order - Arbitration.** When the arbitrator is appointed by the court, the arbitrator shall be paid a \$200 fee by the parties together with expenses actually and necessarily incurred in connection with an arbitration hearing.

(d) **Payment of Compensation by the Parties.** Unless otherwise agreed to by the parties or ordered by the court, fees and expenses for the ADR conference shall be paid in equal shares per party. Payment shall be due upon conclusion of the conference unless other arrangements are made with the neutral, or unless a party advises the neutral of his or her intention to file a motion to be exempted from payment of neutral fees and expenses pursuant to Rule 10(e).

(e) **Indigent Cases.** A party may move before the court to be exempted from payment of neutral fees and expenses based upon indigency. Applications for indigency shall be made and considered by the court after the ADR conference has been concluded and must be filed within ten (10) days thereafter. Determination of indigency shall be in the sole discretion of the court.

Rule 11 Sanctions

(a) **Proof of ADR .** If there has not been filed with the Office of the Clerk of Court a Mediation Results Report, Arbitration Award, or Exemption or Deferral form indicating evidence of participation in, or exemption or deferral from, an ADR process by the three hundredth (300th) day from the filing of the action, the court may issue a Rule to Show Cause why sanctions should not be imposed.

(b) **Mediation.** If a person fails to attend the mediated settlement conference without good cause, the court may impose upon the party or his principal any lawful sanctions, including, but not limited to, the payment of attorney=s fees, mediator=s fees, and expenses incurred by persons attending the conference; contempt; and any other sanction authorized by Rule 37(b), SCRCP.

(c) **Arbitration.** If a person fails to attend the arbitration hearing without good cause, the court may impose upon the party or his principal any lawful sanctions, including, but not limited, the payment of attorney=s fees, arbitrator=s fees, and expenses incurred by persons attending the hearing; contempt; and any other sanction authorized by Rule 37(b), SCRCP.

Rule 12 Board of Arbitrator and Mediator Certification

There is hereby established a Board of Arbitrator and Mediator Certification. The Board will be composed of five (5) persons appointed by the Supreme Court for a term of three (3) years. In the event of a vacancy on the Board, the Supreme Court shall appoint someone to fill the unexpired term. Three members of the Board shall constitute a quorum. In the event that members of the Board disqualify themselves in a pending matter leaving less than a quorum, the Supreme Court may appoint ad hoc members to restore the Board to full membership in that matter.

Rule 13 **Neutral Certification and Decertification**

The Board shall receive and approve applications for certifications of persons to be appointed as mediators or arbitrators. The application shall be on a form approved by the Supreme Court. For certification, a person must:

(a) Either:

(1) Be admitted to practice law in this State for at least three (3) years and be a member in good standing of the South Carolina Bar; and has not, within the last five (5) years, been disbarred or suspended from the practice of law, been denied admission to a bar for character or ethical reasons or been publicly reprimanded or publicly disciplined for professional conduct; or

(2) Be admitted to practice law in the highest court of another state or the District of Columbia for at least three (3) years and meet the following qualifications:

- (a) Be at least 21 years old;
- (b) Have received a juris doctorate degree or its equivalent from a law school approved by the American Bar Association or the Supreme Court under Rule 402(c)(3), SCACR;
- (c) Be a member in good standing in each jurisdiction where he or she is admitted to practice law;
- (d) Has not, within the last five (5) years, been disbarred or suspended from the practice of law, been denied admission to a bar for character or ethical reasons or been publicly reprimanded or publicly disciplined for professional conduct;
- (e) Be an associate member of the South Carolina Bar in good standing; and
- (f) Agree to be subject to the Rules of Professional Conduct, Rule 407, SCACR, and the Rule on Disciplinary Procedure, Rule 413, SCACR, to the same extent as an active member of the South Carolina Bar.

(b) Mediator: Have completed a minimum of 40 hours in a civil mediation training program approved by the Supreme Court or its designee, or any other training program attended prior to the promulgation of these rules or attended in other states, and approved by the Supreme Court, or its designee, and demonstrate familiarity with the statutes, rules and practice governing mediated settlement conferences in South Carolina.

(c) Arbitrator: Have completed a minimum of 6 hours in a civil arbitration training program approved by the Supreme Court or its designee, or have served as a Master-in-Equity, Circuit or Appellate Court Judge, or any other training program attended prior to the promulgation of these rules or attended in other states, and approved by the Supreme Court, or its designee, and demonstrate familiarity with the statutes, rules and practice governing arbitration hearings in South Carolina;

(d) Be of good moral character;

(e) Pay all administrative fees and comply with all procedures established by the Supreme Court, or its designee; and

(f) Agree to provide mediation/arbitration to indigents without pay.

Rule 14 **Approval of Mediation Training Programs**

(a) An approved training program for mediators of the Court of Common Pleas civil actions shall consist of a minimum of 40 hours of instruction. The curriculum of such programs shall at a minimum include:

- (1) Conflict resolution and mediation theory;
- (2) Mediation processes and techniques, including the process and techniques of trial court mediation;
- (3) Standards of Conduct for mediators;
- (4) Statutes, rules and practice governing mediated settlement conferences in South Carolina;
- (5) Demonstrations of mediated settlement conferences;
- (6) Simulations of mediated settlement conferences, involving student participation as mediator, attorneys and disputants, which simulations shall

be supervised, observed and evaluated by program faculty; and

- (7) Such other requirements as the Supreme Court from time to time may decide are appropriate.

(b) A training program must be approved by the Supreme Court or its designee before such program can be used for compliance with Rule 13(b). Approval need not be given in advance of training attendance.

Training programs attended prior to the promulgation of these rules or attended in other states may be approved by the Supreme Court or its designee if they are in substantial compliance with the standards set forth in this Rule.

- (c) The Supreme Court may set administrative fees, which must be paid in advance of approval.

Rule 15

Approval of Arbitrator Training Programs

(a) An approved training program for arbitrators of the Court of Common Pleas civil actions shall consist of a minimum of 6 hours of instruction. The curriculum of such programs shall at a minimum include:

- (1) Conflict resolution and arbitration theory;
- (2) Arbitration processes and techniques, including the process and techniques of both binding and nonbinding arbitration;
- (3) Standards of Conduct for arbitrators;
- (4) Statutes, rules and practice governing arbitration hearings in South Carolina;
- (5) Demonstrations of arbitration hearings;
- (6) Simulations of arbitration hearings, involving student participation as arbitrator, attorneys and disputants, which simulations shall be supervised, observed and evaluated by program faculty; and
- (7) Such other requirements as the Supreme Court from time to time may decide are appropriate.

(b) A training program must be approved by the Supreme Court or its designee before such program can be used for compliance with Rule 13(c). Approval need not be given in advance of training attendance.

Training programs attended prior to the promulgation of these rules or attended in other states may be approved by the Supreme Court or its designee if they are in substantial compliance with the standards set forth in this Rule.

(c) The Supreme Court may set administrative fees, which must be paid in advance of approval.

Rule 16

Standards of Conduct, Decertification and Discipline of Neutrals

(a) **Standards of Conduct for Mediators.** Any person serving as a mediator, whether certified or not, shall comply with the Standards of Conduct for Mediators, which is attached as Appendix A to these rules.

(b) **Standards of Conduct for Arbitrators.** Any person serving as an arbitrator, whether certified or not, shall comply with the Standards of Conduct for Arbitrators, which is attached as Appendix B to these rules.

(c) **Decertification of Neutrals.** Certification under Rule 13 may be revoked at any time if it is shown that the neutral no longer meets the requirements to be certified under Rule 13 or that the neutral has failed to faithfully observe these rules, the ethical standards of Rules 16(a) or (b), or has engaged in any conduct showing an unfitness to serve as a neutral.

(d) **Discipline of Neutrals.** A neutral who violates these rules, the ethical standards of Rules 16(a) or (b), or who has engaged in any conduct showing an unfitness to serve as a neutral may, in addition to decertification under Rule 13, be subject to discipline by the Supreme Court. This discipline may include any sanction the Supreme Court determines is appropriate, to include an order publicly reprimanding the neutral for the conduct, an order barring the neutral from serving as a neutral in any court of this State for a definite or indefinite period of time, an order requiring the neutral to complete additional training, and/or the assessment of a fine. The fact that discipline is taken against an attorney under this Rule shall not preclude action against the attorney under Rule 413, SCACR, if the conduct is misconduct under that rule.

(e) **Processing Complaints of Misconduct by Neutrals.** Persons alleging that a neutral has engaged in misconduct may file a complaint with the Board of Arbitrator and Mediator Certification. Misconduct includes any conduct or other circumstances which would warrant decertification or discipline under Rule 13. The Board shall review these complaints, may require the mediator to file a response to the complaint, may conduct such investigation as it deems appropriate, and may dismiss complaints it finds to be without merit. The Board may petition the Supreme Court to temporarily suspend a neutral pending further action on the complaint. If the Board finds that there is probable cause to believe that misconduct has occurred

which would warrant decertification or other disciplinary action under these rules, the Board shall conduct a hearing into the matter after giving the neutral at least ten (10) days notice of the hearing. The Board may issue subpoenas compelling persons to attend the hearing or to produce records. A person violating such a subpoena shall be in contempt of the Supreme Court. The rules of evidence applicable to the circuit court shall generally be observed in the conduct of the hearing, and all testimony shall be under oath or affirmation. The proceedings shall be transcribed. If, after conducting the hearing, the Board determines that decertification or other disciplinary action is not warranted, it shall dismiss the matter. If the Board determines that decertification or other disciplinary action is appropriate, it shall make a written recommendation to the Supreme Court and provide a copy to the neutral. A copy of the transcript of the hearing and any exhibits shall be filed with the Supreme Court. The neutral may, within fifteen (15) days after the Board submits its recommendation to the Supreme Court, file a response to the Board's recommendation. The Supreme Court shall then take such action as it deems appropriate. The Supreme Court shall not be bound by any specific sanction recommended by the Board. No hearing shall be held before the Supreme Court unless it determines that a hearing is appropriate.

Rule 17
Local Rule Making

These rules shall be uniform for all counties in which they are applicable. Local Rules may be allowed only upon approval of the Supreme Court.

Rule 18
Application of Rules

These rules shall apply to cases filed in those counties designated for Court-Ordered ADR (Note: As of this date, these rules shall apply to Court-Ordered ADR in Charleston, Florence, Horry, Lexington, and Richland Counties.)