

The Supreme Court of South Carolina

Re: Amendment to the South Carolina Rules of Civil
Procedure

Appellate Case No. 2014-000335

ORDER

Pursuant to Article V, § 4 of the South Carolina Constitution, Rule 45(b)(1) of the South Carolina Rules of Civil Procedure (SCRCP) is amended as set forth in the attachment to this order. This amendment shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

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 29, 2015

Rule 45(b)(1), SCRCP, is amended to provide as follows:

(1) A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made in the same manner prescribed for service of a summons and complaint in Rule 4(d) or (j). If the person's attendance is commanded, then that person shall, upon his arrival in accordance with the subpoena, be tendered fees for each day's attendance of \$25.00 and the mileage allowed by law for official travel of State officers and employees from his residence to the location commanded in the subpoena. When the subpoena is issued on behalf of the State of South Carolina or an officer or agency thereof, fees and mileage need not be tendered. Unless otherwise ordered by the court, prior notice in writing of any commanded production of documents and things or inspection of premises before trial shall be served on each party in the manner prescribed by Rule 5(b) at least 10 days before the time specified for compliance.

The following Note is added to Rule 45, SCRCP:

Note to 2015 Amendment:

Paragraph (b)(1) is amended to provide that fees for attendance and reimbursement for mileage must be tendered when the person arrives in accordance with the subpoena, rather than at the time of the service of a subpoena. The amendment also clarifies that a person commanded to appear is entitled to a fee for each day's attendance, and mileage is properly measured from the person's residence to the location commanded in the subpoena. Parties issuing subpoenas commanding the attendance of a person should take care to promptly notify the person if his or her attendance is no longer required because a trial, hearing, or deposition has been cancelled or rescheduled.