

# The Supreme Court of South Carolina

Re: Amendments to Rule 4(c), South Carolina Court-Annexed Alternative Dispute Resolution Rules

Appellate Case No. 2018-002058

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## ORDER

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Pursuant to Article V, § 4 of the South Carolina Constitution, Rule 4(c) of the South Carolina Court-Annexed Alternative Dispute Resolution Rules 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/ 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, 2019

Rule 4(c), South Carolina Court-Annexed Alternative Dispute Resolution Rules, is amended to provide:

**(c) Appointment of Mediator by Circuit Court.** In circuit court cases subject to ADR in which no Proof of ADR has been filed on the 210th day after the filing of the action, the Clerk of Court shall appoint a primary mediator and a secondary mediator from the current Roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed. A Notice of ADR appointing the mediators shall be issued upon a form approved by the Supreme Court or its designee. In the event of a conflict of interest with the primary mediator, the secondary mediator shall serve. In the event of a conflict of interest with the secondary mediator, and if the parties have not agreed to the selection of an alternative mediator, the plaintiff or the plaintiff's attorney shall immediately file with the Clerk of Court a written notice advising the court of this fact and requesting the appointment of two more mediators. In lieu of mediation, the parties may select non-binding arbitration or early neutral evaluation pursuant to these rules.

In medical malpractice cases subject to pre-suit mediation as required by S.C. Code § 15-79-125(C), the Notice of Intent to File Suit shall be filed in accordance with procedures for filing a lis pendens and requires the same filing fee as provided for filing a lis pendens by S.C. Code § 8-21-310. The Notice of Intent to File Suit shall contain language directed to the defendant(s) that the dispute is subject to pre-suit mediation within 120 days. In cases where no Proof of ADR has been filed on the 75th day after the filing of the Notice of Intent to File Suit, the Clerk of Court shall appoint a primary mediator and a secondary mediator in the manner set forth in the paragraph above. Notwithstanding the clerk's appointments, the parties by agreement may choose a different mediator at any time.