

# **Frequently Asked Questions (FAQs) in South Carolina Courts**

**WARNING:** You are strongly encouraged to seek the advice of an attorney in any legal matter. If you move forward without an attorney, it may negatively affect your legal rights. If you have questions about your legal rights or the law that affects your case, please talk with an attorney.

**DISCLAIMER:** The general information provided in these FAQs is not legal advice, cannot be cited as legal authority, and cannot replace the advice of an attorney licensed in South Carolina. The information in these FAQs is accurate as of the date of publication. If you decide to bring a lawsuit in a South Carolina court without an attorney, you are responsible for researching the law on your own. Please note that the presiding judge in each case decides what law applies in that case.

## **General Questions:**

### **Do I need an attorney?**

The law allows you to represent yourself as an individual in court. However, the laws and rules that govern courts can be complicated. Only an attorney can advise you of your legal rights, provide legal advice, and act on your behalf.

If you choose to proceed without an attorney, court officials and court clerks cannot give you legal advice or advise you on how to prepare your legal documents. You will need to do your own research in order to prepare your case.

### **Can you refer me to an attorney?**

No, but we can provide the number of the South Carolina Bar Lawyer Referral Service at 1-800-868-2284 (toll free) and South Carolina Legal Services Telephone Intake Service (LATIS) at 1-888-346-5592 (toll free).

## Do you have forms I can fill out for my case?

The court-approved forms and packets are available online at:

<http://www.sccourts.org/forms>

<http://www.sccourts.org/selfHelp/index.cfm>

## What are the filing fees?

The filing fee for a new case or action is \$150.00. The filing fee for any additional written motion is \$25.00 each. A motion is a formal request, usually in writing, asking a judge to issue an order or ruling in a lawsuit.

## What if I cannot afford to pay the \$150.00 filing fee?

If you cannot afford to pay the initial \$150 filing fee, you may file a motion called the “Motion and Affidavit to Proceed *In Forma Pauperis*” asking the judge to waive the filing fees. You must file this motion along with the Complaint you are trying to file. [Rule 3\(b\) of the South Carolina Rules of Civil Procedure](#) provides general information about filing *In Forma Pauperis*. You can find Rule 3(b), SCRPC [online](#).

- If your case is a civil case in the Circuit Court, the “Motion and Affidavit to Proceed *In Forma Pauperis*” form is [SCCA405CP](#).
- If your case is a Family Court case, the “Motion and Affidavit to Proceed *In Forma Pauperis*” form is [SCCA405F](#).

You must have your “Motion and Affidavit to Proceed *In Forma Pauperis*” notarized. **When you sign this motion in front of the notary, you are swearing under oath that you cannot pay the fees.**

The judge may or may not grant your motion.

- If the judge grants your motion, then you do not have to pay filing fees, but you are still responsible for other court costs, including court reporter’s costs and copying costs.

- If the judge does not grant your motion, you may have to pay the filing fee at your hearing or trial.

## **Do I have to appear in court?**

If you receive a Subpoena or a “Rule To Show Cause” to appear in court, then you **must** appear in Court.

In all cases it is in your best interest to go to your trial or hearing. If you do not appear, you may lose your case because you are not there. You cannot appeal if you lose your case because you did not show up.

## **What do I say in court?**

When you appear in Court, listen carefully to the judge and ask the judge’s permission before you speak. You must stand when speaking to the judge, unless you are physically unable. When you speak to the judge, start by saying "Your Honor." Always speak directly to the judge, and speak loudly and clearly.

Remember that only one person can speak at a time. Avoid arguing or interrupting another person. Control your emotions as much as possible.

- Don’t talk while other people are talking in court.
- Don’t shake your head or sigh loudly when you don’t like what somebody else says. You will have your chance to talk.
- When it’s your turn to talk, stay calm.
- Talk loudly enough for everyone to hear you. Remember that the court reporter is making a written record of what you say.
- Don’t yell or curse.

## **What do I wear to court?**

You do not need to buy new clothing for court, but dress respectfully.

- Don't wear shorts, short skirts, flip flops, low-cuts tops, sleeveless shirts, or shirts with inappropriate words or images on them.
- Dress neatly.

## **Are there any additional things I need to know before I appear in court?**

- Don't wear a hat or head covering in the courtroom, unless for religious or medical reasons.
- Don't drink, eat, smoke, or chew gum while in the courtroom.
- Don't bring drugs or alcohol into the courthouse. Don't use drugs or alcohol before you come to court.
- Don't bring guns, knives, or any other kind of weapon to court with you. Please note that there are metal detectors at the courthouses and deputies will search your bags when you go through the security check-point.
- Don't bring your cell phone or electronic devices such as blackberries, iPods and other MP3 players to court. Some counties prohibit them in Court and will hold them in a room while you are in court. If you are allowed to bring your cell phone to the court, turn it off before you walk into the courtroom. If your phone rings or disturbs the proceedings, court officials may take your device and you may have to pay a fine.
- Arrive on time.
- Arrange for childcare prior to coming to court.
- Encourage all witnesses to arrive early for the hearing or trial.

- Bring all evidence you intend to present.
- Stand up when the judge enters or leaves the room and remain standing until the judge leaves or says you can sit down.
- Because each county is different, make sure you follow any additional rules specific to that court.

### **Who is the judge in my case?**

The judge's name becomes available during each week of court.

### **May I speak with the judge in my case?**

Judges cannot talk with you about your case unless all sides are present. Therefore, the **only** time to speak to a judge is during your hearing or trial.

### **What is a docket?**

The docket is the list of cases to be tried in a certain timeframe.

### **When will my case be heard?**

It is difficult to determine when your case will be scheduled for trial. Many factors determine when a case will go to trial: the number of parties involved; the complexity of the issue(s); the time it takes for each side to investigate the claims; and the number of cases already on the court's docket.

Rule 40 of the South Carolina Rules of Civil Procedure provides general information about the times for trials. You can find [Rule 40 of the South Carolina Rules of Civil Procedure online](#).

## **How do I get copies of files?**

The Clerk of Court's office has your case file. You will need to contact the Clerk of Court's office in the county where the trial was held for copies. They will make copies of the file for you for a fee.

**NOTE:** If you would like a copy of a transcript, you must contact the court reporter. The court reporter will make a copy of the transcript for you for a fee.

## Resources

- If you do not understand the information in these FAQs, you may want to contact an attorney.
- To find an attorney who practices law in this area, please contact the South Carolina Bar's Lawyer Referral Service (LRS) at 1-800-868-2284 (toll free). LRS offers a referral by the location and by type of law. The lawyers who sign up with LRS are in good standing with the South Carolina Bar and must maintain malpractice insurance coverage. The lawyers also agree to a 30-minute consultation for no more than \$50. After the 30-minute consultation, the fees will be the lawyers' normal fees. Once you receive a referral, you will be expected to contact the lawyer by telephone to make an appointment.
- If you cannot afford an attorney, you may contact the South Carolina Legal Aid Telephone Intake Service (LATIS) at **1-888-346-5592** (toll free) or **803-744-9430** (Columbia area). Eligibility for assistance will depend on your income and assets and the type of problem you have. The income limit to be eligible for LATIS is 125% of the Federal poverty level, which changes every year in April. There is also an asset (money in bank accounts, property, etc.) limit. Additionally, the problem you have must be within the list of problems with which LATIS can help.