

# REVISIONS to LOCAL CIVIL and CRIMINAL RULES

June 24, 2004

<b>CIVIL RULES</b>	
<b>Current version</b>	<b>Revised and approved version</b>
Rule 5.03 ( <i>Filing Documents under Seal</i> )	Counsel now must certify compliance with rule.
Rule 54.02 ( <i>Petition for attorney's fees</i> )	Renamed <i>Petition for and Interest on Attorney's Fees</i> . Prior rule contents placed under Section (A) and new Section (B) created ( <i>Interest on attorney's fee awards entered after judgment</i> )
Rule 73.02(B)(2)(g) dealing with automatic references to Magistrate Judges in civil cases, specifically litigation arising out of employment discrimination cases	Language "but not limited to" stricken, and specific reference to Family Medical Leave Act and Americans with Disabilities Act added.
Rule 83.III.02 ( <i>Attorneys</i> )	Section (B) added to address propriety of lawyer statements in response to adverse publicity; mirrors Local Criminal Rule 57.II.02(D).
Appendix A (Jury Selection Plan) appended to local civil rules	Appendix A removed from local civil rules; to exist and be maintained as a separate document

<b>CRIMINAL RULES</b>	
<b>Current version</b>	<b>Revised and approved version</b>
Rule 12.02 required consultation prior to filing motions, with exceptions; mirrored local civil rule, but did not fit criminal practice	Simplified to remove requirement of consultation and replaced with "Attorneys are encouraged to consult before filing motions in an effort to resolve the issues in dispute."
Rule 12.06 ( <i>Responses to Motions</i> ) mirrored local civil rule re time of filing, etc.	Now Rule 12.05 and comports with actual practice. Response memos to be filed "as soon as possible but not later than the earlier of fifteen (15) days after service of the motion or one full business day prior to the pretrial conference, unless the Court imposes a different deadline."
Rule 12.07 ( <i>Replies</i> ) mirrored local civil rule	Reference to Replies now moved to Rule 12.04(B)(2) and simplified by reference to Local Civil Rule 7.07
Rule 12.09 ( <i>Fivolous or Delaying Motions</i> )	Now Rule 12.07 and renamed <i>Sanctions on Motions</i> ; expanded to include motions "not in compliance with the provisions of these rules" and specify that sanctions may be "monetary or otherwise."
Rule 12.10 ( <i>Draft Orders Submitted by Counsel</i> )	deleted because not applicable to criminal proceedings
Rules 16.01 and 16.02 dealing with discovery motions	deleted because not applicable to criminal proceedings
no correlative rule	Rule 26.04 ( <i>Pretrial Submissions</i> ) added to address voir dire, jury instructions and sanctions for noncompliance

## CRIMINAL RULES

Current version	Revised and approved version
Rule 29.01 ( <i>Closing Argument of Counsel</i> ) predominantly references civil procedure	Rule 29.01 condensed to reference only criminal procedure, deferring to Fed. R. Crim. P. 29.1
no correlative rule	Rule 45.01 added to specify that the “time computation rules of Fed. R. Crim. P. 45 apply to these rules.”
Rule 46.05 ( <i>Use of Personal Property as Security</i> )	Rule 46.05 deleted and substance incorporated in Rule 46.01
no prior Rule 46.07	Content of former Rule 58.01 ( <i>Forfeiture of Collateral</i> ) moved to become Rule 46.07; Rule 58 now content-specific to Magistrate Judge assignments only
no correlative rule	Rule 49.01 ( <i>Filing Documents under Seal</i> ) created to provide parallel method as under local civil rules, but with particular relevance to criminal practice—wording and format vary from, but are based on, local civil rule. Counsel now must certify compliance with rule.
Rule 57.I dealing with attorney admissions, appearance and discipline	Significantly remodeled and condensed. Now incorporates by reference the local civil rules addressing these topics and specifies the “Local Civil Rules as to these subject matters are equally applicable to attorneys handling criminal matters in the District of South Carolina” with additional requirements of Local Criminal Rule 57.I.02 ( <i>Additional Requirements to Appear in Criminal Matters</i> )
no correlative rule	Rule 57.I.02 ( <i>Additional Requirements to Appear in Criminal Matters</i> ) created to specify additional requirements of familiarity with Fed. R. Crim. P, FRE, local criminal rules, Bail Reform Act, Speedy Trial Act, sentencing guidelines and the relevant substantive areas of criminal law
no correlative rule	Rule 57.I.03 ( <i>Appointment in Criminal Matters</i> ) created to specify qualifications required for appointment in criminal matters, with specific subsection pertaining to appointment in capital matters
Rule 57.II dealing with fair trial directives	Significantly remodeled and condensed to eliminate materials relevant only to civil matters. Rule 57.II.02(D) added to address propriety of lawyer statements in response to adverse publicity. Now incorporates by reference the local civil rules addressing copies.
Rule 57.III.01 ( <i>Opening Statement</i> )	deleted with notation that federal rules/statutes control
Rule 57.IV.01 ( <i>Petition for Attorney’s Fees</i> )	deleted with notation that federal rules/statutes control
Rule 58.02 ( <i>Forfeiture of Collateral</i> ) not topically related to Rule 58.01 ( <i>Assignment of Duties to Magistrate Judges</i> )	Rule 58.02 text and heading moved to become new Rule 46.07 under <i>Release from Custody</i>
Rule 58 originally titled <i>Assignment of Duties and Forfeiture of Collateral</i>	With movement of 58.02 to 46.07, title of Rule 58 changed to <i>Assignment of Duties to Magistrate Judges</i>
Appendix A (Jury Selection Plan) appended to local criminal rules	Appendix A removed from local criminal rules; to exist and be maintained as a separate document