

APPENDIX B. CIRCUIT COURT RULES
(See § 15-6-83)

Following are rules of practice adopted by circuit courts which have been filed with and approved by the Supreme Court.

SECOND JUDICIAL CIRCUIT CIVIL RULES

- CIV. One Affidavits.
- CIV. Two Filings of Pleadings.
- CIV. Three Repealed.
- CIV. Four Library.
- CIV. Five Dress Code.
- CIV. Six Dispensing Power.
- CIV. Seven Signing of Summons in Juvenile Proceedings.
- CIV. Eight Court Appointed Attorneys.
- CIV. Nine Uncontested Motions.
- CIV. Ten Brief to be Filed with Motion.
- CIV. Eleven Summary Judgment.

CIV. ONE AFFIDAVITS

Unless otherwise required by law or ordered by the judge, moving parties must serve and file affidavits at least five days before a hearing. Responding parties must serve responsive affidavits within five days of receipt of moving party's affidavit or the day of the hearing whichever occurs sooner. A copy of all affidavits must be provided to the judge presiding over the case at the time of the filing of the affidavit. A judge may reject an affidavit that is not timely served and filed pursuant to this rule.

Source: SL 1994, ch 402 (Supreme Court Order), eff. Feb 15, 1994.

CIV. TWO FILINGS OF PLEADINGS

In a case on file with the clerk of courts, a party who serves a pleading must file it within five days of service or before a hearing in which that pleading is relevant, whichever occurs sooner. A judge may reject a pleading that is not timely filed pursuant to this rule.

Source: SL 1994, ch 402 (Supreme Court Order), eff. Feb 15, 1994.

CIV. THREE Repealed by SL 1999, ch 274 (Supreme Court Order), eff. Aug. 25, 1998.

Historical Note

The repealed rule related to scheduling orders.

CIV. FOUR LIBRARY

No one may remove a book from the library except to have copies made in the Courthouse.

Source: SL 1994, ch 402 (Supreme Court Order), eff. Feb 15, 1994.

CIV. FIVE DRESS CODE

Attorneys must dress appropriately when appearing in open court.

Source: SL 1994, ch 402 (Supreme Court Order), eff. Feb. 15, 1994.

CIV. SIX DISPENSING POWER

A judge or magistrate may dispense with a circuit civil rule of practice as a matter of discretion.

Source: SL 1994, ch 402 (Supreme Court Order), eff. Feb. 15, 1994.

CIV. SEVEN SIGNING OF SUMMONS IN JUVENILE PROCEDURES

Upon written order of the judge assigned juvenile cases, the clerk of courts may use a facsimile stamp of the judge's signature to sign the summons in juvenile cases.

Source: SL 1994, ch 274 (Supreme Court Order), eff. Aug. 25, 1998.

CIV. EIGHT COURT APPOINTED ATTORNEYS

In all actions, suits and proceedings, where the court appoints an attorney to be paid with public funds, the initial appointment is authorized for an amount not to exceed one thousand dollars. The court appointed attorney must obtain prior approval, by a motion and an order from the judge assigned to the case, to exceed the approved amount. A hearing on the motion need not be scheduled unless requested by the court.

Source: SL 1994, ch 274 (Supreme Court Order), eff. Aug. 25, 1998.

CIV. NINE UNCONTESTED MOTIONS

In addition to the time and date set for hearing, the notice of hearing on a motion, except a motion where less than eleven days' notice is given, may state the last date upon which an objection, resistance or response, required a hearing, shall be filed and served on parties in interest, which date shall be at least three business days in advance of the date set for hearing. The notice of hearing must also state that if no objection, resistance or response is timely filed and served, the moving party need not appear at the hearing, and the court may grant the relief requested.

Source: SL 1994, ch 274 (Supreme Court Order), eff. Aug 25, 1998.

CIV. TEN BRIEF TO BE FILED WITH MOTION

A party who makes a motion requiring a hearing must serve a brief in support of the motion upon opposing parties and submit a copy to the judge. The brief should contain a statement of the facts and the law upon which the party will rely, and the moving party's position.

Source: SL 1994, ch 274 (Supreme Court Order), eff. Aug. 25, 1998.

CIV. ELEVEN SUMMARY JUDGMENT

(A) MOVING PARTY'S REQUIRED STATEMENT OF MATERIAL FACTS

A party moving for summary judgment must attach to the motion a separate, short, and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried. Each material fact in this local rule's required statement must be presented in a separate, numbered statement and with appropriate citation to the record in the case.

(B) OPPOSING PARTY'S REQUIRED STATEMENT OF MATERIAL FACTS

A party opposing a motion for summary judgment must include a separate, short, and concise statement of the material facts as to which the opposing party contends a genuine issue exists to be tried. The opposition must respond to each numbered paragraph in the moving party's statement with a separately numbered response and appropriate citations to the record.

(C) EFFECT OF OMISSION All material facts set forth in the statement that the moving party must serve shall be admitted unless controverted by the statement required to be served by the opposing party.

Source: SL 1994, ch 274 (Supreme Court Order), eff. Aug. 25, 1998.