

Litigation Overview: South Carolina

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A Q&A guide to general litigation information for South Carolina. This State Q&A covers the South Carolina state court structure, state statutes and rules governing litigation procedure, and the attorney admissions process (including admission without examination, *pro hac vice* admission, and in-house counsel registration). Answers to questions can be compared across a number of jurisdictions (see [Litigation Overview: State Q&A Tool](#)).

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State Courts

1. *What are your state's appellate courts? For each appellate court, please identify:*

- *The courts from which a direct appeal may be taken to this appellate court.*
- *The appellate court's general subject matter jurisdiction.*
- *The state courts(s), if any, to which a further appeal may be sought.*

South Carolina has three appellate-level courts. These are:

- The Supreme Court (see [Supreme Court](#)).
- The Court of Appeals (see [Court of Appeals](#)).
- The Circuit Courts (see [Circuit Courts](#)).

Supreme Court

The Supreme Court is South Carolina's highest appellate court.

Jurisdiction

The Supreme Court constitutes a court for the correction of errors at law under regulations that the South

Carolina General Assembly may prescribe ([S.C. Const. art. V, § 5](#)). The Supreme Court must review on appeal:

- Any intermediate judgment, order, or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions and final judgments in these actions.
- An order affecting a substantial right made in an action when this order:
 - in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action;
 - grants or refuses a new trial; or
 - strikes out an answer or any part of an answer or any pleading in any action;
- A final order affecting a substantial right made in any special proceeding or on a summary application in any action after judgment.
- An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

([S.C. Code Ann. § 14-3-330.](#))

The Supreme Court has direct appellate jurisdiction over the following matters:

- Any final judgment from the Circuit Court that includes a sentence of death.
- A final decision of the Public Service Commission setting public utility rates.
- A final judgment involving a challenge on state or federal grounds, to the constitutionality of a state law or county or municipal ordinance where the principal issue is one of the constitutionality of the law or ordinance. However, in a case where the Supreme Court finds that the constitutional question raised is not a significant one, the Supreme Court may transfer the case to the Court of Appeals for final judgment.
- A final judgment from the Circuit Court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of South Carolina, its agencies, political subdivisions, public service districts, counties and municipalities, or any other indebtedness authorized by Article X of the South Carolina Constitution.
- A final judgment from the circuit court pertaining to elections and election procedure.
- An order limiting an investigation by a state grand jury.
- An order of the family court relating to an abortion by a minor.

([S.C. Code Ann. § 14-8-200\(b\).](#))

The Supreme Court's review of death penalty sentences is mandatory ([S.C. Code Ann. § 16-3-25\(A\)](#)).

The Supreme Court also has appellate jurisdiction in equity cases. When reviewing these appeals, the Supreme Court reviews the findings of fact as well as the law, unless the facts are settled by a jury and the verdict not set aside ([S.C. Const. art. V, § 5](#)).

In addition to its appellate jurisdiction, the Supreme Court has original jurisdiction to issue writs or orders of

injunction, *mandamus*, *quo warranto*, prohibition, certiorari, habeas corpus, and other remedial and original writs (S.C. Code Ann. § 14-3-310).

The Supreme Court may also answer certified questions of law from:

- Federal courts.
- State appellate courts when there are South Carolina questions of law which may be determinative of the pending action and it appears to the certifying court there is no controlling precedent in the decisions of the South Carolina Supreme Court.

(S.C. App. Ct. R. 244(a).)

Further Appellate Review

The US Supreme Court may review a decision of the South Carolina Supreme Court in certain situations, such as where:

- The validity of a US treaty or statute is challenged.
- A South Carolina statute is claimed to be in conflict with the Constitution, treaties, or laws of the US.

(28 U.S.C. § 1257(a).)

Court of Appeals

The Court of Appeals is South Carolina's intermediate appellate court.

Jurisdiction

The South Carolina Court of Appeals has general appellate jurisdiction in all cases except those within the exclusive jurisdiction of the South Carolina Supreme Court, including appeals from any:

- Order, judgment, or decree of the circuit court or family court.
- Final decision of an agency.
- Final decision of an administrative law judge.
- Final decision of the South Carolina [Workers' Compensation Commission](#).

(S.C. Code Ann. § 14-8-200(a).)

The South Carolina Court of Appeals applies the same scope of review and has the same authority to issue writs of supersedeas, grant stays, and grant petitions for bail as the South Carolina Supreme Court (S.C. Code Ann. § 14-8-200(a)). The Court of Appeals and each of its judges has the same power at chambers or in open court to:

- Administer oaths.

- Issue remedial writs as are necessary to give effect to its jurisdiction.
- Issue writs of habeas corpus, *mandamus*, *quo warranto*, certiorari, and prohibition and interlocutory writs or orders of injunction.

(S.C. Code Ann. §§ 14-8-220 and 14-8-290.)

The Court of Appeals may certify an issue of fact to the Circuit Court either:

- When an issue of fact arises on the pleadings or on a traverse to return in *mandamus*, prohibition, or certiorari.
- Whenever the determination of any question of fact is necessary to the exercise of the jurisdiction conferred on the Court of Appeals.

(S.C. Code Ann. § 14-8-280.)

Further Appellate Review

The Court of Appeals decisions are appealable to the South Carolina Supreme Court.

Circuit Courts

Although primarily trial-level courts, the South Carolina Circuit Courts have limited appellate jurisdiction over appeals from inferior courts.

Jurisdiction

The Circuit Courts has jurisdiction over appeals from:

- The Magistrate's Courts.
- The Municipal Courts.
- The Probate Courts.

(S.C. Code Ann. §§ 14-5-340 and 62-1-308.)

Further Appellate Review

Appeals from the Circuit Courts may be sought from the Court of Appeals, the Supreme Court, or both as provided by law.

2. *What are the trial courts in your state? For each trial court, please identify:*

- *The court's general subject matter jurisdiction.*

- *The state court(s) to which a direct appeal may be taken.*

South Carolina has six trial level courts. These are:

- The Circuit Courts (see [Circuit Courts](#)).
- The Masters-in-Equity (see [Masters-in-Equity](#)).
- The Family Courts (see [Family Courts](#)).
- The Probate Courts (see [Probate Courts](#)).
- The Magistrates' Courts (see [Magistrates' Courts](#)).
- The Municipal Courts (see [Municipal Courts](#)).

Circuit Courts

The South Carolina Circuit Court sits in all 46 counties and is divided into 116 judicial circuits. The Circuit Court is made up of the court of common pleas, which hears civil cases, and the court of general sessions, which hears criminal cases ([S.C. Const. art. V, § 1](#) and *Dove v. Gold Kist, Inc.*, 442 S.E.2d 598, 600 (S.C. 1994)).

The Circuit Courts are general trial courts with original jurisdiction in civil and criminal cases, except when an inferior court has exclusive jurisdiction ([S.C. Const. art. V, § 11](#)).

Jurisdiction

The judges of the Circuit Court and of all other courts of record have the same power at chambers to issue writs of habeas corpus, *mandamus*, *quo warranto*, certiorari, prohibition, and interlocutory writs or orders of injunction as when in open court ([S.C. Const. art. V, § 1](#); *Dove*, 442 S.E.2d at 600).

Appeals

Circuit Court appeals generally go to the South Carolina Court of Appeals. However, certain Circuit Court appeals may be made to the South Carolina Supreme Court as provided by law.

Masters-in-Equity

The Equity Courts are divisions of the Circuit Courts and the Masters-In-Equity are judges of the Equity Courts. The Masters-In-Equity have jurisdiction in matters referred to them by the Circuit Courts. ([S.C. Code Ann. § 14-11-15](#).)

With the consent of the parties, a circuit judge or the clerk of court may direct some or all of the causes of action to a master or special referee of the Masters-In-Equity court. The master or special referee exercises all the power that a circuit judge sitting without a jury would have in a similar matter. ([S.C. R. Civ. P. 53\(b\)](#).)

Generally, Masters-In-Equity courts handle default and foreclosure actions.

Jurisdiction

The jurisdiction of the Masters-in-Equity courts is by referral and agreement. They do not have mandatory jurisdiction.

The master or special referee must comply in full with the requirements of the order of reference and act in accordance with the practice of the court ([S.C. Code Ann. § 14-11-80](#) and [S.C. R. Civ. P. 53\(c\)](#)). A matter may not be referred to a master or referee solely to make a report to the circuit court ([S.C. Code Ann. § 14-11-85](#) and [S.C. R. Civ. P. 53\(b\)](#)).

Appeals

An appeal from an order or judgment of the master or referee must be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules ([S.C. R. Civ. P. 53\(e\)](#)).

Family Courts

Jurisdiction

The Family Court has exclusive jurisdiction of all cases concerning:

- Marriage.
- Divorce.
- Legal separation.
- Custody.
- Visitation rights.
- Termination of parental rights.
- Adoption.
- Support.
- Alimony.
- Division of marital property.
- Change of name.
- Minors under 17 years old alleged to have violated any state law or municipal ordinance. However, most traffic, fish, and game law violations may still be tried in the Magistrate or Municipal Courts. Serious criminal charges may also be transferred to the South Carolina Circuit Court.

([S.C. Code Ann. § 63-3-530\(A\)](#).)

Appeals

Appeals from the Family Court go to either the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules (see [S.C. Code Ann. § 63-3-630](#)).

Probate Courts

Jurisdiction

The Probate Courts have exclusive original jurisdiction over subject matter related to estates of decedents, including:

- The contest of wills.
- Construction of wills.
- Determination of property in which the estate of a decedent or a protected person has an interest.
- Determination of heirs and successors of decedents and estates of protected persons.
- Protective and guardianship proceedings.
- Gifts made to minors under the Uniform Gifts to Minors Act.
- Trusts.
- Issuance of marriage licenses.
- The involuntary commitment of persons.

(S.C. Code Ann. § 62-1-302(a)(1).)

Despite the Probate Court's exclusive jurisdiction over these matters, certain actions must be removed to the South Carolina Circuit Courts if a party makes a motion seeking removal. The removal motion must be made within ten days of the date that all responsive pleadings are due to be filed (S.C. Code Ann. § 62-1-302(d)). Actions that must be removed to the Circuit Court include:

- Formal proceedings for the probate of wills and for the appointment of general personal representatives.
- Construction of wills.
- Actions to try title concerning property in which the estate of a decedent or protected person asserts an interest.
- Matters involving the internal or external affairs of trusts as provided in [Section 62-7-201 of the South Carolina Code Annotated](#), excluding matters involving the establishment of a special needs trust.
- Actions in which a party has a right to trial by jury and which involve an amount in controversy of at least \$5,000 in value.
- Actions concerning gifts made under the South Carolina Uniform Gifts to Minors Act.

(S.C. Code Ann. § 62-1-302(d).)

The Probate Courts have concurrent jurisdiction with the Family Courts to hear and determine issues relating to:

- Paternity.
- Common law marriage.
- Interpretation of marital agreements in connection with:

- estate;
- trust;
- guardianship; and
- conservatorship actions.

(S.C. Code Ann. § 62-1-302(c).)

The Probate Courts share concurrent jurisdiction with the Circuit Courts as to the approval of settlements of wrongful death and survival statute cases (S.C. Code Ann. § 62-1-302(b)). The Probate Courts also have concurrent jurisdiction with the South Carolina Circuit Courts over the creation, exercise, and termination of powers of attorney, including the approval of the sale of real and personal property by an attorney-in-fact (S.C. Code Ann. § 62-5-503).

Appeals

Probate Court appeals generally go to the South Carolina Circuit Courts (S.C. Code Ann. § 62-1-308).

Magistrates' Courts

Jurisdiction

Magistrates' Courts have limited jurisdiction in civil and criminal matters (S.C. Const. art. V, § 26). Specifically, the Magistrates' Courts' jurisdiction includes:

- Civil jurisdiction in certain enumerated tort, contract, property, bond, and fraud cases where the recovery of money does not exceed \$7,500 (S.C. Code Ann. § 22-3-10). If a successful counterclaim would exceed the magistrates' civil jurisdictional then the initial claim and counterclaim must be transferred to the docket of the common pleas court for that judicial circuit (S.C. Code Ann. § 22-3-30).
- Concurrent jurisdiction over landlord-tenant matters with the circuit courts (S.C. Code Ann. § 27-40-130(a)).
- Exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of \$100 or imprisonment for 30 days. If a criminal offense over which the magistrate has jurisdiction is brought with a criminal offense that exceeds the magistrate's jurisdiction, the magistrate has concurrent jurisdiction with the court of general sessions only for the offense that falls within the magistrate's jurisdiction. (S.C. Code Ann. § 22-3-540.)
- The Magistrates' Courts and Municipal Courts have concurrent jurisdiction with the Family Courts for the trial of persons under 17 years of age charged with traffic violations or violations relating to fish, game, and watercraft similar to their jurisdiction over these offenses for adults (S.C. Code Ann. § 63-3-520(a)). The Magistrates' Courts have jurisdiction over larceny of personal property when the value does not exceed \$1,000, as well as over the offenses of buying, receiving, or aiding in the concealment of stolen goods and other property not exceeding \$1,000 in value (S.C. Code Ann. §§ 22-3-570 and 22-3-580).

Magistrates have no jurisdiction over cases in which the state is a party or the title to real property is at issue

(S.C. Code Ann. § 22-3-20).

Appeals

Appeals from the Magistrates' Courts go to the South Carolina Circuit Courts (S.C. Code Ann. § 18-7-10).

Municipal Courts

Certain towns in South Carolina have Municipal Courts. Municipal Courts are part of the unified judicial system. (S.C. Code Ann. § 14-25-5.)

Jurisdiction

Municipal Courts have jurisdiction over the trial and determination of all cases arising under the ordinances of the municipality (S.C. Code Ann. § 14-25-5). They have no jurisdiction in civil matters (S.C. Code Ann. § 14-25-45).

Certain criminal cases may be transferred from the Court of General Sessions to a Municipal Court. The penalties for these criminal cases must be less than either \$5,500 or one year imprisonment (S.C. Code Ann. § 22-3-545.)

The Magistrate Courts and Municipal Courts have concurrent jurisdiction with the Family Courts for the trial of persons under 17 years of age charged with traffic violations or violations relating to fish, game, and watercraft similar to their jurisdiction over these offenses for adults (S.C. Code Ann. § 63-3-520).

Appeals

Municipal Court appeals go to the South Carolina Circuit Courts, specifically to the Court of Common Pleas (S.C. Code Ann. § 14-25-95).

State Litigation Procedure

3. What are the key statutes and rules governing litigation procedure in your jurisdiction?

The following are the primary sources of South Carolina law governing litigation procedure:

- **The South Carolina Constitution.** Article V governs the creation of South Carolina's unified judicial system.
- **The South Carolina Code Annotated.** The primary sections of the South Carolina Code Annotated applicable to litigation include the following:
 - title 14 of the South Carolina relates to the structure, jurisdiction, and powers of the judiciary;
 - title 15 outlines civil remedies and procedures;
 - title 17 outlines criminal procedures;
 - title 18 governs appeals;
 - title 62 contains the South Carolina Probate Code; and

- title 63 contains the South Carolina Children's Code. Titles 62 and 63 outline the jurisdiction and powers of the Probate and Family courts, respectively.
- The various rules of procedure applicable to specific courts, including
 - the **South Carolina Appellate Court Rules**;
 - the **South Carolina Rules of Civil Procedure**;
 - the **South Carolina Rules of Criminal Procedure**;
 - the **South Carolina Rules of Evidence**;
 - the **South Carolina Family Court Rules**;
 - the **South Carolina Magistrate's Court Rules**; and
 - the **South Carolina Probate Court Rules**.

Issues for Attorneys

4. Please describe how an attorney becomes a member of the state bar in your jurisdiction, including whether the state offers attorneys admitted in other states reciprocity or the ability to register as in-house counsel.

Admission on Examination

To be eligible for admission to the South Carolina Bar on examination, an individual must:

- Be at least 21 years of age.
- Be of good moral character.
- Have a Juris Doctor (JD) or a Bachelor of Laws (LLB) degree from a law school which was approved or provisionally approved by the American Bar Association (ABA) at the time the degree was conferred.
- Have been found qualified by a panel of the Committee on Character and Fitness.
- Have passed the bar examination administered by the Board of Law Examiners.
- Have received a scaled score of at least 77 on the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within four years of the date on which the application is filed.
- Not be:
 - disbarred;
 - suspended from the practice of law; or
 - the subject of any pending disciplinary proceeding in another jurisdiction.
- Have successfully completed the Bridge the Gap Program sponsored by the South Carolina Bar.

- Pay all the required fees and take the oath or affirmation.

(S.C. App. Ct. R. 402(c).)

Although admitted to practice in South Carolina, a lawyer may not appear alone as counsel in any hearing, trial, or deposition in a case pending before a state court until the lawyer completes the trial experiences outlined in [Rule 403\(b\)-\(c\) of the South Carolina Appellate Court Rules](#).

An attorney who has been admitted to practice law in another state, territory, or the District of Columbia for three years may satisfy the trial-experience requirements of [Rule 403\(c\) of the South Carolina Appellate Court Rules](#). The attorney must provide an affidavit showing equivalent experience in the other jurisdiction for each category of cases specified in Rule 403(c). The affidavit must include:

- The case number.
- The case name.
- A brief description of the facts of the case.
- The type of trial experience used to satisfy the requirements of Rule 403(c).

(S.C. App. Ct. R. 403(f).)

Admission without Examination

There is no admission without examination in South Carolina. There is also no reciprocity with any other state.

Registration of In-House Counsel

In-house counsel may receive a limited certificate of admission to practice law in South Carolina. To practice as a registered in-house counsel, the attorney must:

- Be at least 21 years of age.
- Be of good moral character.
- Have a JD or an LLB degree from an ABA-approved law school or a law school provisionally approved by the ABA at the time the degree was conferred.
- Have been admitted to practice law in the highest court of another state or the District of Columbia.
- Be a member in good standing in each jurisdiction where he is admitted to practice law.
- Not be:
 - disbarred;
 - suspended from the practice of law; or
 - the subject of any pending disciplinary proceeding in another jurisdiction.
- Be employed in the legal department or under the supervision of the legal department of a corporation, company, partnership, or association which does not provide legal services in South Carolina to the public or

its employees. If not a South Carolina corporation, company, partnership, or association, the business employer must be qualified or otherwise lawfully engaged in business in South Carolina.

- Performs most of his duties for the business employer in South Carolina and have his principal office in South Carolina.
- Provide legal services in South Carolina solely for the business employer or the parent or subsidiary of this employer.

(S.C. App. Ct. R. 405(a).)

The attorney must also file an application in duplicate with the Clerk of the South Carolina Supreme Court and pay a non-refundable application fee (S.C. App. Ct. R. 405(b)). Any questions regarding the fitness or qualifications of the applicant may be referred by the Supreme Court to the Committee on Character and Fitness for a hearing and recommendation (S.C. App. R. 405(c)).

A lawyer issued a limited certificate of admission to practice law may represent his employer before:

- Any state agency in an administrative proceeding if authorized by the agency's regulations.
- The Magistrate's Court in civil proceedings on presentation of a copy of the certificate to the court.
- Any other South Carolina court or tribunal if:
 - the lawyer associates as co-counsel with a member of the South Carolina Bar;
 - the co-counsel is present at all trials, hearings, depositions, and other proceedings;
 - the co-counsel signs all pleadings, motions, and other documents required to be signed by an attorney; and
 - a copy of the certificate is presented to the court or tribunal.

(S.C. App. Ct. R. 405(e).)

5. Please describe the process for becoming admitted on a *pro hac vice* basis in your jurisdiction.

An attorney admitted and authorized to practice law in the highest court of another jurisdiction may be admitted *pro hac vice* in South Carolina (S.C. App. R. 404(a)). The out-of-state attorney must file a written application to be admitted *pro hac vice*. The application must include:

- The applicant's residence and office addresses.
- The state and federal courts to which the applicant has been admitted to practice and the dates of admission.
- Whether the applicant is a member in good standing in those courts and a certificate of good standing from the highest court in the jurisdiction where the applicant regularly practices law.
- Whether the applicant is currently suspended or disbarred in any court.

- Whether the applicant has been formally notified of any complaints pending before a disciplinary agency in any jurisdiction.
- An identification of all law firms with which the applicant is associated.
- A description of all the applicant's pending *pro hac vice* appearances in South Carolina.
- The names of all cases or proceedings in which the applicant has filed an application to appear *pro hac vice*.
- The date of application and whether the *pro hac vice* application was granted and information regarding the attorneys of record.
- An affirmation that the applicant will comply with applicable statutes, law, and procedural rules of the state.

(S.C. App. Ct. R. 404(d).)

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