

The Supreme Court of South Carolina

AMENDED ADMINISTRATIVE ORDER

I FIND that the 2012-2013 General Appropriations Act (A. 288, H. 4813) granted the South Carolina Commission on Indigent Defense (SCCID) the authority to "retain, on a contractual basis, the services of attorneys qualified to handle civil and criminal court appointments, to be reimbursed in accordance with applicable provisos and statutes."

SCCID working in conjunction with the South Carolina Bar has established a framework for the implementation of a contract system to handle a significant number of indigent cases that were previously assigned to various attorneys in accordance with Rule 608, SCACR.

NOW, THEREFORE, pursuant to Article V, Section 4 of the South Carolina Constitution,

IT IS ORDERED that the procedures outlined herein are adopted for purposes of establishing a contract system for the handling of indigent cases in South Carolina.

1. SCCID with the assistance of the South Carolina Bar will provide notice to Bar members about the contract system and the procedures for applying for these contracts.
2. SCCID shall establish all policies, procedures and contract provisions as it deems appropriate for the implementation of the system including, but not limited to the selection and compensation of contract awardees. However, any attorney who receives or has received a public reprimand, definite suspension, or disbarment pursuant to Rule 413, SCACR, based on misrepresentation or misconduct related to the submission of expense or reimbursement claims in an indigent case is ineligible to serve as a contract awardee and receive contract appointments.

3. Because SCCID must work within certain budget constraints, SCCID will first proceed with contracts for civil appointment matters. The types of civil matters included are: abuse and neglect and termination of parental rights matters in Family Court, Post-Conviction Relief and Sexually Violent Predator matters in Common Pleas and Probate Court commitment cases. SCCID shall then proceed as expeditiously as possible with contracts for criminal appointments as funding will permit.

4. Due to budget constraints and the need to more accurately gauge the number of cases and cost of the program, certain counties have been selected for initial implementation. These counties were identified by SCCID, the SC Bar, and Court Administration after reviewing current Rule 608 appointment data, to include the number of appointments per attorney in a given county. While all counties are not included in the initial listing; the attorneys from those counties should still receive a significant benefit from the contract system. Counties which have traditionally provided Rule 608 support to other counties should see a significant reduction in the number of appointments they receive in those counties due to the contract system being implemented. Once counties are added for implementation they shall follow the procedures as established in this Order. The initial counties for implementation are as follows:

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|--------------|------------|--------------|
| Aiken | Dillon | Marion |
| Anderson | Dorchester | Marlboro |
| Bamberg | Greenwood | Newberry |
| Barnwell | Horry | Oconee |
| Berkeley | Jasper | Pickens |
| Cherokee | Lancaster | Spartanburg |
| Chesterfield | Laurens | Sumter |
| Colleton | Lee | Williamsburg |
| Darlington | Lexington | |

5. Once SCCID has selected the contract awardees and the contracts executed for services in the designated counties, SCCID will forward to the Clerk of Court the list of all contract attorneys for that county. SCCID will identify the type or types of cases that will be assigned to the contract attorney. The Clerk shall then establish four (4) separate lists, based on case type, from which appointments to indigent cases shall be made. Each Clerk shall maintain a separate list for Family Court matters (TPR and Abuse and Neglect), Post-Conviction Relief, Sexually

Violent Predator and Probate Court commitment matters. The Family Court list will not include juvenile delinquency matters as these matters will be addressed through the criminal contracts. The clerk shall arrange each list alphabetically and the appointments shall be made alphabetically down the list. SCCID contracts will establish the given caseload for each contract and SCCID will notify the Clerks as to the number of cases each attorney is permitted to handle.

6. Clerks of Court shall only appoint Bar members who are under contract unless maximum caseloads have been reached by all contract attorneys. If the Clerk discovers or is notified that reasons exist for not appointing a contract attorney, such as a conflict of interest, and no other contract attorney is available for that county then the Clerk shall contact SCCID. SCCID will attempt to provide the name of another contract attorney to handle the matter. If no contract attorney is available the Clerk shall appoint an attorney from the county's Rule 608 list.

7. For those counties not under the contract system and in those counties wherein contract attorneys are unable to provide representation in all indigent cases, appointments shall continue to be provided in accordance with Rule 608. Therefore all Clerks of Court are hereby required to maintain current Rule 608 appointment lists in adherence with Rule 608, SCACR. Attorneys while under contract with SCCID shall be exempt from receiving any Rule 608 appointments and Clerks shall remove contract attorneys from their 608 lists. Attorneys when no longer under SCCID contract shall be returned to the Rule 608 list.

s/ Jean H. Toal C.J.

Jean Hofer Toal, Chief Justice

Columbia, South Carolina
November 2, 2012