* 18,740 emergency hotline calls were made to [SCCADVASA](http://www.sccadvasa.org/) member domestic violence (DV) organizations in FY 2015.
* Nearly 1 in 4 women and 1 in 7 men have suffered severe physical violence from an intimate partner, [according to the CDC](https://www.cdc.gov/violenceprevention/pdf/NISVS-infographic-2016.pdf).
* South Carolina law makes no distinction in domestic violence for gender of the abuser or the victim, or for the nature of the underlying relationship (ie, the law treats a male victim of a female abuser or domestic violence within same gender relationships the same as a female victim of a male abuser in a heterosexual relationship).

​DV factors considered by the court include but are not limited to sexual violence, physical violence, and evidence of which party was the primary aggressor. South Carolina courts may not use the forced absence from the home of a domestic violence victim escaping abuse as a rationale to deny child custody to the victim. [SC Code §63-15-40](https://www.scstatehouse.gov/code/t63c015.php)

*Abusers threaten victims with loss of custody of shared children, so reassure your client that leaving the home to escape violence is not treated as abandonment absent other factors.*

In 2012, the General Assembly provided a non-exhaustive list of seventeen factors to consider in custody decisions. Domestic violence is considered, but it is one of many considerations and is not determinative. [§ 63-15-240 (b)](https://law.justia.com/codes/south-carolina/2012/title-63/chapter-15/section-63-15-240)

For that reason, it is possible for an abuser to be awarded full visitation rights or even custody. You must manage client expectations and remind them that each case will be evaluated on a case by case basis.

**Challenges of Working With Domestic Violence Survivors**

**Trust your client.** A survivor may wish to forego child support because the client believes that request could endanger the client or children. Advise the client of their options and ask questions to determine their motive, but ultimately trust and respect the client’s wishes. Remember that your client knows what the abuser is capable of better than anyone else.

Survivors of domestic violence often face challenges in a custody decision that other clients do not typically present. Survivors may be unemployed or may lack transportation. They may have a criminal records or history of drug use. None of these factors alone mean that the survivor is an unfit parent. Often these factors are a direct result of their victimization.

Accusations of adultery against victims of domestic violence are very common. The abuser often views coworkers, neighbors, platonic friends, and even strangers as a threat to the abuser’s control over the victim. Be aware that, while the accusations may sometimes be true, they are often the result of an abuser’s fear of losing control. These accusations are also common within domestic violence relationships, with an imagined act of adultery often serving as the trigger for instances of violence.  
  
Your challenge is to ensure that you are well informed enough to help a judge and guardian ad litem see that factors that could be held against parents in many situations should be considered differently for your client as a survivor of domestic violence.   
  
To do so, it is critical that you maintain a working knowledge of the effects of domestic violence. The ABA’s [Standards of Practice for Lawyers Representing Victims of Domestic Violence, Sexual Assault and Stalking](https://www.americanbar.org/groups/domestic_violence/standards-of-practice.html) are a great starting point for attorneys new to working with survivors of domestic violence, while [The Victim Rights Law Center](http://www.victimrights.org/) is an excellent resource for more in-depth training.

Survivors usually have multiple legal issues that they need help with, though they are generally only focused on the most pressing. For instance, there are little-known unemployment benefits available to survivors who have been forced to leave a job due to physical abuse. The more informed you are on domestic violence issues, the better prepared you will be to help survivors navigate their challenges.

A domestic violence survivor may have spent years trying to compartmentalize or forget incidents of abuse. In many cases, you are now asking the client to talk about events that they have never discussed as a survival mechanism. You may have to spend more time helping a domestic violence survivor reconstruct the timeline or a relationship than you would need to assist a traditional client.

Strongly encourage your client to speak with a licensed therapist who specializes in assisting survivors. Most survivors have suffered emotional injuries that they may not even recognize, let alone know how to address. Develop a list of trusted resources in your surrounding community.

You may also need to help survivors adjust their expectations of the process, which will likely take much more time than your client expects. The South Carolina custody standard of best interest of the child means that survivors often do not feel that they receive a “fair” result in custody cases. Let your clients know upfront that the court could very well award more custody or visitation to the abuser than the client believes the abuser “deserves”.

**Remind Your Client of the Need for Safety**

Leaving the household and filing for custody are very dangerous times for your client, as both are threats to the abuser’s control. Sometimes an abuser will act to escalate the level of violence as the abuser perceives control to be slipping away. Be sure that your client knows this, and be sure that they have a safe place to stay. Help the client connect with local shelters and victim advocacy centers.  
  
Help the client consider safety issues presented by any points of contact or communication. How are you going to exchange custody; How will you attend school events; Does no contact extend to social media follows? Your goal is to anticipate danger and work out solutions that can be written into a settlement agreement or requested before a judge.

**Visitation and Contact in Cases of Domestic Violence**

According to [SC Code § 63-15-50 (2016)](https://law.justia.com/codes/south-carolina/2016/title-63/chapter-15/section-63-15-50/), which governs visitation in domestic violence situations, adequate provisions for the safety of the child must be arranged before granting visitation to an abuser found to have committed domestic violence, or found to have been the primary aggressor.

The adequate provisions ordered by the court may include visitation supervised by another party or agency, meetings to exchange the child only in public settings, counseling, abstention from alcohol during and before visitation, prohibitions against overnight visitation, payment of a bond in order to gain visitation rights, or any other condition the court deems necessary for the safety of the child, victim of the abuser, and other household members.   
  
The court may also order the abuser to pay the costs of any imposed condition and must order the abuser to pay the cost of any medical or psychological treatment of a child injured by domestic violence.

Protection orders that forbid contact usually include exceptions for necessary communication related to the minor child, but necessary parent contact in domestic violence situations should generally be via text message or lasting social media direct messaging (not Snapchat or any similar ephemeral form). The permanent records created by such communication protect your client and prevent misunderstandings on either side.

The language of protective orders can also be written into final orders as behavior guidelines to set firm expectations and boundaries that provide lasting relief to victims.

**Family Court**

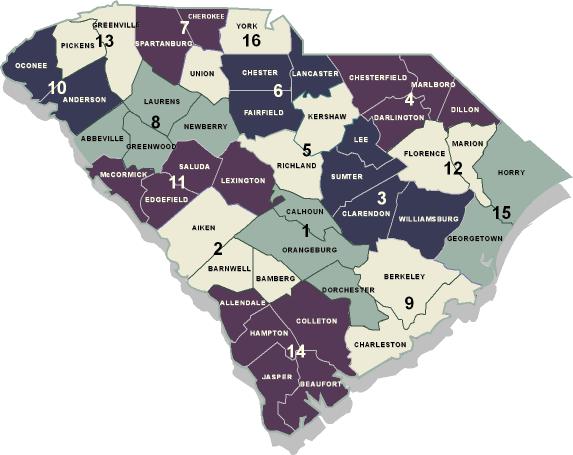
The South Carolina Family Court system has complete jurisdiction over custody and visitation decisions across the state. Family Court is divided into sixteen circuits, and each circuit may have slightly different expectations and guidelines. For that reason, if an opposing counsel ever asks that your client agree to abide by “local”/“standard” visitation orders or parenting guidelines, always first ask to be provided with the local circuit’s standards in writing. The 9th Circuit standards may vary slightly from those of the 8th or 10th Circuit.

Image Credit: [SCcourts.org](https://www.sccourts.org/circuitCourt/circuitMap.cfm)

Do not hesitate to modify the Circuit guidelines to better suit the needs of your client.

South Carolina Family Courts do not have clerks. It is standard practice for the judge to designate at the hearing a party to draft Orders, which are then submitted to both the judge and any other parties for review.

South Carolina applies a [best interest of the child](https://law.justia.com/codes/south-carolina/2012/title-63/chapter-15/section-63-15-230/) standard to custody decisions. Each parent is thus equal before the court, with no “tender years” assumption favoring the mother.

**Venue**

Although Family Court has jurisdiction over every South Carolina custody case, if parents live in different states or previous orders exist in other states, jurisdiction is determined by UCCJEA § 63-15-300.

A child must reside in South Carolina for six months in a stand-alone custody action.

Within South Carolina, the appropriate venue for custody decisions is the home county of the defendant. It is not unusual for South Carolina towns to cross county lines. If you ever make an honest mistake and file in the wrong venue county, it is typically easy to move for a change of venue. Alternatively, the filing county may hear the case if the defendant waives an objection to venue.

In a South Carolina divorce action, venue may be the county where parties last resided together, the county where opposing party currently resides, or the county where plaintiff resides if defendant resides out of state.

**Forms of Custody in South Carolina**

*Sole Custody* – One adult has both physical custody of the child and legal custody, which is the decision-making power in major parental decisions (religion, education, legal and medical care). The other parent often has visitation rights.

*Joint Custody* – South Carolina courts are reluctant to assign true 50-50 physical custody (ie, parents alternate weeks or months throughout a year) as the courts generally believe that such arrangements are not in the best interest of the child. Thus, what South Carolina joint custody grants primary physical placement to one parent and shared legal custody, though primary placement often is designated as ultimate decision maker. Whichever parent lacks primary physical placement has extensive visitation rights.

*Shared Custody* – Shared custody is rare, usually restricted to situations where the parents live within the same school zone. It is a close to 50-50 split in physical placement.

If your client is an unwed mother, she is the de facto custodian until the father files. It may be in the unwed mother’s best interest to maintain the status quo and avoid a custody filing.

**Quirks of South Carolina Family Court**

Each of the rules below are unique to Family Court and easily overlooked by an attorney new to the Court.

*365 Day Rule* – If the case is 365 days old, it can be dismissed without prejudice. It usually will be dismissed, and the temporary order will be dismissed with the case. If the final hearing will not be scheduled before the 365th day, you must request and receive an extension. You can either refile the action or ask that the case be restored to the docket. A request to have a case restored to the docket is not a formality. It will be difficult, and the judge will be very unhappy with what is likely perceived to be professional carelessness.  
  
*Notice to Pro Se Opposing Party* – Notice of Hearing to a pro se defendant **must** be sent by certified mail to the last known address, although it does not need be restricted delivery.

Rule 7 – Governs the admissibility of certain documents in Family Court

Rule 17 – Even if the opposing party failed to file an Answer or Counterclaim, the defendant may be heard at the Final Hearing on issues of custody, visitation, alimony, support, division of property, and counsel fees.

**Family Court Filings**

All common filings are available at [SCcourts.org/forms](https://www.sccourts.org/forms/searchType.cfm)

[Family Court Coversheet](https://www.sccourts.org/forms/pdf/SCCA467.pdf) – Required for docketing purposes and must be served on defendant along with the Summons and Complaint.

[Summons](https://www.sccourts.org/forms/pdf/SCCA401F.pdf)

[Complaint for Divorce](https://www.sccourts.org/forms/pdf/SCCA400.02SRL-DIV.pdf)

[Complaint for Visitation](https://www.sccourts.org/forms/pdf/SCCA400.41SRL-VIS.pdf)

[Financial Declaration](https://www.sccourts.org/forms/pdf/SCCA430.pdf) – Should be adjusted to reflect income and expenses on a monthly basis. Try to fill this out with the client, paying particular attention that you do not calculate income for those paid every two weeks as if they are paid twice per month. Include copies of two most recent paystubs with Financial Declaration presented to the court.

[Financial Declaration (Short Form)](https://www.sccourts.org/forms/pdf/SCCA430S.pdf) – See preceding “Financial Declaration”.

$150 Filing fee or [In Forma Pauperis](https://www.sccourts.org/forms/pdf/SCCA405F.pdf) – Waiver application in cases where Client is under 150% of poverty guidelines. If filing fees are waived, contact the court to clarify whether the service charges are also waived. It varies on a court by court basis. Service charges range from $50 to $100.

[Motion Information Coversheet](https://www.sccourts.org/forms/pdf/SCCA233F.pdf) and Motion for Temporary Hearing (if applicable) - $25 motion fee

[Confidential Identifier Form](https://www.sccourts.org/forms/pdf/SCRCPForm6FC.pdf) – Family Court records are searchable public records. To protect minor children from identity theft, this form must be filled out to designate how you will refer to the children in the pleadings and in the court.

**Defendant Filings**

Rule 8 Notice of Appearance

[Answer and Counterclaim (Divorce)](https://www.sccourts.org/forms/pdf/SCCA400.05SRL-DIV.pdf) or [Answer and Counterclaim (Visitation)](https://www.sccourts.org/forms/pdf/SCCA400.48SRL-VIS.pdf) – if served by process server of affidavit of service, you have 30 days to respond. If served by certified mail, restricted delivery, you have 35 days to respond.

**Forms of Service**

*Sheriff’s Office* – Availability for Family Court matters varies by jurisdiction. This keeps client costs low.

*Certified Mail, Restricted Delivery, Return Receipt Requested* – Although this should be delivered to and signed for only by the named opposing party, the Postal Service sometimes does not abide by this. If anyone else signs for the service, it is not deemed proper. In this case, you will either have to resend, or serve through a different method.

*Private Process Server* – If you use a private process server, check your Affidavit of Service. There are occasional misspellings or the documents are named improperly. If so, contact the process server to get them corrected before going to court.

*Service by Publication* – This form of service must first be approved by the court via a Motion for Order of Publication. Include a client affidavit affirming their knowledge of opposing party’s location, and an affidavit detailing your other attempts at service.

*Unofficial contact that does not constitute service* – Social media messages or emails do not constitute service, but providing the opposing party the time and dates of court hearings may lead them to appear so that they may be served properly.

*International Service* – Contact an expert in these special circumstances

**Protecting Your Client**

Domestic violence is often about control, and initiation of any legal action is often perceived by the abuser as a threat to that control. Filings or service are key danger zones in domestic violence cases. Explain the service process to your client and explicitly ask, ‘How do you think (abuser) will react to being served?’

If there is any fear of a violent reaction, suggest that your client find a safe place to stay for a few days. It can be a friend’s house, a local hotel, or a domestic violence shelter.

Call the client before sending a service order, and request that the sheriff’s office notify you when the abuser is served so that you can contact your client to let them know.

Schedule a check-in with your client after the service. Not only will it reassure you, but it will also provide them reassurance that you are invested in their safety.

**The Temporary Hearing**

Affidavits are used in place of testimony, and temporary hearings are limited to **15 minutes and 8 pages of affidavits** unless you request more at the time of filing. Photos attached are not included in the page count. If you realize a case is more complex after the filing, most judges will honor late requests for extended time. Hearings that are granted an extension beyond 15 minutes are not subject to the 8 page limit.

Help your client with their affidavit and collect more than 8 pages in preparation from available witnesses. Review the witness affidavits. Include your client’s affidavit and the strongest witness affidavits to get to 8 pages, while retaining the other affidavits for later hearings as necessary.

Although you may wish to work things out before the hearing with opposing council or pro se opposing party, do not show them your affidavits until you present them to the court. Anticipate that the judge will ask for a summary of the affidavits. If you can prepare a succinct written summary before the temporary hearing, the judge will likely be appreciative.

You must also arrive at the temporary hearing with an **updated financial declaration**, a **background information sheet**, and a **temporary parenting plan**. The temporary parenting plan should reflect your client’s reasonable desires that maximize the child’s safety. A judge may look unfavorably on any party that overreaches in their parenting plan.

The court is likely to appoint a Guardian ad Litem, and establish timelines for the GAL investigation and report, discovery, and mediation.

**Guardian ad Litem (GAL)**

The GAL will investigate and issue a report to the court. GALs are often attorneys or former attorneys, and there will be fees attached. The most common arrangement is for parties to split the fees evenly, but you can request that an opposing party be financially responsible for a greater portion of the fees. You can also request the court to place a cap on GAL fees if your client is under-resourced.

Ask experienced Family Court attorneys in your area to find GALs they recommend, and to get an idea of their fees. Non-attorney GALs typically have lower fees. If the parties cannot agree on GAL, the court will select one.

Make certain that your client understands the GAL is not their confidante or friend, but a court official reporting back to the court anything your client reveals. Instruct your client to cooperate with the GAL, but to call you with any GAL-related questions or concerns. The client could accidentally reveal privileged information when speaking directly with the GAL, and they will also incur costs for every conversation with the GAL.

Share pleadings and affidavits with the GAL and include the GAL when scheduling hearing and mediation dates. Help the GAL understand how the domestic violence may have affected your client. For example, a GAL may note that your client lacks a car and could have trouble getting the child to and from school. However, if you can point out that your client lacks an automobile due to the abuser’s concerted effort to exert control and limit your client’s freedom of movement, the lack of transportation will likely be perceived differently.

**Discovery**

Discovery is available in every Family Court case through Rule 25, though attorneys previously had to request discovery. If you use an experienced attorney’s pleading blueprints, make sure that you update them to reflect this change.

It is common practice in some areas of South Carolina for attorneys to provide documents with an informal request in conversation, while in other areas they may first require a formal request. Learn and abide by the customs of the local area.

Common forms of Discovery in South Carolina Family Court actions are:

* Requests to Admit
* Production of Documents
* Interrogatories
* Deposition

Witnesses may be subpoenaed if there is a concern that a witness may not show up for court.

Be thoughtful in discovery requests. A generic request that has not been tailored to the circumstances and facts of the case is not in the best interest of the client and may not secure the optimal results.

**Mental Health Records and Discovery**

[Mental health records are privileged](https://law.justia.com/codes/south-carolina/2012/title-44/chapter-22/section-44-22-100/) and should be guarded against discovery requests. Victims of domestic violence often deal with trauma through counseling or therapy, but advise your client not to share news of their treatment with others while the case it ongoing. Informal conversations that are later brought into the case through witness testimony could strengthen the opposing party’s claim that there is good cause to force your client to submit medical and mental health records to discovery. [S.C. Code § 19-11-95(D)(1) (2012)](file:///C:\Users\chgun\AppData\Local\Temp\9d5b110a-fda9-4bfd-96de-32cfa6c74ff1\§%2019-11-95%20(2012)).

You should object or motion to quash on relevance discovery requests for a client’s mental health records. Mental health records that are allowed into a civil family court matter may be used by a criminal defense attorney to impeach your client’s testimony in domestic violence prosecutions.

**Mediation**

South Carolina law requires mediation before a custody hearing, although you may file a Motion to Exempt if the opposing party is imprisoned or if your client is too fearful due to the domestic violence history.

Even in cases with a history of domestic violence, the mediation process can sometimes be fruitful. When there are concerns about domestic violence history or risks, take precautions. Mediation can be through video conference or phone, or can be scheduled at the courthouse.

If a mediation agreement is signed, it will be very difficult to renegotiate or alter that memorandum without a substantial change in circumstances (ie, an additional act of violence). If the circumstances do change, you can and should ask the judge not to approve the order because it is no longer in the best interest of the child.

File the Mediation Report before requesting a hearing.

There will be a charge for mediation, but there are low or even no cost mediation centers available in larger cities.

**Other Common Family Court Hearings**

Additional temporary hearings – These are usually necessary when there is a significant change before the final hearing, such as another incident of abuse.

Pretrial or Scheduling Hearing – Common in some jurisdictions when either party has requested a long trial. Expect to trade witness lists and discuss any discovery that has yet to be answered.

Rule to Show Cause/Contempt Hearing – Necessary when one party has violated a temporary or final order and the other party contends that the violation was willful.

Motion to Compel Discovery – Necessary when either party is not complying with valid discovery requests.

A general [Hearing Request Form](https://www.sccourts.org/forms/pdf/SCCA410.pdf) is available at <https://www.sccourts.org/forms/pdf/SCCA410.pdf>

**Calculating & Collecting Child Support**

[South Carolina Child Support Guidelines (Updated 2014)](https://dss.sc.gov/media/1585/2014-child-support-guidelines-booklet.pdf) are used to calculate child support. The formula considers health insurance and healthcare costs, daycare, and other child-rearing expenses. South Carolina DSS offers an unofficial [online calculator](https://dss.sc.gov/child-support/calculator/) that can be useful for estimating support. If both parents have court-ordered overnight visitation for more than 109 nights each year (30%), custody is considered to be shared, which changes the calculation for child support.

Determine how often the noncustodial parent is paid. If the opposing party does not include pay stubs in the financial declaration or provide them when asked, add this to your discovery.

Decide whether to ask for wage-withholding or to allow payment directly from the noncustodial parent. Wage-withholding goes directly from the employer to the local Child Support office through the Clerk of Court. This is generally the most reliable way to protect the interests of the custodial parent, although there can be temporary interruptions due to change of employment.

Sometimes the noncustodial parent will seek direct payment so that an employer need not know about the child support. If this is a priority for the opposing party, you can accede to the direct payment but write into the final order a process that allows the custodial parent to file an affidavit that converts to wage-withdrawal if the payment is ever more than X days late or is late more than X times. Make certain that this process is clear so that your client can easily follow the process is necessary, and specifically state that the noncustodial parent will be responsible for the 5% court costs of wage-withholding. Failure to include this language could cost your client 5% of their future support.

Be specific about finances in the final agreement. Specify the amount to be paid, how frequently it will be paid, whether direct or through wage-withholding, whether it is through the Clerk of Court, and that the noncustodial parent is responsible for the 5% fee.

Specify the total cost including the fee. For example, “Jordan J. Doe shall pay $100 weekly and the additional 5% court costs of wage-withholding, for a total payment of $105.00.”

If the support arrangement is direct from parent to parent, encourage your client to ensure there is a record of payment. A written and dated receipt from the receiving parent or payment journal may work.

If your client has de facto custody, does not wish to bring a child support action which could threaten that status, but receives government benefits, DSS could initiate a child support action on behalf of the child. If your client already receives child support through a previous DSS action, you will need to discuss with your client whether to carry over that calculation or ask for a new support figure. Primary considerations should include change in employment or income, the birth of a new child, or medical expenses that are outside the scope of the original agreement.

If your client decides to challenge the DSS support plan, you must notify the Department of Social Services.

**Healthcare Costs and Insurance**

Establish which party is responsible for health insurance costs and credit that expense in the child support calculation. Specify how uncovered healthcare expenses will be shared between parents, even if the client is currently on Medicaid. Without this safety net, your client could be exposed to additional expenses should circumstances or federal programs change before the youngest child ages out of the support arrangement.

The South Carolina standard division of healthcare costs is that the custodial parent pays the first $250 of uncovered expenses each year, with expenses beyond this split by income percentage. So Parent A, who earns 60% of combined parent income in the child support calculation would be responsible for 60% of all child healthcare expenses beyond $250 each year, regardless of whether Parent A is custodial or noncustodial. Parties may also decide to split uncovered healthcare costs evenly.

Be precise with your language. Use “healthcare” rather than medical, and explicitly define healthcare to include pharmaceutical, therapeutic (necessary care for most children from homes with domestic violence), dental, and orthodontic expenses. Remember, 100% of psychological or medical expenses resulting from domestic violence must be paid by the abuser.

**Tax Considerations**

The Earned Income Tax Credit (EITC) is assigned by the IRS to the custodial parent and may not be transferred.

The dependent deduction and child tax credit are assumed to go to the custodial parent, but may be transferred by written agreement. If a custodial parent client is willing to transfer these tax considerations, the client is giving away a tangible financial consideration. Do not hesitate to ask that the noncustodial parent receiving the exemption benefit pay a percentage of the recovered income to your client.

Any divorce in or after 2009 must file IRS Form 8332 to transfer these tax benefits. Form 8332 is not linked because there is a proposed revision to the form (as of July, 2018).

In cases which also involve divorce, victims of domestic violence may claim Innocent Spouse Relief or Injured Spouse Relief when filing. Those are technical considerations beyond the scope of this tutorial

**Attorney Fees**

If you plan to seek attorney fees, keep extensive notes throughout the case and prepare detailed affidavits for the hearing.

Legislative guidelines for attorney fees are found in §63-3-530 and §20-3-130, while the governing Supreme Court decisions are Glasscock v. Glasscock (1991) and EDM v. TAM (1992). Be familiar with the judicial considerations found in these cases if you plan to seek attorney fees.

**The Final Hearing**

Prepare your questions for direct and cross-examination. Make sure that your discovery is up to date. If the opposing counsel has not updated their discovery properly, do not hesitate to object to witnesses or evidence.   
  
Arrive very early to the courthouse so that there is time for a final negotiated settlement. Your client exerts control in the settlement process, which is something that has been denied to victims throughout their time of victimhood.

Settlements may also reduce the post hearing risk to your party. The opposing party has input on any negotiated settlement, and is also not subjected to the evidence and testimony of a hearing that could lead the abuser to be angry with or resentful towards your client.

Make certain your client knows how to dress for court. Be direct. Do not say “wear something nice”. A client may interpret that to mean club attire. Give specific instructions about what is appropriate for the courtroom.

**If Custody is Part of a Divorce Action**

Allege one of the divorce grounds accepted in South Carolina, but ask for separate maintenance as a backup plan, especially if your client has not yet satisfied the one year rule. Witnesses may get flustered or disappear.   
  
By the time you arrive in the courtroom, the parties often meet the grounds for a divorce on one year separation. Make a motion to add the grounds of one year separation to the complaint. The judge will ask the opposing party whether they object, and whether they waive their 30 days to respond. If the defendant is *pro se*, explain these questions beforehand. Without preparation, the layperson may panic at the words “waive right to…”

Make certain you have discussed property division and alimony in detail with your client, as well as reviewing the relevant factors considered under South Carolina law.

You must formally request a name change (if your client so desires) in the pleading or at the final hearing.

*South Carolina considers dating before divorce to be adultery*, even if spouses are maintaining separate residences and have filed for divorce. Some judges will take a more hardline approach to this inquiry than others, but your client risks factual accusations of adultery if they begin dating before the divorce is final, which can threaten custody and spousal support. Judges are particularly critical of unmarried overnight paramours in the presence of the children. Many clients will ignore your instructions on this matter. Warn those clients that they cannot legally remarry until the Divorce Decree is signed.

**Preparing the Order**

If you are designated by the court to prepare the order, there are several things to keep in mind. Though you are generally given 30 days to submit the order to the court, judges may sometimes give you a shorter timeline. Meet the judge’s timeline.   
  
Take extensive notes in the hearing. If there is something that you did not hear properly or that you need clarified, ask the court for clarification in the hearing. It is much easier to seek clarification at that time than to modify an inaccurate or incomplete order.

It is professional courtesy in South Carolina to send the order to the opposing counsel before sending the order to the court so that they have time to approve or object. If the other party is *pro se*, the order should be sent to the opposing party at the time it is submitted to the court, if not before. Avoid ex parte communication during the process.

**The Order and Your Client**

The Order is not final until signed. Though your client or the opposing council may want to begin visitations before this, neither side can be held in contempt of an unsigned order. Balance the desire for a smooth, amicable transition with the risk of the other party taking advantage of the situation in limbo.

Explain the Order to your client in layman’s terms, orally and in writing. A bulleted letter to your client that clarifies the expectations and requirements of each party, along with consequences of willful violation, is a great practice to follow. The legal language that is second nature to attorneys may be intimidating or impenetrable to those outside the field. Given the grave consequences of violating the court’s Order, it is critical to ensure your client fully understands each party’s rights and responsibilities.

If your client willfully violates the Order, the other party may file a Rule to Show Cause to establish willful contempt of court. Willful contempt requires purposeful violation of the Order. A client found in willful contempt at the show cause hearing may be sentenced to jail time, community service, fines, or loss of custody or visitation rights.

Generally the party bringing the Rule to Show Cause will ask for attorney’s fees, and South Carolina courts are much more likely to award attorney fees in a show cause than an initial hearing.

**Resources for Domestic Violence Victims**

[South Carolina Coalition Against Domestic Violence and Sexual Assault](http://www.sccadvasa.org/) 803-256-2900

[National Domestic Violence Hotline](https://www.thehotline.org/) 1-800-799-7233

[South Carolina Office of Victims’ Assistance](http://www.sova.sc.gov/rights.html) 803-734-1704 Offers financial assistance as payer of last resort and assists with counseling

[South Carolina Legal Services](https://sclegal.org/)’ intake service 1-888-346-5592