



The Supreme Court of South Carolina

JEAN HOEFER TOAL
CHIEF JUSTICE

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MEMORANDUM

TO: All Solicitors

FROM: Chief Justice Jean Hoefer Toal

RE: Plea Agreements and Discovery

DATE: March 1, 2004

It has come to my attention that solicitors in some circuits are offering plea agreements to defendants on the condition that they forgo discovery. This practice is going to have adverse consequences in the future with claims of ineffective assistance of counsel based on a claim that the plea was not voluntary because the applicant did not have access to the solicitor's file.

Furthermore, I believe it is unethical to premise a plea agreement on the defendant relinquishing the right to discovery in criminal cases. See Rule 3.4, RILE, Rule 407, SCACR. I ask that any solicitors who are currently pursuing this practice to stop immediately.

On a separate issue, apparently some magistrates are setting bonds after *ex parte* meetings with alleged victims. This is also unethical and, although I will be communicating directly with the magistrates regarding the issue, I ask for any assistance you might be able to provide if you are aware that this is happening in magistrates courts in your area.