

Serial: 111236

IN THE SUPREME COURT OF MISSISSIPPI
No. 89-R-99015-SCT

Appellant

RE: LOCAL RULES OF THE FIFTH
CIRCUIT COURT DISTRICT

Appellee

CORRECTIVE ORDER

By order issued September 4, 2003, the Supreme Court approved local rules submitted by the judges of the Fifth Circuit Court District. Through scrivener's error, the final portion of Rule 1 of that submission was omitted from Exhibit "A" to this Court's order. Therefore, this order is entered to correct the Court's former order.

IT IS THEREFORE ORDERED that Exhibit "A" attached hereto shall be substituted for Exhibit "A" to the Court's order issued September 4, 2003, and the Local Rules for the Fifth Circuit Court District shall stand approved as set forth herein.

IT IS FURTHER ORDERED that the Clerk of the Supreme Court shall spread this order on the minutes of the Court and shall forthwith forward a true certified copy of this order to West Publishing Company for inclusions in the *Southern Reporter, Second Series (Mississippi Edition)*.

SO ORDERED, this the 20th day of February, 2004.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., PRESIDING JUSTICE

**LOCAL RULES OF THE FIFTH JUDICIAL CIRCUIT COURT DISTRICT
OF THE STATE OF MISSISSIPPI**

Rule 1

Assignment of Civil Cases and Trial Settings For Civil Cases

All civil cases that are filed in this court shall be randomly assigned to one of the judges by the clerk of the court by lot, with the clerk placing the names of the judges in a box, and drawing one of the names from the box. The last letter in the assigned cause number shall begin with the first letter of the last name of the judge to whom the case is assigned. The clerk shall notify the party filing a complaint, and when an answer is filed, the party answering the complaint, of the case assignment.

Excepted from this procedure are motions for post-conviction collateral relief. Those motions shall be assigned to the judge who originally presided over the criminal proceeding that is the subject of the motion.

In the event that cases are consolidated that had originally been assigned to separate judges, the consolidated case will be assigned a judge by the clerk of the court in the same manner as if the case were an original filing. If a case is assigned to a judge that has a conflict of interest that necessitates the recusal of the judge, the case shall be assigned to the other judge.

Any party that wishes to have a case set for trial shall contact the court administrator for the judge to whom the case is assigned, at least thirty (30) days prior to the commencement of the term of court in which that judge is to preside, to obtain a trial setting. If a case is triable at a term of court that is being held by a judge to whom the case is not assigned, the case may be tried by that judge, irrespective of case assignment, so long as both judges, and all parties are in agreement.

Any party that desires a vacation trial setting shall contact the administrator of the judge to whom the case is assigned, concerning possible vacation trial settings. Trials will be held in vacation when the time and schedule of the judge, and the parties, can accommodate a vacation setting.

Rule 2

Non-Filing of Discovery Materials

Rule 7(a) of the Mississippi Rules of Civil Procedure limits and defines the pleadings which are allowed to be filed in any action. Therefore, due to the considerable cost to the parties of furnishing discovery materials, and the problem encountered with storage, this Court adopts the following procedure with regard to the non-filing of discovery materials with the Court:

1. Interrogatories under Rule 33, M.R.C.P., and the answers thereto, Requests for Production or Inspection under Rule 34, M.R.C.P., Requests for Admissions under Rule 26, M.R.C.P., and responses thereto, and depositions under Rule 30 and 31, M.R.C.P., shall be served upon other counsel or parties as provided by the Rules, but shall not be filed with the Circuit Court Clerk. The party responsible for service of the discovery material shall retain the original and become the custodian.

2. If relief is sought under the Mississippi Rules of Civil Procedure concerning any interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories, responses to requests for admissions or depositions, copies of the portions of the interrogatories, requests, answers, responses or depositions in dispute shall be filed with the appropriate Circuit Court Clerk and with the assigned Judge contemporaneously with any motion filed under said Rules.

3. If interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a pre-trial motion which might result in a final order on any issue, the portions to be used shall be considered an exhibit and filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

4. When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of the Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

The Clerk of this Court is authorized and directed to return forthwith any discovery materials submitted for filing which does not comply with the requirements set forth herein above.

Rule 3 **Scheduling Orders**

Counsel in all civil cases shall, within fifteen (15) days after answer is filed, submit to the Court an agreed scheduling order setting forth:

1. The date by which all discovery, including all evidentiary depositions and all supplementation of responses to discovery, shall be completed.

2. The date by which all motions to amend, and all motions to additional parties, shall be served.

3. The date by which all other pre-trial motions, both dispositive and non-dispositive excepting only evidentiary in limine motions, shall be served.

If no scheduling order is presented to the Court within fifteen days after the answer is filed the following schedule will be in effect, to-wit:

As to Item 1 above, 90 days after answer

As to Item 2 above, 45 days after answer

As to Item 3 above, 90 days after answer.

Rule 4

[Rule 4 as submitted to the Supreme Court was not approved.]

Rule 5

Transfer of Misdemeanor Criminal Cases to Justice Court

In the best interest of justice, and for the efficient administration of the criminal docket of the court, and based on the inherent authority of this court to transfer cases with concurrent jurisdiction to an inferior court, any misdemeanor criminal case that is initially filed in this court, whether by indictment, bill of information, or affidavit, may on motion of either party or on the court's own motion, be transferred to the justice court.