

Serial: 129890

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

***IN RE: LOCAL RULES EIGHTH
CHANCERY COURT DISTRICT,
STATE OF MISSISSIPPI***

ORDER

This matter is before the Court en banc on the Petition for Approval of Local Rules filed by the Honorable Margaret Alfonso, the Honorable Sanford R. Steckler, the Honorable Carter Bise and the Honorable James B. Persons of the Eighth Chancery Court District for approval of proposed local rules. The proposed local rules are attached as Exhibit A.

Having considered the petition, the Court finds that the local rules will promote the fair and efficient administration of justice and that the petition should be granted.

IT IS THEREFORE ORDERED that the Petition for Approval of Local Rules filed by the Chancellors of the Eighth Chancery Court District for approval of proposed local rules is hereby granted. Pursuant to Rule 6 of the attached Exhibit A, the revised local rules shall supersede and replace any and all former local rules of the Eighth Chancery Court District.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and shall forthwith forward a true certified copy hereof to West Publishing Company for publication as soon as practical in the advance sheets of *Southern Reporter, Second Series (Mississippi Edition)*.

SO ORDERED, this the 16th day of February, 2006.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., PRESIDING JUSTICE

TO GRANT: SMITH, C.J., WALLER AND COBB, P.JJ., EASLEY, CARLSON, GRAVES, DICKINSON AND RANDOLPH, JJ.

NOT PARTICIPATING: DIAZ, J.

**PROPOSED LOCAL RULES FOR
THE EIGHTH CHANCERY COURT DISTRICT OF MISSISSIPPI
HARRISON, HANCOCK AND STONE COUNTIES**

RULE 1: ASSIGNMENT OF CASES [As Amended]

- (a) Pursuant to Uniform Chancery Court Rule 1.06, and subject to paragraph 1.3 of this rule, all matters filed in this district on and after August 16, 2003, shall be assigned to a single active Chancellor of this district at the time of filing of the action by such method as described in paragraph 1.2 of this rule and in such fashion as to ensure such assignments shall be equal and random, that no discernible pattern of assignment exists, and that no person shall know to whom the case will be assigned until such time as it has been accomplished. Except as otherwise noted, all sections of this Rule shall be applicable to each county within the district.
- (b) Unless the civil case filing form indicates that the matter submitted for filing is a continued assignment pursuant to paragraph 1.5 below, upon receiving the Civil Case Filing Form and the Pleadings, the Chancery Clerk of the county in which the case is filed shall assign the matter to a single Chancellor either by computer or by drawing of lots as hereinafter set forth.

If the assignment is made by lots, the procedure shall be as follows: Upon receiving the Civil Case Filing Form and the Pleadings, the Chancery Clerk shall assign the case by drawing a lot from a pool of lots bearing an equal number of the place number of the active Chancellors as hereinafter set forth. The case shall be assigned to the Chancellor indicated upon the first lot drawn from the pool. Once drawn from the pool, a lot shall not be replaced until all lots have been drawn from the pool. Upon the drawing of the final lot, the pool shall be replenished with all of the aforesaid lots, and the process shall resume in a like manner.

- (1) Harrison County First and Second Judicial Districts: The random assignment of cases shall be performed pursuant to computer program to conform with the dictates of Uniform Chancery Court Rule 1.06 and this rule.
- (2) Stone County: The Stone County Chancery Clerk maintains the following three (3) separate Chancery Court dockets: General Docket, Adoption Docket, and Commitment Docket. In accordance with this rule, the Chancery Clerk shall maintain a separate pool for each of these dockets.

The lots to be maintained in each pool shall be as follows:

General docket18 lots for each place number...total 72 lots
Adoption docket.....02 lots for each place number...total 08 lots
Commitment docket.....04 lots for each place number...total 16 lots

- (3) Hancock County: The Hancock County Chancery Clerk maintains the following three (3) separate Chancery Court dockets: General Docket, Adoption Docket, and Reciprocal Docket. In accordance with this rule, the Chancery Clerk shall maintain a separate pool for each of these dockets.

The lots to be maintained in each pool shall be as follows:

General docket.....65 lots for each place number...total 260 lots

Adoption docket.....02 lots for each place number...total 08 lots

Commitment docket.....04 lots for each place number...total 16 lots

- (c) If a Chancellor has directed reassignment of a case pursuant to paragraph 1.7 of this rule, then the matter shall be assigned to the chancellor indicated on the next lot drawn by the Chancery Clerk from the designated pool which does not indicate the Chancellor directing the reassignment; and each lot drawn during this reassignment bearing the place number of the Chancellor by whom the reassignment was directed shall be returned to the pool.
- (d) The lots comprising the aforementioned pools shall be so fashioned as to bear no marks or characteristics which would differentiate one or more from the others, other than the required markings specified in paragraph 1.2.
- (e) All modification and/or contempt matters shall be assigned to the active Chancellor by whom the order at issue was entered. The attorney shall note on the Civil Case Filing Form that the matter is a "continued assignment" or "C.A." and shall indicate the place number of the active Chancellor by whom the order at issue was entered (e.g. CA-1 or CA-2 or CA-3 or CA-4). Upon receipt of the Civil Case Filing Form bearing this notation and pleading, a lot containing that Chancellor's place shall be removed by the Chancery Clerk from the pool as described in paragraph 1.2.
- (f) Temporary Restraining Orders are to be presented to the assigned Chancellor. However, in the event the assigned Chancellor is not available and the matter is of a genuine emergency nature, it may be presented to any available Chancellor who may act for and on behalf of the assigned Chancellor. The matter shall be heard on the merits by the assigned Chancellor.
- (g) The assignment of a civil action is permanent, unless, and for good cause stated and order entered, the assigned Chancellor directs the Chancery Clerk to reassign the case to one of the other Chancellors. Where such reassignment is necessary, the Chancery Clerk shall use the method described in paragraph 1.2.
- (h) Each case filed in this district after September 1, 2003, shall bear a number as follows: The letter "C" followed by the numerical designation for the county in which the matter is filed, followed by the number of the judicial district ("1" for the first and "2" for the

second), followed by the last two digits of the calendar year in which the case is filed, followed by the sequential number of the case for the county, followed by the place number of the Chancellor to whom the case is assigned. Examples follow:

Harrison County, First Judicial District C2401 03-1234-1

Harrison County, Second Judicial District C2402 03-1234-2

Hancock County C2301 03-1234-3

Stone County C6601 03-1234-4

- (i) Matters to be heard by Family Masters duly appointed pursuant to § 9-5-255 Miss. Code Ann. shall be upon referral of the Chancellors of the District in compliance with § 9-5-255.
- (j) Matters to be heard by the Special Master Pro Tem duly appointed pursuant to Miss. R. Civ. P. 53 shall be made by the Chancellors of the District in the Order Appointing the Special Master Pro Tem and Order of Reference entered at the time of the appointment. The Order of Reference may be amended as the Chancellors of the District deem necessary.

RULE 2: TERMS OF COURT AND EX PARTE DAYS

- (a) The Court will enter an Order annually establishing the commencement and continuation of regular terms of Court as well as Ex Parte Days in the three Counties comprising the Eighth Chancery Court District. If no such order is entered prior to January 1, the Order for the previous year shall remain in effect.
- (b) This District specifically adopts Uniform Chancery Court Rule 1.06 in all respects. To the extent that these local rules are in conflict with Uniform Chancery Court Rule 1.06, Uniform Chancery Court Rule 1.06 shall be followed.
- (c) On motion/ex parte days, any contested matters, including temporaries, may be heard by the judge assigned for that motion/ex parte day unless either party or any judge requests a hearing on the matter. In the event that a hearing is requested, the matter shall not be heard on motion/ex parte day and it shall be set upon the docket on the assigned judge for said hearing.
- (d) On regular days set aside for Ex Parte vacation hearings, the following matters may be presented to the Chancellor assigned to those duties as permitted by UCCR 1.06, subject to the discretion of the Chancellor assigned to those duties to refer the matter to the Chancellor assigned to the case for a record hearing:
 - (1) Uncontested divorce decrees, with the consent of the assigned Chancellor;

- (2) Uncontested approval of inventories and accountings;
- (3) Uncontested opening of administration of estates, with the provision that if a contest develops in any such estate that such contest will be heard and determined by the Chancellor to whom the case is assigned;
- (4) Routine orders in the administration of estates, such as sale of assets, annual accounts, but not Petitions for Directions, which must be submitted to the Chancellor to whom the case is assigned;
- (5) Uncontested appointments of guardians;
- (6) Uncontested routine orders in guardianship matters;
- (7) Uncontested change of name petitions; and
- (8) Other routine uncontested matters.

RULE 3: COURT PROCEEDINGS

- (a) Trials shall be set in the following manner after completion of discovery:

- (1) By agreement of the parties with the approval of the Court Administrator of the assigned chancellor as to the time and place; or
- (2) Upon Motion for trial setting of a party and properly noticed to other parties. The return date for such motion shall be provided by the Court Administrator of the assigned chancellor upon request; or
- (3) By the Court after proper notice to all parties.

After trial is set, the Court Administrator shall mail notice of the trial date and location to all attorneys of record or unrepresented parties.

- (b) Any contested motions shall be set on the assigned Chancellor's regular docket.
- (c) Judges may schedule pre-trial conferences on their own motion or on the motion of either attorney; however, pre-trials shall be held within forty-five (45) days of trial, and the time and date of conference shall be secured with the Court Administrator.
- (d) Continuances and Pre-Trial Settlements: When an action has been set for a trial or hearing and before the trial or hearing date it has been settled, or when the parties agree that a continuance is unavoidable, it is the duty of the party who had obtained the setting (or his authorized representative) to promptly notify the Court Administrator.

- (e) Exhibits:: In all contested matters before the Court the attorneys shall check with the court reporter in advance to determine whether pre-marking of exhibits and an exhibit list are required. Attorneys must provide sufficient copies of exhibits so that counsel for all parties, the witness, and the Court can review the exhibits.
- (f) Courtroom decorum: Conversation in the courtroom shall be kept to an absolute minimum. Any sudden outbursts by anyone, including a party, shall subject that person to removal.

Attire in Court shall be appropriate. Hats, shorts, tank tops, tops which bear the midriff, untucked shirts, and other such attire are inappropriate. In the Court's discretion, a person wearing inappropriate attire will not be allowed in the courtroom. Attorneys are responsible for the appearance of their clients and witnesses.

Devices such as telephones and/or pagers must be turned off in the courtroom. Violation will make the devices subject to confiscation. Laptop computers are allowed for counsel but volume must be muted.

RULE 4: PROCEDURE

- (a) Court files: Deputy Chancery Clerks alone are authorized to withdraw or replace court files in filing cabinets in the Clerks' offices. Attorneys may check out files only by Order (available in the Clerk's office) signed by a chancellor.

Attorneys who have actions set on the court calendar when the Court is sitting in another county shall check out the file from the Clerk's office and bring same to Court for such hearing.

Attorneys coming before judges on uncontested matters are required to bring the court file with them.

Files shall be returned to the Clerk within 10 days and checked in by a Deputy Clerk before the attorney is released from responsibility for the file.

- (b) Presentation of documents: Every document and pleading, etc. to be filed with the Clerk, or Court, including briefs and proposed findings, shall conclude with the name, mailing address, phone and facsimile numbers of the attorney or *pro se* party.

Proposed judgments prepared by attorneys shall conclude with the names, mailing addresses, phone and facsimile numbers of all of the attorneys and/or *pro se* parties.

Where a bond or bonds are required to be posted, the order prepared by Counsel shall provide that such bonds are to be approved by the Clerk of the Court unless statutory law requires otherwise.

- (c) Financial information: It shall be the responsibility of the plaintiff or movant to ascertain that the certifications of completion of all financial statements required by Rule 8.05, Uniform Chancery Court Rules, are in the court file before requesting a setting of the case.
- (d) Probate matters: When an attorney representing a fiduciary desires to defer the filing of a required accounting, a written motion setting out the reasons therefore shall be filed and an order shall be secured before said accounting is deferred.

RULE 5: SANCTIONS

Any person subject to these rules who violates the provisions hereof may be subjected to sanctions, contempt proceedings or other disciplinary actions imposed or initiated by the court.

RULE 6: PRIORITY

These local rules, when approved by the Mississippi Supreme Court, shall supersede and replace any and all former local rules of the Eighth Chancery Court District.

If there be any conflict between these local rules and the Uniform Chancery Court Rules, the Mississippi Rules of Civil Procedure, the Rules of Evidence, any applicable Mississippi statute and the Mississippi Constitution, the latter shall be followed.

RULE 7: CONFLICTS IN TRIAL SETTINGS

When a case has been set for trial, other hearing or conference that conflicts with a court appearance of counsel in other courts, the first case having a firm setting shall control, whether such first case is set by this or some other court, and other courts are expected to yield to the prior firm setting, as this court will do when other cases have prior settings in other courts. When a case has not been reached as scheduled, the parties, in resetting the case, shall take into account the obligations of counsel on the basis of the first-setting rule. If a conflict develops, it is the absolute duty of counsel to immediately advise the court of the later setting in writing by filing the appropriate motion to which is attached a copy of the other court's notice of setting and presenting said motion for resolution, in order that the conflict might be resolved with calendars cleared for other settings. It is essential for counsel and the court or courts involved to resolve potential conflicts at the earliest practical date.

[Adopted by the Eighth Chancery Court District and approved by the Supreme Court by ordered entered February 23, 2006.]