

Serial: 106869

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

**FILED**

SEP 04 2003

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

***RE: LOCAL RULES OF THE FIFTH  
CIRCUIT COURT DISTRICT OF  
MISSISSIPPI***

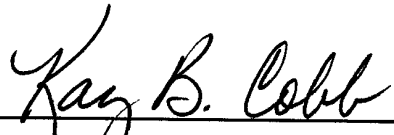
**ORDER**

This matter has come before the Court en banc on petition of the judges of the Fifth Circuit Court District for approval of new local rules for the district and the recinding of all prior practices and order in conflict therewith. Having considered the petition, this Court finds that the petition should be granted and that the rule should be approved, except for proposed Local Rule 4. Proposed Local Rule 4 would authorize the circuit clerk to charge a separate filing fee for each plaintiff in a case. The fees to be charged by the clerks are established by Miss. Code Ann. §§ 25-7-1 and 25-7-13. Section 25-7-1 allows the clerk to charge the statutory fees “and no more.” Section 25-7-13 allows a filing fee for “docketing, filing, marking and registering each complaint, petition and indictment,” and further provides that “the fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or indictment . . . .” The setting of these fees is a matter which should be addressed to the legislature.

IT IS THEREFORE ORDERED that the petition of the judges of the Fifth Circuit Court District for approval of new local rules is granted, and that the local rules set forth in the order of the Fifth Circuit Court District of Mississippi attached as Exhibit "A" hereto are approved, with the exception of proposed Local Rule 4, which is disapproved for reasons set forth in this order.

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 inclusion in the *Southern Reporter, Second Series (Mississippi Edition)*.

SO ORDERED, this the 2<sup>nd</sup> day of September, 2003.

  
\_\_\_\_\_  
KAY B. COBB, JUSTICE, FOR THE  
COURT

McRAE, P.J. AND DIAZ, EASLEY AND GRAVES, JJ., NOT PARTICIPATING

**EXHIBIT "A" TO SUPREME COURT ORDER**

**IN THE FIFTH JUDICIAL CIRCUIT COURT DISTRICT  
OF THE STATE OF MISSISSIPPI**

**IN RE: ADOPTION OF LOCAL RULES**

**FILED**

JUN 10 2003

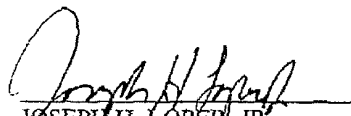
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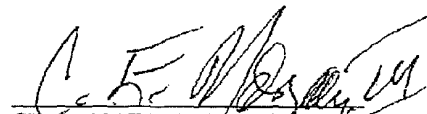
OFFICE OF THE CLERK  
SUPREME COURT  
OF THE STATE OF MISSISSIPPI

**ORDER**

For the purpose of more effectively maintaining the docket of this court, and in the interest of fairly and efficiently administering justice, the attached local rules are hereby adopted by this court, and are submitted to the Mississippi Supreme Court for approval. Any prior practice or order that is in conflict with these rules is hereby rescinded. These rules will become effective on the date approved by the Mississippi Supreme Court. Until such time as these rules are approved by the Mississippi Supreme Court, practices and procedures that are currently being used, will be continued.

SO ORDERED, this the 9th day of June, 2003.

  
JOSEPH H. LOPEL, JR.  
CIRCUIT COURT JUDGE

  
CLARENCE E. MORGAN, III  
CIRCUIT COURT JUDGE

STATE OF MISSISSIPPI  
COUNTY OF HAMILTON  
This is to certify that the above is a true and correct  
copy of the Order as found  
in File MS. 17 page 235  
This the 9 day of June, 2003.  
Wanda H. Vowell  
Circuit Clerk

**FILED**

JUN - 9 2003

WANDA H. VOWELL, CIRCUIT CLERK

BY WV D.C.

**MOTION# 2003-1805**

## **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

## Rule 2

### Non-Filing of Discovery Materials

Rule 7(a) of the Mississippi Rules of the 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 36, 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, request 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 hereinabove.

### **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~~

~~Filing Fees for Cases with Multiple Plaintiffs~~

~~In any complaint with more than one plaintiff, a filing fee shall be paid to the circuit clerk for each plaintiff. Excepted from this requirement are complaints filed by husband and wife and/or guardians or next friends for claims arising out of the same occurrence or transaction and complaints filed by multiple wrongful death beneficiaries of a decedent under the Wrongful Death Act, and any other complaint allowed an exception by order of this court for good cause. The circuit clerks are authorized and directed to refrain from filing and docketing any complaint or amended complaint that does not comply with this rule.~~

**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.

**FILED**

JUN - 9 2003

WANDA H. VOWELL, CIRCUIT CLERK

BY whv D.C.

STATE OF MISSISSIPPI  
COUNTY OF CHOCTAW

This is to certify that the above is a true and correct  
copy of the Rule as found

in File 17 MB. 17 page 236

This the 9 day of June 2003  
Wanda H. Vowell  
Circuit Clerk