

Serial: **226262**

**IN THE SUPREME COURT OF MISSISSIPPI**

**No. 89-R-99015-SCT**

***IN RE: LOCAL RULES***

**ORDER**

Now before the en banc Court is a letter motion to amend the Rules of Practice and Procedure for the Sixth Chancery District (Motion No. 2019-1085), filed by Chancellor Joseph Kilgore.

On February 28, 2019, Chancellor Kilgore and Chancellor Kiley C. Kirk entered an Order Adopting Local Rules, with proposed amendments attached. The order said the amendments will be effective 30 days after this Court's approval.

Chancellor Kilgore now asks us to approve the proposed amended local rules.

After due consideration, we find that the motion should be granted as set forth in the attached Exhibit A.

IT IS THEREFORE ORDERED that the motion is granted as set forth in the attached Exhibit A. Consistent with the February 28, 2019, Order Adopting Local Rules, the amended rules shall be effective 30 days after entry of this order.

SO ORDERED, this the 1st day of October, 2019.

/s/ David M. Ishee

DAVID M. ISHEE, JUSTICE  
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT A

**LOCAL RULES  
FOR  
SIXTH CHANCERY COURT DISTRICT OF MISSISSIPPI**

Pursuant to Rule 83 of the Mississippi Rules of Civil Procedure and Uniform Chancery Court Rule 1.06, the following rules shall govern practice and procedure in the Sixth Chancery Court District, subject to Supreme Court approval.

**~~RULE 1~~ I. ASSIGNMENT OF TERMS OF COURT**

The terms of Court of this District are assigned to the Judges as follows:

Attala County	2 <sup>nd</sup> Mon., January,	2 weeks -----	Fenwick Kirk
	2 <sup>nd</sup> Mon., April,	1 week -----	Kilgore
	2 <sup>nd</sup> Mon., July,	2 weeks -----	Kilgore
	2 <sup>nd</sup> Mon., October,	1 week -----	Fenwick Kirk
Carroll County, 1 <sup>st</sup> District (Carrolton)	4 <sup>th</sup> Mon., January,	1 week -----	Kilgore
	4 <sup>th</sup> Mon., June,	1 week -----	Fenwick Kirk
Carroll County, 2 <sup>nd</sup> District (Vaiden)	3 <sup>rd</sup> Mon., April,	1 week -----	Fenwick Kirk
	3 <sup>rd</sup> Mon., October,	1 week -----	Kilgore
Choctaw County	3 <sup>rd</sup> Mon., March,	1 week -----	Fenwick Kirk
	3 <sup>rd</sup> Mon., June,	1 week -----	Kilgore
	3 <sup>rd</sup> Mon., September,	1 week -----	Kilgore
	3 <sup>rd</sup> Mon., December,	1 week -----	Fenwick Kirk
Kemper County	2 <sup>nd</sup> Mon., March,	1 week -----	Fenwick Kirk
	2 <sup>nd</sup> Mon., June,	1 week -----	Kilgore
	2 <sup>nd</sup> Mon., September,	1 week -----	Kilgore

	2 <sup>nd</sup> Mon., December,	1 week -----	Fenwick Kirk
Neshoba County	4 <sup>th</sup> Mon., February,	1 week -----	Kilgore
	4 <sup>th</sup> Mon., May,	2 weeks -----	Fenwick Kirk
	4 <sup>th</sup> Mon., August,	1 week -----	Fenwick Kirk
	4 <sup>th</sup> Mon., November,	2 weeks -----	Kilgore
Winston County	3 <sup>rd</sup> Mon., January,	1 week -----	Kilgore
	4 <sup>th</sup> Mon., March,	2 weeks -----	Kilgore
	4 <sup>th</sup> Mon., July,	1 week -----	Fenwick Kirk
	4 <sup>th</sup> Mon., September,	1 week -----	Fenwick Kirk

**RULE 2 II. ASSIGNMENT OF CASES TO JUDGES**

(a-1) **A.1** – After the approval of these Rules by the Supreme Court, all cases except Youth Court, Mental Commitments and Drug and Alcohol Commitments will continue to be assigned to a Judge immediately upon the filing of the complaint by the use of a web based Computer program which shall be programmed to randomly select judges by a software algorithm which shall duplicate a mathematical random selection. The Clerk shall obtain the random judge selection by accessing web address [www.courttools.com](http://www.courttools.com) or some other web address which may be designated by this Court by Order of the Judges of this District and forwarded to the Clerks of the Sixth Chancery District. Access to the random judge selection function of the web address shall be by unique User ID and Password for each clerk. After obtaining a judge assignment, the Clerk shall print the judge assignment from the web page and docket and file assignment as the first document in the court file. Once a case is so assigned to a judge, only the judge to whom it is assigned will consider the matter, **EXCEPT:** (1) where the judge must recuse himself for good cause, (2) where the judge to whom it is assigned will be unavailable for at least five days to consider the matter for reasons such as

sickness, duties outside the district, seminars and vacations, then the other judge may consider emergency matters, ex parte matters and uncontested or agreed matters. When a judge has signed an order under the above exception, it shall remain the case of the judge to whom it was originally assigned.

Any order entered by the judge to whom a case is not assigned under the provision of said item (2) **above**, shall contain an explanation of the basis for the non-assigned judge signing the order.

(a-2) **A.2** – If either Judge **Kilgore Fenwick** or Judge **Kirk Kilgore** is assigned a case wherein **recusal is necessary** ~~an immediate family member is an attorney of record~~, the case shall be automatically assigned to the other Judge. To compensate for the reassignment, the next case assigned to the Judge that got the reassigned case, shall be automatically assigned to the other Judge. Both Judges shall be notified immediately by the Clerk when this procedure is utilized.

(a-3) **A.3** – In situations involving **matters Administrations, Conservatorships and/or Guardianships** arising from the same set of facts or involving the same family that are filed and result in multiple causes, all such cases shall be assigned to the Judge to whom the first case filed was assigned.

(b) **B.** Because of the urgency of mental, alcohol and drug commitments they shall be assigned by the clerk to the most readily available judge. However, the first attempt shall be made to assign all of such cases in **Attala Neshoba, Kemper Winston, and Neshoba Kemper** Counties to Judge Kilgore and all of such cases in **Carroll Attala, Choctaw, and Winston Carroll** to Judge **Kirk Fenwick**.

(c) **C.** Youth Court cases and cases filed under §41-41-53 Miss. Code of 1972, Annotated, from **Attala Carroll, Kemper Attala, and Neshoba Choctaw** Counties shall be assigned to Judge **Kilgore Fenwick**. Youth Court cases and cases filed under §41-41-53 Miss. Code of 1972,

Annotated, from **Carroll** Neshoba, **Choctaw** Kemper and Winston Counties shall be assigned to Judge **Kirk** Kilgore. This system shall be used because many of these are urgent matters and there is need for coordination between the Court, the County Attorney, the Department of Human Services and Law Enforcement. In cases involving shelter hearings and detention hearings which are urgent, the other judge may hear the case when the designated Youth Court Judge/Referee is not available.

~~(d) D.~~ All cases filed before the implementation of these new rules, which have previously been heard or set by a judge will be heard by the judge who has already begun the case. All Department of Human Services child support cases and all estate and guardianship matters, which have previously been considered by both judges, are assigned to the judge who signed the last order in the cause.

~~(e)~~ All cases heretofore assigned to Judge Love **or Judge Fenwick**, either by the random assignment method or by virtue of the signing of the last order, are hereby assigned to Judge **Kirk** Fenwick, except that all cases assigned to Judge Love **or Judge Fenwick** in which **Kiley C. Kirk** Edward C. Fenwick served as counsel shall automatically be assigned to Judge Kilgore. All cases heretofore assigned to Judge Prisock **and or** Judge Kilpatrick, either by the random assignment method or by virtue of the signing of the last order, are hereby assigned to Judge Kilgore, except that all cases assigned to Judge Prisock **or Judge Kilpatrick** in which Joseph Kilgore served as counsel shall automatically be assigned to Judge **Kirk** Fenwick.

**RULE 3 III. TRIAL SETTINGS**

~~(a)~~ **A.** Pursuant to Rule 40 of the Mississippi Rules of Civil Procedure, matters other than Motions and initial Rule 81 matters may be set for trial **by** the following methods.

1. On order of the Court upon request of counsel for all parties, any contested matter may be set for trial at any time with the approval of the Chancellor **or**, Court Administrator **or** Staff

~~Attorney~~. When an attorney receives a particular date, he is representing to the Court that the case is ready for trial on that date and no impediment exists to a trial on that date. A matter is not firmly set for a date until an order is signed by the Judge setting it.

2. On motion of any party for a trial setting as provided by MRCP 40(a), after duly giving notice of a hearing on such motion, the Court will enter an order setting the matter for trial, if it determines **the matter** it is ready for trial.

(b) **B**. Motions may be noticed for hearing on Motion Days or at such other times as can be arranged with the Court.

(c) **C**. Settings for Rule 81(d)(5) actions:

In any action instituted under the provisions of Rule 81(d)(5) summons may be issued returnable to a Motion Day established in these rules. No special order shall be required to so set such cases. However, it should be noted that such a date is a return date only and this date should not be considered a firm trial date, but a date at which uncontested matters may be heard and matters which require very short hearings, normally less than thirty (30) minutes, may be heard. Other cases will be continued to a day certain at a time and place convenient to the attorneys and the Court. Cases set pursuant to Rule 81(d)(5) which are not made returnable to a Motion Day shall require a Special Order setting the same.

(d) **D**. Uncontested fault ground divorces and irreconcilable difference divorces will be heard only during regular Terms of Court, on the Motion Days hereinafter designated, or on a day when the cause is scheduled for trial as a contested matter. **These Excepting irreconcilable differences divorces, which may be presented in any county within the district, contested fault based divorces** will only be heard in the county where they are filed. In Carroll County, ~~irreconcilable difference divorces may be presented in either district, but~~ fault ground divorces will be heard in the district

where they are filed. As provided in Rule 8.05 of the Uniform Chancery Rules, each party in every domestic case involving economic issues shall file with the Court and provide the opposite party or counsel, if known, the disclosures required by said rule.

(e) E. Ex parte matters will be considered on the Motion Days hereinafter designated or at such other times as may be scheduled by the Court.

#### **RULE 4 IV. MOTION PRACTICE**

The Court will hold Motion Days as prescribed by Rules 78 and 83 of the Rules of Civil Procedure in each county of the district each month. Any party may notice a motion for hearing on any of these days. A copy of the notice of hearing on a motion should be mailed, faxed or e-mailed to the Chancellor who is to hear the motion. ~~The motions will be heard in the order the notices are received by the Chancellor unless for good cause the Chancellor determines deviation from that order should be made.~~ If all matters noticed for a particular Motion Day cannot be heard on that day, an order will be entered on that day continuing them to another day, and the entry of such continuance order shall constitute notice to all parties who have notice of the hearing of the new time and place for hearing.

The following days are hereby designated as Motion Days for this District:

FOR CHANCELLOR **JOSEPH KILGORE** ~~EDWARD C. FENWICK~~:

ATTALA COUNTY - the **second first** and **fourth third** Thursdays of each month in the Chancery Court Building in Kosciusko at 9:00 A.M.

CARROLL COUNTY FIRST JUDICIAL DISTRICT - the **second Wednesday first Tuesday** of each month **at 9:30 A.M.** ~~in the Courthouse in Carrollton at 9:00 A.M.~~

CARROLL COUNTY SECOND JUDICIAL DISTRICT - the **second Wednesday first Tuesday** of each month **at 1:30 P.M.** ~~in the Courthouse in Vaiden at 1:30 P.M.~~

CHOCTAW COUNTY - the **fourth Wednesday second Tuesday** of each month at **9:00 A.M.** ~~in the Courthouse in Ackerman at 9:00 A.M.~~

KEMPER COUNTY - the ~~third~~ **second** Tuesday of each month in the Courthouse in DeKalb at **9:00 A.M.** ~~1:30 P.M. through March 8, 2011. The first Monday of each month in the Courthouse of Dekalb at 9:30 A.M. beginning April 4, 2011.~~

NESHOPA COUNTY - the ~~first and third~~ **second** Wednesday and ~~fourth~~ **second** Thursdays of each month in the Courthouse in Philadelphia at 9:00 A.M.

WINSTON COUNTY - the ~~first and third~~ **second** Wednesdays ~~second~~ **first** Thursday of each month in the Courthouse in Louisville at 9:00 A.M.

FOR CHANCELLOR **KILEY C. KIRK** JOSEPH KILGORE:

ATTALA COUNTY - the ~~first~~ **second** and ~~third~~ **fourth** Thursdays of each month in the Chancery Court Building in Kosciusko at 9:00 A.M.

CARROLL COUNTY FIRST JUDICIAL DISTRICT - the ~~first Tuesday~~ **second** Wednesday of each month ~~in the Courthouse in Carrollton at 9:00 A.M. Beginning July 2019, the first Tuesday of each month in the Courthouse in Carrollton at 9:30 A.M. in Carrollton.~~

CARROLL COUNTY SECOND JUDICIAL DISTRICT - the ~~first Tuesday~~ **second** Wednesday of each month ~~in the Courthouse at 1:30 P.M. in Vaiden at 1:00 P.M.~~

CHOCTAW COUNTY - the ~~second Tuesday~~ **fourth** Wednesday of each month ~~in the Courthouse at 9:00 A.M. in Ackerman at 9:00 A.M.~~

KEMPER COUNTY - the ~~first Monday~~ **third** Tuesday of each month in the Courthouse in DeKalb at **9:30** ~~9:00~~ A.M.

NESHOPA COUNTY - the ~~second Wednesday and fourth~~ **first and third** Thursdays of each month in the Courthouse in Philadelphia at 9:00 A.M. ~~Beginning July 2019, the second Wednesday and fourth Tuesday of each month in the Courthouse in Philadelphia at 9:00 A.M.~~

WINSTON COUNTY - ~~the first and third Wednesday of each month in the Courthouse in Louisville at 9:00 A.M. the second Thursday of each month in the Courthouse in Louisville at 9:00 A.M. Beginning in July 2019, the second and fourth Thursdays of each month in the Courthouse in Louisville at 9:00 A.M.~~

## **RULE 5 V. NOTICE REQUIREMENTS**

A. It shall be the duty of each attorney who obtains a trial setting, who obtains the continuance of a setting, or who obtains a dismissal of an action to notify the Clerk, Judge and Court Reporter of the time and place of such settings and of any cancellation or change in setting dates.



B. On motions for modification of divorce judgements and for contempt citations, notice to the attorney of record at the preceding hearing in the matter will not be sufficient. In these matters notice shall be given to the last counsel of record and summons shall be issued to the respondent to said Motion.

**RULE 6 VI. ADMINISTRATIVE MATTERS**

The Chancery Clerks of the District are to retain in their possession and control all court files, and no attorney or other person shall be allowed to take court files out of the clerk's offices except by special order of the Chancellor to whom the case is assigned, or where the attorney representing one of the parties to the action removes the file to take it to the Chancellor in another county of the district when a hearing in the matter is set for the other county. All files so removed from the clerk's office by the attorney shall be returned within twenty-four business hours of the time of removal, except in the case of a multiple day trial. Nothing in this rule shall prohibit the clerk from making copies of documents in the court file except as prohibited by law in confidential matters or where a file has been ordered sealed.