

**IN THE SUPREME COURT OF MISSISSIPPI**

**NO. 89-R-99006**

**IN RE: UNIFORM CHANCERY COURT RULES**

**ORDER**

This matter came before the Court, en banc, on the Motion to Amend Rule 10.01 of the Uniform Chancery Court Rules filed by the Supreme Court Advisory Committee on Rules. The Court having examined the motion finds that the proposal will contribute to the fair and efficient administration of justice and that the motion should be granted, with modification of the proposed amendment as set out hereinafter.

IT IS, THEREFORE, ORDERED that the Motion to Amend Rule 10.01 of the Uniform Chancery Court Rules filed by the Supreme Court Advisory Committee on Rules be and is hereby granted, and Rule 10.01 of the Uniform Chancery Court Rules be and is hereby amended as set forth in Exhibit "A" hereto.

IT IS FURTHER ORDERED that a certified copy of this order shall be forwarded by the Clerk of this Court to West Publishing Company for publication as promptly as reasonably possible in the advance sheets of the Southern Reporter, Second Series, the official reporter of cases decided in this Court, and in the *Mississippi Rules of Court*.

**SO ORDERED**, this, the 15<sup>th</sup> day of March, 2001.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., JUSTICE,

FOR THE COURT

**EXHIBIT "A" TO ORDER**

**AMENDMENT TO RULE 10.01 OF**

**THE UNIFORM CHANCERY COURT RULES**

**RULE 10.01 WAIVER OF CONSENT TO ABORTION**

Any request by a minor to the Chancery Court or the Chancellor in vacation for waiver of consent to an abortion shall be by petition, filed with the Clerk of said Court by the minor or by a next friend. The petition shall be made under oath and shall include all of the following:

- (1) A statement that the complainant is pregnant;
- (2) A statement that the complainant is unmarried, under eighteen years of age, and unemancipated;
- (3) A statement that the complainant wishes to have an abortion without the notification of her parents; or legal guardian; ~~or custodian~~;
- (4) An allegation of one or more ~~either or both~~ of the following:

(a) That the complainant is sufficiently mature and well informed to intelligently decide whether to have an abortion without the notification of her parents; or legal guardian, ~~or custodian~~;

(b) That one or both of her parents; or her legal guardian, ~~or her custodian~~ was engaged in a pattern of physical, sexual, or emotional abuse against her, or that the notification of her parents; or legal guardian, ~~or custodian~~ otherwise is not in her best interest;

(c) That performance of the abortion would be in the best interest of the minor.

(5) A statement as to whether the complainant has retained an attorney, the name, address, and telephone number of her attorney. A minor may represent herself or be represented by counsel. The Court shall advise each minor petitioner of her right to court-appointed counsel, and shall appoint counsel to represent her if the minor so requests, and if the minor appears not to be represented.

If the minor chooses to represent herself such pleadings, documents, or evidence which she may file with the Clerk shall be liberally construed by the Court so as to do substantial justice. No fee shall be required by the Clerk for filing any papers or pleadings.

Upon the filing of any petition under this section, the Clerk shall immediately notify the Court or the Chancellor in vacation that such petition has been filed. The Court, or the Chancellor in vacation shall immediately exercise all due diligence in granting a setting within the time required by law. ~~If such a setting is impossible, the Court may appoint a~~ Chancellor in the District is not available, the Clerk shall immediately refer the petition to another Chancellor, Circuit Judge, County Judge, or a special master in Chancery to hear the petition as provided by law.

If the Court cannot hear the matter or the Court fails to make findings of fact and conclusions of law within 72 hours of the time of the filing of the petition, the Clerk shall immediately ~~at the end of the 72 hour period~~ issue or cause to issue a statement under seal of the Court, that the Court has not ruled within 72 hours of the time of the filing of the petition and that the minor may proceed as if the consent requirement of Miss. Code Ann. 41-41-53 has been waived. ~~that the necessity of obtaining parental consent or Chancery Court waiver of consent has been waived.~~

Il proceedings, files, documents, and records reasonably connected with proceedings herein shall be kept strictly confidential and anonymous. Reference to said minor's identity shall be made by use of her initials only. Docket entries and decrees or orders spread upon the minutes of the Court shall in no way refer to the name of the minor, but shall be by reference to initials only.

The Court or the Chancellor in vacation shall conduct closed hearings regarding any such petition filed, and the Clerk, Reporter, and other officers of the Court shall take such steps as are reasonably necessary to maintain the confidentiality and anonymity of both litigants and documents.

If the Court or Chancellor in vacation shall rule against the petition or petitioner, or not grant a waiver of necessity for parental consent, a confidential, expedited appeal may be had by the minor pursuant to Mississippi Rule of Appellate Procedure ~~Miss. Supreme Court Rule~~ 48.

If no appeal is taken during the appropriate period, but in no event later than seven (7) days following the filing of the disposition of said petition, all records except the Court's docket shall be securely sealed and

deposited under lock and key in the Clerk's office and shall remain sealed and not available for inspection without further order of the Court.

[Adopted effective February 18, 1991; amended March 22, 2001.]