

Serial: 168865

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99027-SCT

*IN RE: MISSISSIPPI RULES OF  
APPELLATE PROCEDURE*

**ORDER**

This matter is before the Court sitting en banc on the Court's own motion to amend Rule 11 of the *Mississippi Rules of Appellate Procedure*. After due consideration, the Court finds that the amendment of Rule 11 will promote the fair and administration of justice and should be approved.

IT IS THEREFORE ORDERED that Rule 11 of the *Mississippi Rules of Appellate Procedure* is hereby amended as set forth in Exhibit "A" hereto. This amendment is effective July 1, 2011.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the next edition of the *Mississippi Rules of Court* and in the *Southern Reporter, Third Series, (Mississippi Edition)*.

SO ORDERED, this the 19<sup>th</sup> day of April, 2011.

/s/ George C. Carlson, Jr.

GEORGE C. CARLSON, JR.,  
PRESIDING JUSTICE

TO APPROVE: ALL JUSTICES.

## Exhibit "A"

### RULE 11. COMPLETION AND TRANSMISSION OF THE RECORD

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#### (d) Duty of Trial Court Clerk to Prepare and Transmit Record.

(1) *Clerk's Preparation of Record.* Upon the appellant's compliance with subparagraph (b)(1) and service of the designation required by Rule 10(b)(1), ~~within 30 days,~~ the trial court clerk shall assemble the record as follows:

- i. Clerk's Papers. A certified copy of the docket entries prepared by the clerk of the trial court shall be followed by a legible photocopy of any papers filed with the clerk and designated by the parties and a cost bill for the preparation of the record indicating costs for the trial court clerk and court reporter and the Supreme Court filing fee. Within 30 days, ~~t~~ The clerk shall assemble the papers in the order of filing, number each page consecutively at the bottom, and transmit a list of the papers correspondingly numbered and identified with reasonable definiteness. All jury instructions shall be placed in the record with court instructions first, instructions given to plaintiff second, instructions refused plaintiff third, instructions given to defendant fourth, and instructions refused defendant fifth.

The trial court clerk shall separate the clerk's papers into volumes of no more than 150 pages for fastening. The clerk shall fasten the clerk's papers on the top and provide suitable covers for each volume. Each volume of clerk's papers shall be bound in a brown binder and the outside of each binder shall designate the page numbers of the pages contained in that volume.

- ii. Transcript. The original transcript is prepared by the court reporter pursuant to Rule 11(c). The clerk of the trial court shall not renumber the pages of the original transcript, nor make copies of the original transcript, nor handle the original transcript in any way other than to include in the table of contents of the Clerk's Papers the number of volumes contained in the original transcript and include the original transcript as part of the record to be transmitted to the Supreme Court. The court reporter is responsible for preparing, certifying, and binding the transcript and is responsible for furnishing the transcript fully ready for transmission to the Supreme Court.
- iii. Exhibits. Within 30 days, ~~a~~ copy of exhibits designated by the parties shall be assembled in a flat file envelope or a box. If an exhibit is a photograph, the original shall be included and a photocopy retained by the trial court clerk. Video and audio tapes shall be included and a duplicate shall be retained by

the trial court clerk. The clerk shall include with the exhibits forwarded to the Supreme Court a list of all exhibits designated by the parties, indicating thereon those retained by the trial court clerk and those submitted to the Supreme Court. Documents of unusual bulk or weight and physical exhibits other than documents, shall not be transmitted by the trial court clerk unless the clerk is directed to do so by a party or by the clerk of the Supreme Court. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits of unusual bulk or weight.

(2) *Transmission of Record.* When the clerk's papers and exhibits are assembled and the transcript is received~~Upon receipt of the court reporter transcript,~~ the clerk shall then execute a certificate of compliance with this Rule and serve notice of completion on the parties and on the clerk of the Supreme Court. At the end of the time prescribed by Rule 10(b)(5), the clerk shall immediately deliver the record to the Supreme Court.

...

[Adopted to govern matters filed on or after January 1, 1995; amended effective May 23, 2002; amended effective June 27, 2002; amended March 23, 2006 to provide that the trial court clerk shall assemble the record at the same time as the court reporter prepares the transcript; amended effective July 1, 2009; amended effective July 1, 2011 to revise the time for preparation of the clerk's papers and exhibits.]