

Serial: 228715

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99006-SCT

***IN RE: UNIFORM CHANCERY COURT
RULES***

ORDER

Now before the en banc Court is the Petition to Amend Certain Rules of the Mississippi Uniform Chancery Court Rules (Motion No. 2019-3800), filed by the Mississippi Commission on Guardianships and Conservatorships.

The Commission proposes amendments to Rules 6.01, 6.02, and 6.03 of the Uniform Chancery Court Rules. After due consideration, we find that the petition should be granted as set forth in the attached Exhibit A.

IT IS THEREFORE ORDERED that the petition is granted. Rules 6.01, 6.02, and 6.03 are amended as set forth in the attached Exhibit A. The amendments shall be effective January 1, 2020.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order upon the minutes of the Court and send a certified copy to Thomson Reuters for publication in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*, and in the next edition of the *Mississippi Rules of Court*.

SO ORDERED, this the 7th day of November, 2019.

/s/ Dawn H. Beam

DAWN H. BEAM, JUSTICE
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT A

RULE 6.01 ATTORNEY MUST BE RETAINED

(A) Every fiduciary must, unless he is licensed to practice law in Mississippi, retain an attorney or firm of attorneys to represent, advise and assist him provide representation, advice and assistance during the whole entire term of his office the fiduciary's appointment.,

(B) whose compensation will for the attorney shall be fixed or and approved by the Chancellor.

(C) When Once an attorney has once appeared entered an appearance for such a fiduciary, in any respect, he may the attorney shall be permitted to withdraw only with the consent of the Chancellor, after with notice to the client and any adverse party as required by UCCR 1.08.

(D) However, if he shall be or become An attorney who is negligent or unfaithful, in any respect, he may, with the consent of the Chancellor, be discharged by order of the court on motion of the fiduciary or on motion of the court.

(E) The practice of employing different attorneys, at the will of the fiduciary will not be tolerated.

(F) The chancellor may relieve a fiduciary of the obligation to retain an attorney in matters involving guardianship (of the person only), and in cases where the court finds that it will impose an undue or unnecessary financial burden on the ward's estate. All other duties of a fiduciary remain the same with or without representation.

RULE 6.02 FIDUCIARIES AND ATTORNEY MUST BE DILIGENT

(A) Every fiduciary and his attorney must be diligent in the performance of his their duties. They must see to it that publication for creditors is promptly made, that inventories, appraisements, accounts and all other reports and proceedings are made, done, filed and presented within the time required by law, and that the estates of decedents are completed and assets distributed as speedily as may be reasonably possible in a timely manner.

(B) In guardianships and conservatorships an attorney must be faithful to both fiduciary and the ward, and if it appears to the attorney that the fiduciary is not properly performing duties required by the law then he the attorney shall promptly notify the Court in which the estate is being administered.

(C) Until relieved of fiduciary duties by court order, every fiduciary shall notify the chancery clerk in writing of every change of address not later than five days after such change. The notice shall include the civil action number and the name of the fiduciary.

(D) Failure to observe this rule, without unless just cause exists, shall constitute contempt for which the Chancellor will impose appropriate penalties.

RULE 6.03 STATEMENT APPENDED TO ANNUAL ACCOUNTS

(A) Every fiduciary shall append attach to each annual account, as a part thereof, a list or statement of all assets, real and personal, of the estate.

(B) then in his hands or under his control. If any part thereof shall If the annual account consists of money, bonds or other securities negotiable by delivery, then such the statement shall also show the name of the bank where the same is deposited or kept.

(C) A certificate signed under oath by an officer of the bank that such money and bond or other securities are then on deposit or kept in such bank shall be attached. Verification of account balances in the form of statements issued by the depository showing the balance at the beginning of the accounting period, and the most recent statement at the end of the accounting period shall be attached.

(D) In case any of such If the assets shall consist of loans made by him the fiduciary or his the predecessor in the fiduciary office, then such the statement shall show to whom and when such the loan was made, the amount remaining unpaid, how secured, whether all taxes have been paid on the property mortgaged or pledged as security for the loan, and whether or not in his opinion the security is sufficient.