

**LOCAL RULES
FOR
COUNTY COURT OF LOWNDES COUNTY, MISSISSIPPI**

[Renumbered and codified by order of the Supreme Court effective May 18, 2006.]

Pursuant to the Mississippi Rules of Civil Procedure and in addition to the Uniform County Court Rules and the Uniform Criminal Rules of County Court Practice effective March 15, 1985, this Court adopts the following Local Rules of the County Court of Lowndes County, Mississippi:

INTRODUCTION

These rules are adopted for the purpose of regulating and expediting the business of the County. They shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. The Court may amend or waive any of the provisions of these rules, when, in the opinion of the Court, justice requires.

CIVIL PROCEEDINGS

RULE 1.

Each term of Court shall commence and be held on the second Monday of each consecutive calendar month at 9:00 o'clock a.m., unless otherwise stated by the Court. Such terms of court shall continue from day to day, unless recessed or adjourned by the Court, until the end of the Friday session before the beginning of the next succeeding term of Court.

RULE 2.

Civil cases may be set down for trial and entered on the Trial Calendar only by an Order of the Court; or upon motion of a party and notice to the other parties.

RULE 3.

As the County Court has Civil, Criminal and Youth Court Divisions, the pleadings must reflect in which division such pleadings are filed.

RULE 4.

Within ten days after the service of the answer in any civil case originally filed in this Court, or within ten days after transfer or appeal of any civil case to this Court, any party may demand a jury in writing by endorsing such demand conspicuously upon the complaint or

answer, or by separate written demand. A demand for a jury otherwise presented will be addressed to the sound judicial discretion of the Court.

RULE 5.

The jury shall consist of six members in all civil cases, with two peremptory challenges allowed to each opposing party. In its discretion, the Court may impanel one or two alternate jurors, with one peremptory challenge allowed to each of the opposing parties.

RULE 6.

With the exception of orders of dismissal, remand or continuance, all orders must be presented to the Court. Only dismissals, remands or continuances will be received via mail and signed by the Court. All other orders such as defaults, final judgments, etc. may be presented on Motion Days to the Court commencing at 8:30 o'clock a.m. or at any time convenient to the Court.

All agreed orders, or orders submitted where the Court deems the necessity, shall bear the signature of all parties or representatives or attorneys for the parties before the Court will sign same.

All orders presented to the Court must also bear the number of the case before the Court will sign same.

RULE 7.

Motion Days are also return days for replevins and are days the Court will entertain and receive default judgments, dismissals and other uncontested matters.

RULE 8.

All motions shall be in writing unless made during a hearing or trial and the original of each motion, and all affidavits and other supporting documents shall be filed with the clerk. The moving party at the same time shall mail or hand deliver a copy thereof to the opposing attorney, or party if not represented, and the Judge at her office in the Lowndes County Courthouse. Any and all responses shall be filed within ten (10) days after receipt of the original motion and copies shall be furnished to the Judge and opposing attorney, or party if not represented. The filing of memorandum of authorities is discretionary with the parties, but if done it must accompany the motion and response. Such memorandum shall be limited to ten (10) pages, unless waived by the Court. Copies of said memorandum shall also be forwarded to the Judge and opposing attorney, or party if not represented.

All motions in which a hearing is requested shall be noticed for hearing "as soon as counsel can be heard" but no date certain shall be set by the moving party.

All nondispositive motions shall be decided by the Court without a hearing or oral argument unless otherwise ordered by the Court on its own motion, or, in its discretion, upon written request made by counsel in an easily discernable manner on the face of the motion or response.

All dispositive motions shall be decided by the Court only after a hearing unless all parties file a written waiver of said hearing.

The scheduling of an evidentiary hearing or oral argument, where allowed, shall be set at such time and place as may suit the convenience of the Judge. The Court may, in its discretion, hear oral argument by telephone conference.

RULE 9.

All cases, causes, petitions, counter-claims, set-offs or crossbills, pending and triable on the docket of the Court, may, with the assent of the Court, be set for hearing or trial as the matter may warrant, by the parties thereto or their attorneys in open Court; but notice thereof must be given immediately to the opposing litigant or his counsel. The Court, however, at its election reserves the right to set any of the above matters for hearing or trial by entry of an order therefor upon the minutes and giving notice, per MRCP, to each party involved or his attorney by mailing a copy of the order to their usual address.

RULE 10.

After a case has been set for either a jury trial, bench trial, motion hearing or other Courtroom proceeding, the same shall not be continued except on showing of good cause by way of a written motion to the Court with the reasons for the request of continuance incorporated therein. The motion shall be immediately brought to the attention of the Court for hearing on same. No change will be made in the dates for which cases are set without consent of the Court.

RULE 11.

Appeals taken during a term of the County Court, from an inferior Court, are triable at the term then in session, at the discretion of the Judge.

RULE 12.

In all motions to compel discovery for whatever reason, all counsel shall be under a duty to confer in good faith to determine to what extent discovery disputes can be resolved before presenting the issue to the Judge. No such motion shall be heard by the Judge unless counsel for the moving party shall file a certificate that he has conferred in good faith with opposing counsel in an effort to resolve the dispute and has been unable to do so.

In the memorandum accompanying any motion to compel discovery, the moving party shall set forth the question, request or interrogatory, the response thereto and the specific deficiency of the response. General comments such as "the answer is incomplete or evasive" are not adequate. If a common specific deficiency allegedly occurs in the response to more than one interrogatory, question or request, then the moving party may discuss those interrogatories, questions, or requests together.

RULE 13.

Whenever any civil action scheduled for jury trial is required to be postponed, or is settled, or otherwise disposed of in advance of the actual trial, then, except for good cause shown, jury costs, including sheriffs fees, mileage and per diem, may, in the Court's discretion, be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, unless the Court is notified at least one full business day prior to the day on which the action is scheduled for trial so that the jurors can be notified that it will not be necessary for them to attend.

When a civil action is postponed, settled or otherwise disposed of after the case is called and prior to the verdict of the jury, the court may, except for good cause shown, assess jury costs, as described above, equally against the parties and their counsel, or against the party responsible for the postponement or late settlement.

RULE 14.

Motions for Attorney's Fees:

In all cases where Attorney's fees are sought, there shall be submitted in writing to the Court an affidavit of counsel addressing the following factors, among others:

1. Time and labor required
2. Customary fee
3. In contract suit whether Attorney's fee is contracted for fee based on % or reasonable amount.

RULE 15.

Due to the considerable cost to the parties of furnishing discovery materials, and the serious problems 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, Mississippi Rules of Civil Procedure, and the answers thereto, Requests for Production or Inspection under Rule 34, Mississippi Rules of Civil Procedure, Requests for Admissions under Rule 36, Mississippi Rules of Civil Procedure, and responses thereto, and depositions under Rules 30 and 31, Mississippi Rules of Civil Procedure, shall be served upon other counsel or parties, but shall not be filed with the Court. The party responsible for service of the discovery material shall retain the original and become the custodian.

2. If relief is sought under Rules 26(d) or 37, Mississippi Rules of Civil Procedure, concerning any interrogatories, requests for production or inspection, request for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the interrogatories, requests, answers or responses in dispute shall be filed with the Court 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.

RULE 16.

Discovery shall be completed within 90 days after service of the answer by the applicable defendant. No additional discovery time will be allowed except with leave of Court upon written motion setting forth good cause for the extension.

RULE 17.

Default Judgments shall be approved by the Plaintiff's attorney, which approval will be considered by the Court as a certification by said attorney that:

1. The Complaint states a cause of action both as to liability and amount.
2. Valid process has been issued by the Circuit Clerk and served according to law.

3. The Plaintiff has met all requirements of applicable law including the Mississippi Rules of Civil Procedure.

4. The Plaintiff is entitled to a Default Judgment in the form and amount as submitted.

RULE 18.

In lieu of a pre-trial conference, all of the parties at least twenty-four (24) hours prior to the time that a case is set for trial shall submit to the Court a one-page summary of the case, together with all authorities upon which the party relies.

RULE 19.

At least twenty-four (24) hours prior to the time that a case is set for trial each of the attorneys shall number and file his jury instructions with the clerk and submit to the Court and to counsel a numbered copy of the instructions so filed in the case. Each instruction shall be on a separate sheet of paper and shall be supported by appropriate citation of authority on separate sheets of paper. Except for good cause shown and as justice so requires, the Court will not entertain requests for additional instruction which have not been pre-filed.

RULE 20.

In any civil case where an appeal is taken to this Court, and the appellant takes no action or demands a trial for two terms of Court, said appeal shall be dismissed and the case remanded to the Court from which it was appealed for entry of judgment; when the Court takes such action, it will not be set aside during the term of the Court taken without good cause shown upon the hearing of a motion seasonably filed therefor and allowed by the Court.

CRIMINAL PROCEEDINGS

RULE 1.

On the first (1st) day of each term of court, the Court's criminal docket will be called, and the criminal cases thereon that are triable at said term will then and there be set for hearing or trial, as the case may warrant; and all prosecutors, and all defendants, or their attorneys, shall personally be present in court for such docket calling and setting; and when such criminal case has been so set for hearing or trial, the same may not be changed or reset except for good cause shown upon the hearing of a statutory motion seasonably filed therefor and allowed by the court.

RULE 2.

In any criminal case where an appeal is taken to this Court, and the appellant (defendant) when called as provided by the Uniform Criminal Rules of County Court Practice, makes default, the Court, at its election, may either return the cause to the Court from which it was appealed on a writ of procedendo, or take a judgment nisi on the recognizance or appeal bond; and when the Court takes either action, it will not be set aside during the term of the Court taken without good cause shown upon the hearing of a statutory motion seasonably filed therefor and allowed by the Court; and final judgment shall be rendered at the term of the Court to which a scire facias is returnable and executed.

RULE 3.

In all criminal misdemeanor actions a six (6) person jury shall be used whether the case originated in County Court or was appealed from a lower court. Each party may exercise three (3) peremptory challenges.

RULE 4.

At least twenty-four (24) hours prior to the time that a case is set for trial each of the attorneys shall number and file his jury instructions with the clerk and submit to the Court and to counsel a numbered copy of the instructions so filed in the case. Each instruction shall be on a separate sheet of paper and shall be supported by appropriate citation of authority on separate sheets of paper. Except for good cause shown and as justice so requires, the Court will not entertain requests for additional instructions which have not been pre-filed.

DISTRIBUTION OF LOCAL RULES

1. The Clerk of this Court shall certify and file with the Supreme Court of Mississippi a copy of this Order.
2. The Clerk of this Court shall provide copies of this Order to all members of the Bar having a need therefore, and, further, shall maintain a supply of copies to be provided to interested parties as the need may arise.
3. Distribution as herein provided shall be considered by this Court to satisfy the notice required by the first sentence of M.R.C.P. 40(b).

[Adopted by order entered in the trial court on January 26, 1987 and January 25, 1991 and approved by the Supreme Court by order entered June 27, 1991.]