

89-R-99006

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

IN THE MATTER OF:
REVISED AND UPDATED
UNIFORM CHANCERY COURT RULES

FILED

JUL 11 2023

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

AMENDED
PETITION TO ADOPT THE REVISED
UNIFORM CHANCERY COURT RULES
APPROVED BY THE CONFERENCE
ON APRIL 27, 2023

COMES NOW Chancellor Gerald Martin, Chair of the Conference of Chancery Judges, and petitions the court to approve, adopt and publish the amended revised Uniform Chancery Court Rules attached hereto as Exhibit "A," and in support would show that initially, the revised rules were approved and adopted by the Conference of Chancery Judges at its business meeting on October 24, 2019, and filed with this Court on October 31, 2019. Subsequently, at its business meeting on April 27, 2023, with a quorum of chancellors attending, by a unanimous vote, Rule 8.05(A)(3) adopted an amendment to the proposed Rule 8.05 so as to make the rule requiring a financial declaration to include an employment history apply to all support actions and not merely to divorce actions.

WHEREFORE, the Conference of Chancery Judges respectfully petitions and moves that the Court approve, adopt and publish the revised Uniform Chancery Court Rules as set out in the attached Exhibit "A."

RESPECTFULLY SUBMITTED, this the 30th day of June, 2023.


GERALD MARTIN
CONFERENCE CHAIR

MOTION# 2019 4165
attachment

EXHIBIT A

PART ONE
GENERAL RULES

RULE 1.00

DESIGNATION OF RULE NAME AND PROPER CITATION

These rules are the Uniform Chancery Court Rules, Revised 2019, and may be cited as "UCCR 2019, ___." "

RULE 1.01

COURT DECORUM

The chancellor shall ensure that all proceedings in the chancery court, whether in term time or in vacation, shall be conducted with due formality and in an orderly and dignified manner, observing the following:

- a. The court shall be opened formally and conducted with dignity and decorum at all times.
- b. No drinks, food, gum or smoking shall be permitted except as allowed by the court.
- c. Counsel, parties, and witnesses, must be respectful to the court and to each other. Bickering or wrangling and disrespectful behavior between counsel, or between counsel and witness, or by a witness, will not be tolerated.
- d. Applause or demonstration or approval or disapproval, and the use of profane or indecent language are prohibited.
- e. Counsel shall not approach the witness without leave of court.
- f. In examining witnesses, in reading from a brief or opinion, and in all presentations to the court, counsel shall stand unless specifically excused from doing so by the court.
- g. Counsel shall in formal hearings address the Court in the historic manner of "Your Honor" and/or "May it please the Court." The dignity and the respect of the court shall be preserved at all times.
- h. The chancellor shall wear a judicial robe at all times when presiding in open court, except where court facilities make it infeasible.

- i. All attorneys, bailiffs, clerks, and other personnel shall be prompt and timely in attendance, and shall be fully prepared to proceed at the appointed time.
- j. Use of cell phones and recording of proceedings in the court room and chambers are prohibited except as allowed by the court.
- k. Each officer of the court is responsible for the promotion of respect for the court.

Subcommittee Comment:

The revised UCCR in general are restyled to eliminate long paragraphs and prolixity, to clarify and modernize language, and to do away with rules that are inconsistent with practice under the M.R.C.P.

RULE 1.02

OFFICERS MUST BE PRESENT IN COURT

When the court is in session the sheriff and clerk, in person or by competent deputies, must be present in the courtroom to perform such duties as may be required of them by law or the direction of the chancellor unless excused by the chancellor. The court reporter shall be present, as the chancellor may direct, to perform the duties of court reporter.

Subcommittee Comment:

No change from the current rule.

RULE 1.03

SHERIFF MUST KEEP COURTROOM CLEAN AND COMFORTABLE

The sheriff must see that the courtroom, library, court chamber, witness rooms and rest rooms are kept clean and in comfortable condition.

Subcommittee Comment:

The only change is from "Judge's chambers" to "court chambers."

RULE 1.04

CLERK MUST MAKE PAPERS AND DOCKETS AVAILABLE

(A) In paper-filing districts, unless the chancellor directs otherwise, the clerk shall, while court is in session, have and keep in the courtroom, or in an office adjoining, the court file of each action pending for that day in the court, and all dockets the clerk is required to keep.

(B) In electronic filing districts, the clerk shall, while court is in session, provide the court with a device to access the internet and the Mississippi Electronic Court System (MEC).

Subcommittee Comment:

The revised rule instructs the chancery clerks on their respective duties in paper-filing districts as well as electronic-filing districts.

The subcommittee recommends inserting a hyphen between the words "electronic" and "filing."

RULE 1.05

OFFICERS, WITNESSES AND COUNSEL MUST BE PROMPT

When any civil action has been set for, or adjourned to, a particular day or hour, all officers, parties, witnesses and counsel whose presence is necessary for the trial, hearing or other court business shall be present promptly at the time set. Failure to obey this rule may be punished as contempt.

Subcommittee Comment:

The revision adds counsel to those who are required to be prompt. It also clarifies that any failure, not only negligence or willfulness, may result in a finding of contempt.

RULE 1.06

ASSIGNMENT OF CASES

(A) In multi-chancellor districts and courts, all civil cases shall be assigned immediately on the filing of the complaint by such method which shall insure that the assignment shall be random, that no discernable pattern of assignment exists, and that no person shall know to whom the case will be assigned until it has been assigned.

(B) If an attorney or party shall attempt to manipulate or defeat the purpose of this rule, the case shall be reassigned to the chancellor who would have otherwise received the assignment.

(C) If the chancellor who would have received the case under an assignment in compliance with this rule cannot be determined, a new assignment in compliance with the rule shall be made, excluding the chancellor to whom it was incorrectly assigned.

(D) Sanctions, including costs and attorney's fees, may be imposed by that chancellor on reassignment. Such sanctions may also include suspension from practice in the court imposing them for not more than 30 days and referral to the Bar for further discipline.

(E) Decisions regarding this rule shall be subject to review by the Supreme Court under M.R.A.P. 21, and appropriate stays shall be entered by the trial court to allow such review.

(F) In districts where motion days are set in advance with judges specifically assigned, preliminary procedural matters may be submitted to the chancellor assigned such duties, notwithstanding the fact that the case has been assigned to another chancellor.

(G) By local rule approved by the Supreme Court, the trial court may make special provisions accommodating local needs of economy and efficiency which might otherwise be at variance with this rule.

Subcommittee Comment:

This is a restyling of the existing rule. No substantive changes were made.

The subcommittee recommends eliminating the existing Comment.

RULE 1.07

PROHIBITION AGAINST PRESENTATION TO OTHER CHANCELLOR OF MATTER WHEN RELIEF IS DENIED

When any has matter been presented to one of the chancellors and the relief denied, the attorney shall not present the same matter to another chancellor.

Subcommittee Comment:

The subcommittee recommends that the revision be changed to read, "When any matter has been presented to one of the chancellors and the relief denied, the attorney shall not present the same matter to another chancellor."

RULE 1.08

WITHDRAWAL OF COUNSEL

(A) When an attorney makes an appearance for any party in an action, the attorney will not be allowed to withdraw as counsel for the party except upon: (1) written motion; (2) reasonable notice to the client and opposing counsel; and (3) order of the court.

(B) Reasonable notice to the client within the meaning of this rule requires either that:

(1) the client has agreed to and signed off on the order allowing withdrawal; or

(2) the client has agreed to and joined in the motion for withdrawal; or

(3) the client has been timely served with an M.R.C.P. Rule 81 summons for the date and time of the hearing.

Subcommittee Comment:

The revised rule clarifies the duty of the attorney to file a motion to withdraw, notice both counsel opposite and the client, and either present an agreed order or set the motion for hearing.

RULE 1.09

NOTIFICATION OF RELEVANT PENDING CASES AND REASSIGNMENT

(A) When counsel in a cause is aware of a case pending in this court or another court of this or any other state or federal jurisdiction, which likely may affect the subject matter or jurisdiction of the cause pending in the chancery court, such counsel shall immediately notify the chancery court by written notice docketed for such other cause.

(B) When a case has been filed and assigned to a chancellor, any subsequent filing involving the same subject matter shall be assigned to that same chancellor. When a chancellor becomes aware that there is a prior proceeding involving the same subject matter, the chancellor shall direct that the clerk reassign the later-filed case to the chancellor in the earlier proceeding.

Subcommittee Comment:

Subpart (A) is the current rule.

Subpart (B) addresses a form of judge-shopping in which lawyers file an action and then dismiss it in an attempt to draw a different judge. It also requires that a later-filed modification or contempt action continue with the same judge as in the original proceeding.

RULE 1.10

DISCOVERY DEADLINES AND PRACTICE

(A) All discovery must be completed within ninety days from service of an answer by the applicable defendant. If the pleading is one to which no answer is required, either party desiring discovery may timely move the court for an order scheduling discovery to extend or shorten the time for discovery, according to the issues involved. If no such motion is filed, then discovery shall be completed ninety days from completion of service of process on all defendants.

(B) Additional discovery time may be allowed with leave of court upon written motion setting forth good cause for the extension. Absent special circumstances the court will not allow testimony at trial of an expert witness who was not designated as an expert witness to all attorneys of record at least sixty days before trial.

(C) When responding to discovery requests, interrogatories, requests for production, and requests for admission, the responding party shall, as part of the responses, set forth immediately preceding the response the question or request to which such response is given. Responses shall not be deemed to have been served without compliance with this subdivision.

(D) No motion to compel shall be heard unless the moving party shall incorporate in the motion a certificate that movant has conferred in good faith with the opposing attorney in an effort to resolve the dispute and has been unable to do so. Motions to compel shall quote verbatim each contested request, the specific objection to the request, the grounds for the objection and the reasons supporting the motion.

Subcommittee Comment:

The most significant change is to subpart (A), which clarifies the discovery deadline when no answer is required, as in M.R.C.P. 81(d)(1) and (2).

RULE 1.11

MOTIONS FOR RECUSAL

(A) Any party may move for the recusal of a chancellor if it appears that the chancellor's impartially might be questioned by a reasonable person knowing all the circumstances, or for other grounds provided in the Code of Judicial Conduct or otherwise as provided by law.

(B) A motion seeking recusal shall be filed with an affidavit of the party or the party's attorney setting forth the factual basis underlying the asserted grounds for recusal and declaring that the motion is filed in good faith and that the affiant truly believes the facts underlying the grounds stated to be true.

(C) Such motion shall, in the first instance, be filed with the chancellor who is the subject of the motion within 30 days following notification to the parties of the name of the chancellor assigned to the case; or, if it is based upon facts which could not reasonably have been known to the filing party within such time, it shall be filed within 30 days after the filing party could reasonably discover the facts underlying the grounds asserted.

(D) The subject chancellor shall consider and rule on the motion within 30 days of the filing of the motion, with hearing if necessary. If a hearing is held, it shall be on the record in open court.

(E) The denial of a motion to recuse is subject to review by the Supreme Court on motion of the party filing the motion as provided in M.R.A.P. 48B.

Subcommittee Comment:

The revised rule is merely a restyling.

RULE 1.12

ELECTRONIC MEDIA COVERAGE

Electronic media coverage of judicial proceedings by means of cameras, television and other electronic devices is governed by the Rules for Electronic and Photographic Coverage of Judicial Proceedings.

Subcommittee Comment:

No change.

Rule 1.13

ELECTRONIC FILING AND SERVICE PROCEDURES

A court may, by local rule, allow pleadings and other papers to be served, filed, signed, or verified by electronic means in conformity with the MEC procedures. Pleadings and other papers filed electronically in compliance with the procedures are written papers for purposes of these rules. The Administrative Procedures for MEC are posted on the Supreme Court's website at www.mssc.state.ms.us.

Subcommittee Comment:

No change.

Rule 1.14

SANCTIONS

Any person who violates the provisions of these rules may be subject to sanctions, contempt proceedings, or other disciplinary actions imposed or initiated by the court.

Subcommittee Comment:

This revision does not appear in the existing rules. The chancellors wanted this added to clarify the duty of attorneys and others to comply.

Rule 1.15

APPLICABILITY

Wherever the term "counsel" is used in these rules, it shall apply as well to self-represented litigants.

Subcommittee Comment:

As self-representation becomes more common, the rules must make clear that the duties imposed by them apply to persons proceeding pro se.

PART TWO

PLEADINGS AND MOTIONS

RULE 2.01

PLEADINGS AND MOTIONS MUST BE FILED BEFORE BEING PRESENTED

All pleadings, motions, accounts and other papers in any action shall be filed with the clerk of the proper court before being presented to the chancellor. If to do so would inflict undue hardship on the attorney, or in emergency matters, the papers may be presented to and marked "Filed" by the chancellor as provided in M.R.C.P. 5(e). Thereafter, the attorney shall file the papers with the clerk.

Subcommittee Comment:

No change to the substance of this rule.

This rule and the others in this Part are renumbered to reflect already-deleted rules 2.01, 2.04, and 2.05, and the deletion of Rule 2.03 in the revision.

RULE 2.02

BLANKS MUST BE FILLED IN

All blanks contained in any pleading, motion, paper, order or judgment must be filled in before being filed with the clerk or presented to the Court.

Subcommittee Comment:

The revision eliminates Rule 2.03 and adds its substance to the existing Rule 2.06. It also eliminates some unnecessary language.

RULE 2.03

AMENDMENTS DURING TRIAL

When a matter has been set on the trial docket and one party obtains leave to amend the pleadings, or to file an answer and counterclaim, and the opposing party is not prepared to proceed upon the issues raised in the pleadings, the court may grant the opposing party's motion for a continuance, and the court may award expenses caused by the delay, unless good cause be shown for the delay.

Subcommittee Comment:

This is existing Rule 2.09.

Existing rules 2.07, 2.08, 2.10, and 2.11 are eliminated as being inconsistent with the M.R.C.P. and current practice.

PART THREE
RULES CONCERNING TRIALS

RULE 3.01

VACATION BUSINESS RULES OF PRECEDENCE

(A) Where a chancellor has, by order or custom, set apart time for hearing vacation actions, all vacation matters presented at such time and place shall have precedence over all the business of any term of court that may be then in session and not finally adjourned.

(B) At all other times during any term of court, the business of the term shall have precedence over all vacation matters presented to the chancellor.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.02

AVOIDING SUMMONING OF REDUNDANT WITNESSES

(A) The practice of summoning numerous witnesses to prove the same fact or set of facts often serves merely to increase the costs and consume the time of the court.

(B) In such cases the chancellor may tax the per diem and mileage of all such unnecessary witnesses against the party causing them to be summoned whether they be called to testify or not.

(C) In all cases the mileage and per diem of all witnesses who are not called to testify shall be taxed against the party causing them to be summoned, unless good cause to the contrary be shown.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.03

EXAMINATION OF WITNESSES

(A) The examination of witnesses shall be limited to the direct examination, the cross-examination, and the redirect examination concerning matters brought out on cross-examination.

(B) Counsel for either party may be permitted, on request, to inquire about new matters pertinent to the issues which may have been inadvertently omitted. Opposing counsel may also inquire concerning the same matter.

(C) In all cases the examination must be conducted in an orderly and decorous manner without interruption from opposing counsel except for the purpose of interposing objections.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.04

RULINGS ON OBJECTIONS TO TESTIMONY

(A) All objections to testimony must be made to the chancellor, not to opposing counsel.

(B) The objection must be specific rather than general.

(C) If requested by the chancellor, counsel offering the testimony must state the purpose for which it is offered, and counsel objecting thereto must state the reasons for the objection.

(D) If the chancellor shall reserve ruling, counsel interposing the objection shall make a note thereof and renew their objection at the conclusion of the testimony; otherwise, the objection shall be deemed waived.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.05

COPY OF EXHIBITS

(A) Unless excused by the court prior to trial, it shall be the duty of an attorney to distribute copies of any exhibits to the court and opposing counsel when offered.

(B) If a party is to make a substitution of a copy for any exhibit introduced into evidence, the copy shall be presented at the time the original is presented unless it could not be reasonably anticipated that the exhibit was to be offered.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.06

ONLY ONE ATTORNEY FOR EACH PARTY MAY EXAMINE WITNESS

Only one attorney for each party to the action may examine a witness, interpose objections, or respond to objections except by permission of the chancellor.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.07

CONFERENCE WITH WITNESSES

Trial will not be delayed or recessed to allow counsel to confer with witnesses or clients in advance of their testimony. This rule shall not apply to witnesses who are inaccessible before that time.

Subcommittee Comment:

The revised rule clarifies the existing rule, which has been misinterpreted to mean that an attorney may not even communicate with his or her own client during trial.

RULE 3.08

FIREARMS PROHIBITED ON THE WITNESS STAND AND IN COURTROOM

No person other than law enforcement officers shall take or carry firearms or other weapons into the courtroom. When law enforcement officers take the stand as litigants or witnesses, such officers shall remove their firearms and place same in the possession of the bailiff until the witness or litigant has left the witness stand.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.09

AGREEMENTS OF COUNSEL

(A) Agreements of counsel made orally in the presence of the court must be recorded by the court reporter or incorporated into an agreed order entered by the court in order to be binding on the parties.

(B) All other agreements should be reduced to writing and filed among the papers in the case, except that, in districts participating in MEC, hard copy papers need not be maintained.

Subcommittee Comment:

The revised rule reflects style changes and clarifies its application in MEC districts.

RULE 3.10

EARWIGGING THE CHANCELLOR PROHIBITED

(A) Except in the orderly progress of the trial, and in the arguments or briefs connected therewith, no person shall undertake to discuss or communicate in writing with the chancellor, or in the presence or hearing of the chancellor, the law or the facts or alleged facts of any litigated action then pending in the court or likely to be instituted therein.

(B) No attempt to influence the chancellor's decision shall be made in any manner except as allowed in Paragraph (A) above.

(C) No person shall send any written communication to the chancellor concerning procedural matters and matters unrelated to the merits of the case without first delivering or mailing a copy of that communication to the opposing party. The chancellor shall file in the court file all such written communications received. Any person who shall violate this rule, knowing that such conduct is prohibited, shall be guilty of a contempt.

Subcommittee Comment:

The revised rule reflects style changes and clarifies that all ex parte communications with the court on the merits are prohibited. The current rule has been misinterpreted to mean that ex parte communication is allowed if counsel opposite is sent a copy of the communication.

RULE 3.11

ARGUMENT OF COUNSEL

(A) The chancellor may dispense with argument in any action.

(B) The chancellor may require counsel to argue or brief the law and facts in any action, and shall not be bound to decide the same until counsel's duty has been performed satisfactorily.

(C) In all cases counsel must be prepared to argue the case at the conclusion of the taking of testimony. The chancellor may specify the points of law or fact on which argument is desired and regulate the order and limit the length of oral arguments. In all cases where briefs are requested by the chancellor, copies thereof must be delivered to opposing counsel. Any negligent or willful failure on the part of counsel to fully argue or brief any question when requested by the chancellor will be considered a grave discourtesy.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 3.12

NOTIFICATION OF SETTLEMENT OR POSSIBLE CONTINUANCE

(A) When a case has been set for trial on a day certain (placed on trial docket) and the parties have settled or agreed to settle the case before the trial date, the plaintiffs' attorney shall immediately upon such agreement being reached so notify the court.

(B) Where parties agree before the day set for trial to continue their case, then plaintiffs' attorney shall likewise be obligated to immediately notify the court that the parties desire to mutually seek a continuance.

Subcommittee Comment:

The revised rule reflects style changes only.

PART FOUR
OPINIONS

RULE 4.01

FINDINGS BY THE COURT

Any request for findings of fact by the court pursuant to MRCP 52 must be made in writing and filed among the papers of the case before the court begins rendering its bench opinion, judgment, order, or ruling, and before the court issues its written opinion, judgment, order, or ruling.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 4.02

OPINION A PART OF RECORD

The chancellor shall not be bound to render a formal opinion in deciding any action except as required by the preceding rule. The chancellor may render an opinion either orally or in writing. If the chancellor renders an oral opinion, it shall be taken down by the court reporter who shall, when directed by the court, transcribe the same and submit it to the chancellor for correction and approval. In either event the opinion so rendered shall be filed among the papers and become a part of the record in the cause without any order or direction to that effect.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 4.03

NO INTERRUPTION WHILE RENDERING OPINION

No interruptions shall be allowed during the time that the chancellor is rendering an oral opinion, judgment, order, or ruling. After the chancellor has concluded, counsel for either party may make such suggestions or request such further findings of law or fact as may be deemed proper. The right to make suggestions or requests shall not be construed as the right to reargue the case or any part thereof. If the chancellor desires reargument in whole or in part, the chancellor will request it.

Subcommittee Comment:

The revised rule reflects style changes only.

PART FIVE
JUDGMENTS AND ORDERS

RULE 5.01

FORM OF CAPTION

Every judgment and order shall show the number and style of the action at the top and have a caption showing the nature thereof.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 5.02

CONTENTS AND FORM

- (A) Every judgment shall state the facts showing that the court has proper jurisdiction and venue.
- (B) Where multiple forms of relief are granted, each shall be stated in a separately numbered paragraph.
- (C) Judgments and orders should be drawn so as to be unambiguous in their terms and conditions.
- (D) In all litigated cases, the court shall in the judgment tax all costs in its discretion.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 5.03

CONSENT JUDGMENTS AND ORDERS

(A) All consent or agreed judgments and orders must be approved by all counsel for all parties affected by the Judgment, or if a party is self-represented, by the party, before being presented to the chancellor. The court may in its discretion, require the parties to approve the judgment as well.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 5.04

SUBMISSION TO OPPOSING PARTY AND COURT

- (A) An attorney who is directed to prepare a judgment or order must submit the same to the opposing attorney or party for approval as to form, unless excused by the court.
- (B) If no such approval has been made, counsel may present the same to the court showing proof that the judgment or order was submitted to counsel or party opposite.
- (C) Whether approved or not, the judgment or order must be presented to the chancellor within 10 calendar days after being directed to prepare it, or within such time as directed by the court.

Subcommittee Comment:

The revised rule reflects style changes only.

RULE 5.05

PRESENTATION OF COURT FILE

- (A) In chancery districts that have not adopted MEC, attorneys when presenting any order or judgment to the court must also provide the court file, unless excused by the court.
- (B) In those districts that have adopted MEC, an attorney presenting a judgment or order must include in the judgment or order an itemization of the MEC-numbered documents affected by the judgment or order.

Subcommittee Comment:

The revised rule reflects style changes and clarifies the duty of the attorney in MEC districts.

RULE 5.06

DELIVERY TO THE CLERK

Any attorney obtaining a judgment or order from the chancellor shall promptly deliver the same to the clerk so that it may be recorded. Failure to promptly deliver the judgment or order may, in the court's discretion, constitute contempt.

Subcommittee Comment:

The revised rule reflects style changes only.

PART SIX

FIDUCIARY MATTERS AND FIDUCIARIES

Subcommittee Comment:

This Part in the current rules is entitled, Rules Concerning Probate Matters. This revision changes Part Six to apply in all fiduciary matters, which include estates, administrations, guardianships, conservatorships, and trusts.

RULE 6.01

ATTORNEY MUST BE RETAINED UNLESS EXCUSED

- (A) Every fiduciary must, unless licensed to practice law in Mississippi, retain an attorney or firm of attorneys to provide representation, advice and assistance during the entire term of the fiduciary's appointment.
- (B) Compensation for the attorney shall be fixed and approved by the chancellor.
- (C) Once an attorney has entered an appearance for a fiduciary, in any respect, the attorney shall be permitted to withdraw only with the consent of the Chancellor, with notice to the client and any adverse party as required by UCCR 1.08.
- (D) An attorney who is negligent or unfaithful in any respect may 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.

Subcommittee Comment:

This revision makes several notable clarifications.

Subsection (C) clarifies that withdrawal is accomplished as provided in UCCR 1.08.

Subsection (D) adds that the court on its own motion may discharge a defaulting attorney.

RULE 6.02

FIDUCIARIES AND ATTORNEY MUST BE DILIGENT

(A) Every fiduciary and attorney must be diligent in the performance of 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 in a timely manner.

(B) In guardianships and conservatorships an attorney must be faithful to both fiduciary and ward. If it appears to the attorney that the fiduciary is not properly performing duties required by the law then 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, unless just cause exists, shall constitute contempt for which the chancellor will impose appropriate penalties.

Subcommittee Comment:

Other than stylistic changes, the only substantive change is the addition of Subsection (C).

RULE 6.03

STATEMENT APPENDED TO ANNUAL ACCOUNTS

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

(B) If the annual account consists of money, bonds or other securities negotiable by delivery, then the statement shall also show the name of the bank where the same is deposited or kept.

(C) 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) If the assets consist of loans made by the fiduciary or the predecessor in the fiduciary office, then the statement shall show to whom and when 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 the security is sufficient.

Subcommittee comment:

This revision includes only stylistic changes.

RULE 6.04

WHAT VOUCHERS MUST SHOW

(A) Every disbursement shown by an account of fiduciary must be supported by proper vouchers, which shall conform to the requirements of Miss. Code Ann. (1972) Section 91-7-279 and the Mississippi Guardianship and Conservatorship Act, Miss. Code Ann. (1972) §§ 93-20-101, *et seq.*, (S.B. 2828, 2018, Section 423).

(B) Each voucher shall consist of a receipt or canceled bank check showing to whom and for what purpose the money was paid.

(C) All vouchers for claims paid which arose during the lifetime of a decedent or during the sanity of a person later deemed of unsound mind shall show that the claim was properly probated, allowed, and registered.

(D) This rule is modified as to banks or trust companies which are subject to the supervision of the Department of Bank Supervision of the State of Mississippi, or The Comptroller of the Currency of the United States to the extent they are covered by Miss. Code Ann. (1972) § 91-7-277.

Subcommittee Comment:

Subsection (A) is revised to delete reference to Title 93, Chapter 13, Miss. Code, and replace it with reference to the GAP Act.

RULES 6.05

DISBURSEMENTS AND RECEIPTS; ANNUAL AND FINAL ACCOUNTS

Each disbursement shown on an annual or final account shall include the voucher number, the date of the disbursement, the name of the payee, the purpose of the disbursement and the date of any court order authorizing such disbursement. Each receipt shown on such accounts shall include the date of the receipt, the name of the payor and on what account payment is made.

Subcommittee Comment:

Stylistic changes only.

RULE 6.06

LOST VOUCHERS-HOW SUBSTITUTED

In case any voucher is lost, the fiduciary may procure and present for allowance a duplicate or a receipt from the person or corporation to whom the money was paid or the property was delivered, which shall show on its face that it is a duplicate of the original voucher so lost. The Chancellor may, if the proof be sufficient, allow the same as though the original had been

produced.

Subcommittee Comment:

No change.

RULE 6.07

CLAIMS ARISING AFTER DEATH OF DECEDENT

Claims arising after the death of a decedent, such as funeral bills, expenditures for monuments, attorney's fees, and the like must be approved by the chancellor before payment. Otherwise, payment will be at the risk of disapproval by the chancellor.

Subcommittee Comment:

No change.

RULE 6.08

ALLOWANCE FOR SUPPORT OF WARD

(A) Every petition for an allowance for the support of a ward shall show the amount of the ward's current estate, the estimated amount of the ward's monthly or yearly income, and the amount of the previous allowance.

(B) Where the ward is a minor, any request of a conservator or guardian to expend funds of the ward for necessities which are the responsibility of the parent shall not be considered unless the guardian, under oath, justifies the reason for such proposed expenditures.

Subcommittee Comment:

No change.

RULE 6.09

PETITIONS FOR AUTHORITY TO MAKE LOANS OR INVESTMENTS

Every petition for authority to loan or invest the funds of a ward shall show the amount to be loaned or invested, the kind and description of the security offered or investment proposed and the value thereof. In the case of a loan, to whom it is made, the time for which it is to be made, and the rate of interest it is to bear is required along with the affidavits of two or more credible persons setting forth the value of the security offered, must be attached to the petition or witnesses produced before the chancellor.

Subcommittee Comment:

No change.

RULE 6.10

PETITIONS FOR AUTHORITY TO COMPROMISE CLAIMS FOR WRONGFUL DEATH OR INJURY

(A) Every petition for authority to compromise and settle a claim for wrongful death or injury shall set forth the facts in relation thereto and the reason for such compromise and settlement and the amount thereof.

(B) The material witnesses concerning the injury or death and the damages resulting therefrom shall be produced before the chancellor for examination. Where counsel representing the petition has investigated the matter and advised settlement, counsel shall appear and give testimony touching the result of the investigation.

(C) In "future payment" or "structured settlement" cases, a certified copy of any insurance policy or other security guaranteeing payment shall be made a part of the court file within ninety (90) days from the date of the entry of the judgment or decree authorizing the settlement, unless good cause is shown.

Subcommittee Comment:

Stylistic changes only.

RULE 6.11

PETITIONS FOR COMMISSIONS

(A) Every petition by a fiduciary for the allowance of commissions, or for compensation for extra services and expenses, shall show the total amount of the estate, the total amount disbursed, the balance on hand, the nature and extent of the service rendered and expense incurred, and the total amount previously allowed on the account.

(B) Fees for fiduciaries and attorneys shall not be based on the value of any real property.

Subcommittee Comment:

Stylistic changes only.

RULE 6.12

PETITIONS FOR ALLOWANCE OF ATTORNEY'S FEES

(A) Every petition by a fiduciary or attorney for the allowance of attorney's fees for services rendered shall set forth the same facts as required in Rule 6.11, when touching compensation,

and if so, the nature and effect thereof.

(B) If the petition be for the allowance of fees for recovering damages for wrongful death or injury, or other claim due the estate, the petition shall show the total amount recovered, the nature and extent of the service rendered and expense incurred by the attorney, and the amount, if any, offered in compromise before the attorney was employed in the matter.

(C) In such cases, the amount allowed as attorney's fees will be fixed by the chancellor at such sum as will be reasonable compensation for the service rendered and expense incurred without being bound by any contract made with any unauthorized persons.

(D) If the parties make an agreement for a contingent fee, the contract or agreement of the fiduciary with the attorney must be approved by the chancellor. Fees on structured settlements shall be based on the "present cash value" of the claim.

Subcommittee Comment:

Stylistic changes only.

RULE 6.13

ALL FILINGS MUST BE SWORN

All pleadings, motions, papers, and other documents filed with the court in any fiduciary matter, including, but not limited to, accounts, inventories, and reports filed by a fiduciary, shall be personally signed and sworn to by the fiduciary. If required by the Chancellor, the fiduciary must produce proof touching the truth of the sworn facts stated therein.

Subcommittee Comment:

This revision clarifies that the swearing requirement extends to every kind of filing, not limited to pleadings.

Also, existing Rule 6.14 requiring that costs be paid annually is omitted because the statutes governing court costs have been amended and the current rule no longer comports with the statutory scheme. The following rules are renumbered to reflect the deletion.

RULE 6.14

COPY OF WILL FILED WITH ORIGINAL

Every petition to probate a will must have a copy of the will attached as an exhibit in the petition.

Subcommittee Comment:

No substantive change.

RULE 6.15

FAILURE TO FILE ACCOUNTINGS

If an attorney or fiduciary fails to file accountings or other matters in fiduciary cases, including estates, guardianships, conservatorships, and trusts, after being so directed in writing by the court, the court may consider such misconduct as contempt.

Subcommittee Comment:

The revision extends its coverage to fiduciaries and clarifies that it applies in all types of fiduciary matters. It also deletes the language “without just cause.”

PART SEVEN

VACATION MATTERS

Subcommittee Comment:

Current rule 7.02 was renumbered because former Rule 7.01 had been deleted.

RULE 7.01

RETURN ENVELOPE MUST BE ENCLOSED

(A) When any attorney or clerk shall forward papers to the chancellor requesting a response or the return of a judgment, order or paper, a self-addressed, stamped envelope shall be enclosed for its return to the clerk by the chancellor.

(B) If the attorney shall desire a copy of a judgment or order by return mail, the attorney shall furnish such copy and self-addressed stamped envelope for the return mailing.

(C) The chancellor is not obligated to receive or acknowledge any mail that is not fully prepaid.

Subcommittee Comment:

No substantive changes.

Rule 7.03 is moved to Part Eight.

PART EIGHT
DIVORCE AND OTHER DOMESTIC MATTERS

Subcommittee Comment:

This Part is expanded to include all domestic matters. The rules are renumbered accordingly.

RULE 8.01

APPLICABILITY

Except where otherwise clear from the context of a particular rule, this Part shall apply to all actions involving divorce, separate maintenance, paternity, contested adoption, child custody, modification, contempt and other enforcement, and all domestic matters of every kind and nature.

Subcommittee Comment:

This rule is added.

RULE 8.02

REMOVAL OF DISABILITY

(A) In all cases for removal of disability of a resident minor, the minor must be produced before the chancellor for observation and examination unless specially excused from so doing.

(B) Except in extraordinary and exceptional cases, the chancellor will decline to remove generally the disability of any minor who is under eighteen years of age.

(C) In all such cases, oral proof or affidavits must be produced.

Subcommittee Comment:

Stylistic changes only. This is former Rule 7.03, which was moved to this Part.

RULE 8.03

CORROBORATION

In all divorce cases, except on the sole ground of irreconcilable differences and where the statute relieves the plaintiff of the duty, the testimony of the plaintiff must be substantially corroborated.

Subcommittee Comment:

No change.

RULE 8.04

IRRECONCILABLE DIFFERENCES DIVORCE

(A) Unless excused by the court, in all irreconcilable differences divorce actions in which there are no contested issues to be addressed by the court, the attorney or party must appear before the court with MEC-stamped copies of the appropriate pleadings to request approval of the judgment and agreement. If the jurisdiction has not adopted the MEC filing system, then the attorney or party must bring the court file.

(B) The attorney must be prepared to answer all inquiries that may be raised by the court.

Subcommittee Comment:

Subsection (A) is revised to reflect current practice in MEC- and non-MEC-districts.

RULE 8.05

FINANCIAL STATEMENT REQUIRED

(A) Unless excused by order of the court, or unless waived by either or both parties and allowed by the court, each party in every domestic case involving economic issues and/or property division, shall provide the opposite party or counsel, if known, the following disclosures, such statement to substantially in the form of Form 1 in Part 12 of these rules:

- (1) A detailed written statement of actual income and expenses and all marital and non-marital assets and liabilities; and
- (2) Copies of the preceding year's federal and state income tax returns, in full form as filed, or copies of W-2s if the return has not yet been filed; and
- (3) A general statement of the providing party describing employment history and earnings from the inception of the marriage or from the date of divorce. For all other proceedings, for the five years preceding the date of filing the Petition.

(B) In the alternative, by agreement of the parties, or on motion and by order of the court, or on the court's own motion, the required financial disclosures may be made substantially in the form of Form 2 in Part 12 of these rules.

(C) The party providing the required written statement shall immediately file a Certificate of Compliance with the chancery clerk for filing in the court file.

(D) A party filing a document containing personal identifiers and/or sensitive information and data may:

- (1) file an unredacted document under seal, which document shall be retained by the court as part of the record; or,

(2) file a reference list under seal. The reference list shall contain the complete personal data identifiers and/or the complete sensitive information and data required by this Rule.

(E) The disclosures shall be made by the plaintiff not later than the time that the defendant is to appear in court for temporary relief, or the date defendant's answer (if required) is due, whichever is earlier.

(F) The defendant's disclosures shall be made at the time that the defendant is summoned to appear, or defendant's Answer is due, but not later than 45 days from the date of the filing of the commencing pleading.

(G) The court may extend or shorten the required time for disclosure upon written motion of one of the parties.

(H) A party is under a duty to supplement prior disclosures if that party knows that the disclosure, though correct when made, no longer accurately reflects any and all actual income and expenses and assets and liabilities, as required by this Rule.

(I) When offered in a trial or a conference, the party offering the disclosure statement shall provide a copy of the disclosure statement to the court, the witness and opposing counsel.

(J) This rule shall not preclude any litigant from exercising the right of discovery, but duplicate effort shall be avoided.

(K) The failure to observe this rule, without just cause, shall constitute contempt of court for which the court shall impose appropriate sanctions and penalties.

Subcommittee Comment:

Stylistic changes only.

Forms 1 and 2 referred to in Subsections (A) and (B) are Exhibits A and B to the current rule.

RULE 8.06

CHANGE OF ADDRESS OF CHILDREN

(A) In all domestic cases involving custody or visitation of minors and even though no order for custody or visitation may have been entered, each party shall keep the other informed of his/her full address, including state, city, street, house number, and telephone number, if available, unless excused in writing by the court.

(B) Within five days of a party subject to this rule changing his or her address, he or she shall, so long as the child or children remain minors, notify in writing the clerk of the court which has entered the order providing for custody and visitation, of his or her full new address, and shall furnish the other party a copy of such notice, proof of which shall be by certificate of service. The notice shall include the court file number. The clerk shall docket and file such notice in the

cause.

(C) In the event of a threat, disaster, or other emergency, such as a hurricane, which causes an emergency evacuation, any party who has custody of a minor child (physical custody or while exercising visitation) has a duty to notify the other parent of the location and well being of the minor(s) as soon as reasonably possible.

(D) Every order respecting custody or visitation should contain a provision incorporating the terms and requirements of sub-paragraphs (A), (B) and (C) above.

(E) The purpose of this rule is to prevent a parent from concealing from others the address and whereabouts of children. Willful failure to comply with this rule may be treated as a contempt. Failure to file with the clerk the notice required by this rule shall create a rebuttable presumption that written notice was not given to the other party.

Subcommittee Comment:

Stylistic changes only.

PART NINE
DUTIES OF THE CLERK

RULE 9.01

COSTS OF COURT

Court cost deposits to pay the fees due the chancery clerk, as presented in M.C.A. § 25-7-9, shall be made with the filing of any complaint or petition. The clerk may, pursuant to M.R.C.P. 3(b), require an additional deposit.

Subcommittee Comment:

This rule is revised to reflect changes in the statutory scheme for court costs.

RULE 9.02

ALL PAPERS MUST BE KEPT IN PROPER FILES

The clerk shall place and keep all papers pertaining to each action in a separate file. The clerk shall place and keep the files containing the papers in a filing case in the clerk's office, or vault, in numerical order. In addition, files may be maintained electronically as long as access to the files is available in the clerk's office.

Subcommittee Comment:

The revision clarifies electronic filing to reflect practice under MEC.

A former Rule 9.03 was deleted; current Rule 9.04 is renumbered 9.03. Reference to a former, deleted, Rule 9.05 is deleted.

RULE 9.03

ORIGINAL WILLS AND BONDS; HOW KEPT

The clerk shall keep all original wills, bonds, receipts from banks, and all disputed documents filed safely and securely locked in a safe or vault in the clerk's office. These items shall not be taken from the custody of the clerk for any purpose, except on an order of the chancellor.

Subcommittee Comment:

Stylistic changes only.

PART TEN
ABORTION

Subcommittee Comment:

Only stylistic changes were made to this rule.

RULE 10.01

WAIVER OF CONSENT TO ABORTION

(A) 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;
- (4) An allegation of one or more 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;
 - (b) That one or both of her parents, or her legal guardian was engaged in a pattern of physical, sexual, or emotional abuse against her, or that the notification of her parents, or legal guardian 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.

(B) 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.

(C) 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 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.

(D) 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 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.

(E) All 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.

(F) 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.

(G) 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 48.

(H) 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.

PART ELEVEN
CONFLICTING RULES

RULE 11.01

PRIORITY

In interpreting and applying these rules, the following shall govern in the event of any conflict, in the following order of priority:

- a. the United States Constitution;
- b. the Mississippi Constitution;
- c. Mississippi Code Annotated where it relates to jurisdiction;
- d. the Mississippi Rules of Civil Procedure; and
- e. the Mississippi Rules of Evidence.

Subcommittee Comment:

The revision reflects the Conference's understanding of the hierarchy of authority to be applied in resolving conflicts.

PART TWELVE

FORMS

STATE OF MISSISSIPPI
Thirteenth Chancery Court District
Post Two

GERALD M. MARTIN
Chancery Court Judge

CINDY BRAY
Court Administrator

P. O. Box 325
Raleigh MS 39153
(601) 822-5017

July 7, 2023

D. Jeremy Whitmire
Clerk of the Supreme Court of Mississippi
P. O. Box 249
Jackson, MS 39205-0249

RE: IN THE MATTER OF: REVISED AND UPDATED UNIFORM CHANCERY COURT
RULES

Dear Mr. Whitmire:

Please find enclosed herein the Amended Petition to Adopt the Revised Uniform Chancery Court Rules Approved by the Conference on April 27, 2023.

Please file and forward to the appropriate Justice.

Thank you for your assistance in this matter.

Sincerely,



GERALD M. MARTIN
CHANCERY JUDGE

Enclosure



RECEIVED
JUL 11 2023
BY:

GERALD M. MARTIN
Chancery Court Judge
Thirteenth District
P. O. Box 325
Raleigh, MS 39153

D. JEREMY WHITMIRE
CLERK OF THE SUPREME COURT OF MISSISSIPPI
P O BOX 249
JACKSON, MS 39205-0249