

**IN THE SUPREME COURT OF MISSISSIPPI**

**NO. 89-R-99015-SCT**

**IN THE MATTER OF THE LOCAL RULES OF  
THE FIFTH CHANCERY COURT DISTRICT**

**ORDER**

This matter has come before the Court en banc on petition of Chancellor Stuart Robinson, senior chancellor of the Fifth Chancery Court District, submitted, with approval of two of the three remaining chancellors of the district, by way of letter dated November 19, 1998 and seeking approval of proposed Local Rules of Court for the district.

1. Proposed Local Rule 13 requires that "subpoenas should be requested not less than ten days before trial, and discovery shall be limited to 90 days from the date the answer is due unless extended by the Court." M.R.C.P. 45(a) governing the issuance of subpoenas places no time limit on their requests or issuance. M.R.C.P. 45(d)(1)(A)(i) contemplates quashing of a subpoena on motion when it fails to allow *reasonable* time for compliance. This Local Rule, in its present and proposed form is not consistent with the Rules 45(a) and 45(d)(1)(A)(i) of the Rules of Civil Procedure and is denied.

2. Proposed Local Rule 21 provides:

If a contempt motion involves child support and maintenance or child custody and one or more ancillary issues such as visitation, medical bills, etc., it shall be heard by Division 2. If it does not have a direct bearing on the welfare or well being of a minor child, it shall be heard by the Division in which the case originated. This will also apply to temporary hearings except that these hearings shall be heard by Division 4. [Emphasis in original.]

This version of Local Rule 21 if approved would replace the existing rule which reads:

All temporary hearings for support and custody will be heard by Division 3, and all contempt motions for child support and custody will be heard by Division 4, as set by the Court Administrator.

The Court finds that the practice of automatically assigning ancillary matters to a chancellor other than the chancellor who presides over the principal litigation involving the same parties may result in an unfair imbalance of assignments within a district, and is to be avoided. Local Rule 21 in both its existing form and as in the proposed amendments is contrary to the fair and efficient administration of justice and is disapproved.

3. Chancellor Robinson, in his capacity as senior chancellor, on November 19, 1998, concurrently with the adoption of the proposed local rule amendments, also issued an order under authority of Miss. Code Ann. § 9-5-3 (Rev. 1994) adopts the same assignment scheme as Local Rule 21 as submitted for this Court's approval, omitting only the reference to temporary hearings. A copy of this order was submitted with the petition for approval of the local rules. The statutory authority of the senior chancellor to enter such orders is not without limitations, and any such order is subject to review by this Court. We find, for the same reasons stated as to proposed Local Rule 21, that such Order is vacated and annulled.

IT IS THEREFORE ORDERED that the petition seeking approval of the Local Rules for the Fifth Chancery Court District be and the same is hereby granted, except that Local Rules 13 and 21 are disapproved and shall be deleted from the local rules of the district. This decision extends both to Local Rules 13 and 21 as they exist at present and to the proposed amendments. A copy of the Local Rules for the Fifth Chancery Court District, as approved by this Order, are attached as Exhibit "A" hereto.

IT IS FURTHER ORDERED that the Order entered by Chancellor Stuart Robinson on November 19, 1998 relating to the assignment of contempt motions and other matters be and the same is hereby vacated.

IT IS FURTHER ORDERED that the Clerk of this Court shall spread this order on the minutes of this Court and that it be submitted to West Publishing Company for publication in the *Southern Reporter (Mississippi Edition)*.

SO ORDERED, this the day of April, 1999.

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EDWIN LLOYD PITTMAN, PRESIDING

JUSTICE, FOR THE COURT

MCRAE AND COBB, JJ., NOT PARTICIPATING

EXHIBIT "A" TO ORDER

FIFTH CHANCERY DISTRICT OF MISSISSIPPI  
FIRST JUDICIAL DISTRICT, HINDS COUNTY, JACKSON  
SECOND JUDICIAL DISTRICT, HINDS COUNTY, RAYMOND

LOCAL RULES

EFFECTIVE WHEN APPROVED BY THE MISSISSIPPI SUPREME COURT PURSUANT TO  
RULE 83 M. R C. P.

1. The Chancery Court of the Fifth Chancery District is divided into four divisions, and the Chancellors are as follows: Division 1, Stuart Robinson; Division 2. William H. Singletary; Division 3, Denise Owens; and Division 4, Patricia D. Wise. The division will hold hearings in the courtroom of the same number.
2. Administrative acts and policy decisions for the Fifth Chancery District will be determined by majority vote.
3. Ex Parte days are as follows: Division 1, Wednesday morning (9:00 - 11:30) by appointment; Division 2, Thursday morning (9:00 - 11:30) by appointment; Division 3, Tuesday morning (9:00 -11:30) by appointment; Division 4 Monday morning (9:00 - 11:30) no appointed needed.
4. Division of civil cases shall be as follows:
  - A. General docket civil actions shall be given a sequential number by the Chancery Clerk in the order being filed and shall then be divided in rotation by number in sequence to divisions of the Court and Judges as part of the docket number.
  - B. Ex parte civil actions are distributed in the same manner to divisions but may be presented to any division on the ex parte day designated for that division, except for contested matters, which must be heard by the division designated.
  - C. Probate civil actions will also be so distributed and heard until they become controverted, at which

time the Court Administrator shall put them in line to be heard in regular sequence by the division assigned.

D. Division 1 shall supervise the handling of mental cases for commitment, etc., appoint necessary special masters, defendant's attorneys, and doctors.

E. When a civil action is designated for a division, that division shall hear all matters and sign all judgments except as otherwise set forth herein.

5. Motions for modification of former judgments shall be heard by the division assigned to, or his successor, but not until after a contempt, if pending.

6. By prior arrangements with the Chancellor, ex parte matters may be heard at other times, and, in case of emergency, at any time, but attorneys are urged to remember that Judges need a break during trials and an opportunity to study, write opinions etc., during time when not engaged in trials.

7. Trial shall begin at 9:00 a.m. and terminate at 5:00 p.m., unless otherwise specified in the setting or by the Chancellor.

8. Irreconcilable differences divorces will be heard during ex parte assigned periods.

9. Uncontested divorces, which must be tried in open court, will be tried between the hours of 9:00 a.m. and 10:00 a.m. as follows: Division 1, on 1<sup>st</sup> Friday of each month; Division 2, on the 2<sup>nd</sup> Friday of each month; Division 3, on the 3<sup>rd</sup> Friday of each month; and Division 4, on the 4<sup>th</sup> Friday of each month.

10. All trials and motions requiring testimony or lasting over fifteen minutes will be set by the Court Administrator for all divisions. (Phone: 968-6521). Short motions will be heard in chambers on ex parte mornings. This arrangement will avoid long delays when many lawyers and clients are waiting on ex parte periods.

11. The Court Administrator may continue and reset trials by agreement of counsel at any time. Otherwise, the Chancellor must approve if the setting is within ten days of the motion for continuance.

12. Attorneys trying civil actions involving alimony or child support on original trial or subsequent modification, including irreconcilable differences, shall prepare and file with the Chancery Clerk a financial statement and disclosure in accordance with the form which appears as Exhibit "A" to Rule 8.05 of the Uniform Chancery Court Rules. The required financial statements shall be filed during the time frame set out in Rule 8.05. It shall be the responsibility of the plaintiff or movant to ascertain that all financial statements are in the court file before requesting a setting of the case.

13. *(Rule 13 is omitted, it having been disapproved by the Supreme Court.)*

14. A case may be transferred to another division by agreement of the Chancellors of the divisions involved.

15. Court terms for the Second Judicial District, Raymond, Mississippi, are set and hearings will be conducted by the Judges in rotation on the second Monday in February, the second Monday in June, and the second Monday in October. Court terms for the First Judicial District have been abolished by Section 9-5-3 (as amended September, 6, 1994) of the Mississippi Code of 1972.

16. Second District actions will also be divided by rotation in numerical sequence and will be tried during term time except:

A. Hearings involving temporary support, custody, maintenance, uncontested divorces, contested motions, and contempt in domestic relations action will be handled as they are in the First Judicial District and may be heard in Jackson.

17. All cases will be set by the Court Administrator in Jackson. Emergency motions, including TROs, may be heard by any division, if the civil action has not been given to a division or the division to which it is given is not available, or the Chancellor granting the initial order may hear the matter on its merits or have it placed in rotation.

18. Judgements and orders should be presented in person to the Chancellor unless prior arrangements otherwise have been made.

19. All pleadings, judgements, and orders must show the name and Mississippi State Bar number of the individual attorney actually presenting it, and it may not be presented to another Chancellor except on order of the Chancellor to whom it was first presented.

20. Civil actions which need to be consolidated with similar civil actions will, upon approval of the Chancellors involved, be all consolidated in the division where the civil action with the lowest number has been pleaded.

21. *(Rule 21 is omitted, it having been disapproved by the Supreme Court.)*

22. Stale cases, including probate matters, will be dismissed pursuant to Rule 41(d) M.R.C.P. if no action has been taken of record within the preceding twelve months if due after thirty days written notice by mail from the Clerk of the Court, unless application in writing is made to the Court and good cause shown to continue the case. These cases will be handled under the direction of Division 3.

23. In any case where an attorney who actively practices in the Fifth Chancery Court District is a party, all of the Judges recuse themselves and will submit the case to the Supreme Court for assignment to another chancellor unless the attorney's for the parties can agree that some other member of the Bar may hear the same.

24. There will be a standard fine of One Hundred Dollars (\$100.00) for contempt imposed against all attorneys in any case which has been set for trial where a settlement has been reached and the Court is not advised to remove the same from the trial docket or where an attorney shall fail to appear within 15 minutes of the time for hearing without prior notification to the Court and the other attorneys.

25. Appeals to the Chancery Court shall be set on the trial calendar by the Court Administrator on request of the appellant after all briefs have been filed. The appellant has thirty (30) days to file the Assignment of Errors and brief after record is filed, and the appellee shall file a reply brief and or cross appeal within twenty (20) days after filing by the appellant. Appellant, at his election, may file a reply brief within ten (10) day of filing by the appellee. It is not necessary to send extra copies of the brief to the Judge, but the case must be set on the trial docket, even though oral argument is not desired, to be considered by the Court. The court may require oral argument if neither party has requested such or deny oral argument as the Court deems necessary.

