

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

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

RULE 1.

Each term of Court shall commence and be held on the second Monday of each consecutive calendar month at the hour of 9:30 A.M. for the morning session; and each afternoon session of Court shall commence promptly at the hour of 1:30 P.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.

The court clerk shall not receive or file any original declaration, bill of complaint, petition or other original pleadings, including all exhibits thereto, unless and until: A., it contains, or has endorsed or stamped thereon, (1) the full name, place of residence, street, house and post office address, if known of each and every party thereto, or in lieu thereof, such information as may be necessary or required to locate such parties for the purpose of serving process or other legal notice upon them; and (2) the full name, post office address, and telephone number of the attorney filing the same; and B., there is tendered and filed with such original pleadings exact legible copies thereof for each defendant or respondent therein named, which legible copies the court clerk shall deliver to the parties entitled to receive the same, or their attorneys, upon proper request therefor.

RULE 3.

Unless filed in forma pauperis as required by statute, at the time of filing any original declaration, bill of complaint, petition or other pleading, the party or attorney filing the same shall make a deposit for court costs with the court clerk in an amount estimated by the clerk to be sufficient to cover the court costs to accrue in such case or cause; but in no event shall such costs deposit be less than \$15.00

RULE 4.

The court clerk shall not receive or file any pleading subsequent to any original declaration, bill of complaint, petition or other legal pleading unless and until it contains, or has endorsed or stamped thereon the full name, post office address, and telephone number of the party or attorney filing the same and the statutory certificate showing when, where and how the same was served upon the opposing party or attorney.

RULE 5.

No court file shall be checked out of the court clerk's office without the express consent thereof, and in no event shall a court file be checked out for more than ten (10) days.

RULE 6.

No attorney, county attorney, district attorney, officer of the court, county, district or state officer of the State of Mississippi shall sign as surety on any recognizance or bond in a civil or criminal cases either from a lower court to this court, or in this court, or from this court to the Circuit, Chancery, or Supreme Court of this state; nor shall any recognizance or bond violating this rule be approved, accepted or filed; and all recognizances and bonds when executed, approved and filed as herein provided shall be delivered promptly to the proper court clerk, who shall keep the same in a safe place for presentation to the respective courts when required so to do.

RULE 7.

Before docketing an appeal case from either a Justice of the Peace or Municipal Court, the court clerk shall make certain that all necessary papers are in the appeal record, including but not limited to, a transcript of the records of the justice or judge, the appeal bond, a list of the names and addresses of the witnesses (if available), the prosecutor, and defense attorney, if any; and if any such appeal record is not so completed, the court clerk shall require that the same be completed before filing and docketing the appeal.

RULE 8.

Unless otherwise ordered by the court, 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.

RULE 9.

In any criminal case where an appeal is taken to this court, and the appellant (defendant), when called as provided by the Rules, 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 of said actions, it will not be set aside during the term of court taken without good cause shown upon the hearing of a statutory motion reasonably 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 10.

Unless otherwise provided by statute or allowed by order of the court entered on its minutes after proper notice given, and a hearing thereon, on demurrer, motions, and dilatory pleas shall be filed, called to the attention of the court, set down, heard, and disposed of, and issues joined in all cases, causes, petitions counter-claims, set-offs, or cross-bills pending in the court at the return term; and failing therein, the court may treat the same as being waived or abandoned. However, all defenses filed that go to the merits of the cause of action or to the jurisdiction shall be called to the attention of the court and disposed of as soon as practicable.

RULE 11.

All cases, causes, petitions, counter-claims, set-offs or cross-bills, pending and triable on the civil or equity 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, or a party thereto or his attorney; 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 as hereinafter stated to each party concerned or his attorney by mailing a copy of the order to their usual post office address at least 14 days prior to the dates of the setting.

RULE 12.

Any cases, cause, petition, counterclaim setoff, or cross-bill pending on the civil or equity docket of the court for such period of time as shall have been prescribed by local rule of court without any affirmative action being taken therein by either of the parties, or their attorneys, shall without notice, be passed to the files or dismissed without prejudice at the cost of the plaintiff, complainant, or petitioner on the motion of either the court or its clerk, may be reinstated only upon petition filed, payment of accrued court costs, and order of the court.

RULE 13.

All requests for subpoenas for witnesses must be made in writing to the court clerk at least one (1) week prior to the day a case, cause, petition, motion or other legal pleading is set for hearing or trial, which request must contain, if known, the full name, post office, street and house address of each witness requested or in lieu thereof, such information as may be necessary or required to locate and serve such witnesses; and thereafter no subpoenas, subpoenas instantanor or subpoenas duces tecum shall be issued without the express consent of the Court.

RULE 14.

No person summoned for jury duty shall be excused from such duty except in the manner and for the causes provided by the statute unless it be made to appear that unusual and great injury would be caused by the retention of the particular person.

RULE 15.

All jurors, attorneys, prosecutors, officers of the court and witnesses whose presence is necessary or required for the hearing or trial of any legal matter set down for hearing or trial shall be present in court promptly on the date and at the time and place fixed for such hearing or trial; and where delay is caused by the absence of any such person, a fine may be levied against him by the court.

RULE 16.

In all civil and equity cases, causes or hearings where the Rule is invoked, the interested parties, or their representatives who are excused from the Rule, shall, at their election, either testify before calling their witnesses or retire during the examination of such witnesses.

RULE 17.

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. Only one attorney at a time shall be permitted to examine or cross-examine a witness.

In all cases the examination must be conducted in an orderly and decorous manner without improper interruptions from opposing counsel except for the purpose of interposing objections. Counsel and the witness must be courteous to each other. Counsel shall not abuse and mistreat the witness and the witness shall show counsel proper respect. If a witness shall attempt to evade or refuse to answer any proper question, the court will, on request of counsel, require the witness to answer. The breach of this paragraph of this rule shall constitute contempt and is punishable as such. All objections to testimony must be made to the judge and not to opposing counsel. The objection must be specific and not general. Counsel will not be permitted to argue between themselves. Irrespective of personal feeling opposing counsel shall be respectful to the court and to each other. The attorneys shall stand when addressing the court, examining witnesses, and addressing the jury except when excused for good cause by the court.

Leading questions will not be allowed by the party having the affirmative, except where proper, and specifically allowed; nor shall counsel be allowed to ask the witness again a question where there had been a full answer given to the question; but this rule shall not apply rigidly to cross-examination, where more latitude may be required to test the truthfulness, bias, or interest of the witness. And it shall be the duty of the court to enforce this rule of its own

motion and without objection being made, but the courts failure so to do, where there is no objection made, will not constitute a ground for exception.

RULE 18.

When possible, all conferences between attorneys or prosecutors and witnesses must be had before the commencement of the hearing or trial, and during the hearing or trial no conferences between the attorneys or prosecutors and witnesses will be permitted unless expressly directed or allowed by the court.

RULE 19.

At least 24 hours prior to the time that a case is set for trial each of the attorneys shall file his jury instructions with the clerk and submit to opposing counsel a copy of the instructions so filed in the case. If the court deems it necessary and/or justice requires it, the judge may initiate and give appropriate jury instructions in addition to those proposed by the litigants and approved by the Judge. All jury instructions approved by the court may be read to the jury by the judge before final argument begins, and will be made available to the attorneys during their argument and may be taken out by the jury when considering its verdict, and the judge in his discretion, if so requested by the jury, subsequent to retirement to consider its verdict may grant additional written jury instructions, but the judge shall not be put in error for his failure to instruct on any particular point of law unless specifically requested so to do in writing duly filed by the litigants. The unnumbered instructions presented by either party shall eliminate the phrase "The Court instructs the jury for the Plaintiff," and/or "The Court instructs the jury for the Defendant." Instead such written instructions shall leave out the identification of the plaintiff or the defendant.

The attorneys shall dictate their specific objection to the courts written instruction in the record and will be afforded an opportunity to do so in the absence of the jury and may dictate in the record counsels objection to the refusal by the court of any instruction requested and may make such specific objections or make exception to any written instructions given by the Court.

Other than general instructions pertinent to all cases being tried regarding the responsibilities of the jury in determining the facts, the litigants are limited to six instructions unless authorized by the court to have additional instructions in unusual cases where additional instructions might be warranted.

RULE 20.

Unless before argument to the jury begins, the defendant or respondent, or his attorney, waive argument, he will not be allowed to submit his case after opening argument and thereby

cut off further argument by the party or attorney having the right to opening and closing arguments.

RULE 21.

During their summations to the jury, attorneys and prosecutors will not be allowed:

- A. To abuse, personally criticize or humiliate the opposing attorney or prosecutor.
- B. To call any juror by name, have any personal contact with or solicit audible answers from the jurors individually or collectively.
- C. To inject therein any matters not testified to or reasonably deductible therefrom.
- D. After a verdict is returned, no party, attorney, or spectator shall be allowed to congregate or thank the jury for its verdict.

RULE 22.

In all cases, causes or hearings the mileage and per diem of all witnesses who are subpoenaed but not called to testify shall be taxed against the party causing them to be subpoenaed unless good cause to the contrary be shown to the Court.

RULE 23.

The Court may, in its discretion, direct the attorneys for any of the parties to a case, cause, petition, motion or other legal pleading to submit written briefs on any or all questions and issues involved in any such pending matters.

RULE 24.

No attorney, county, or county district officers or any other officer of the court shall sign bonds in civil or criminal cases either from the lower courts to the County Court or from the County Court to the Circuit Court. All bonds when executed shall be delivered promptly by the sheriff, or other officer granting said bond, to the clerk of the court, who shall file and keep said bonds separately in a safe place where they be safely kept for presentation at the trial of the cause.

RULE 25.

These Rules are adopted for the purpose of regulating and expediting the business of the court, and when, in the opinion of the court, right and justice requires, the court may amend or waive any of the provisions of these Rules.

RULE 26.

In order to avert possible controversial incidents between attorneys, and to give the defendant an opportunity to file a Motion to Set Aside the Judgment in the event some mistake may have occurred, the Court has decided no default judgments shall be taken during the last week of the court term.

RULE 27.

For the protection of the court, jurors, litigants, and attorneys, there will be no smoking in the courtroom by any spectators; and it is requested that the jurors, litigants, and attorneys keep their smoking to a minimum.

LOCAL RULE FOR THE YOUTH COURT OF HARRISON COUNTY, MISSISSIPPI

The Youth Court of Harrison County, Mississippi hereby authorizes the Clerk of the Youth Court, Jo Lynn Higdon, and her successors in office, or her or her successor designee, to set termination of parental rights cases, paternity and grandparent's visitation for original hearings and to continue the same for hearing at later date, if necessary, for the Youth Court of Harrison County, Mississippi.

[Adopted by order entered in the trial court and approved by the Supreme Court by order entered March 23, 1979.]