

KITCHENS LAW FIRM, PA

Matthew W. Kitchens*
Daniel W. Kitchens
John W. Kitchens
Zachariah Adkins



Located in the Historic Kitchens
Wholesale Co. Building

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OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

October 27, 2023

D. Jeremy Whitmire
Clerk of Appellate Courts
Post Office Box 249
Jackson, Mississippi 39205

Re: Support for Advisory Committee's Proposed Changes to MRCP 26

Dear Mr. Whitmire:

I am writing to express my strong support for the proposed changes to MRCP 26, specifically regarding rebuttal expert opinions. As a Mississippi attorney with a focus on personal injury cases, I believe that these changes are long overdue and are essential to ensuring a fair and efficient legal process for all parties involved.

The current absence of clear rules regarding the designation of rebuttal experts has often left litigants in various areas of litigation, including personal injury, in a state of uncertainty. This uncertainty arises from not knowing what experts a defendant or group of defendants may choose to engage, and what resources may be required to counter their arguments effectively.

For example, in personal injury cases such as intersection accidents, where liability may hinge on factors like a failure to keep a reasonable lookout or excessive speed, both parties may have substantial lay testimony and other evidence. However, the fear of a potential "expert arms race" can lead to the unnecessary designation of multiple experts, significantly increasing trial time and litigation expenses. This can put plaintiffs at a disadvantage, especially when defendants have more extensive resources at their disposal.

The proposed changes to MRCP 26 aim to address this issue by allowing for the designation of rebuttal expert witnesses. This will provide a level playing field for parties who make efforts to avoid unnecessary expert involvement while deterring an escalating cycle of expert designations that serve no substantial purpose.

This rule change aligns with the principles of judicial efficiency and cost reduction, as outlined in MRCP 1. By establishing a clear procedure for rebuttal experts, litigants can focus their resources on relevant and essential aspects of their cases, rather than engaging in speculative and costly expert battles.

I appreciate the Mississippi Supreme Court's efforts to bring our local rules in line with the federal rules of civil procedure and the benefits that this alignment can bring to our legal system.

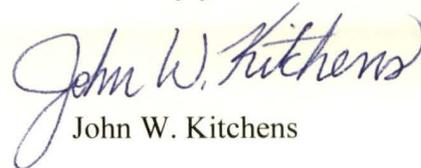
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The proposed changes will promote fairness, reduce wasteful litigation practices, and ultimately benefit the administration of justice in our state.

I wholeheartedly endorse the proposed rule change and encourage its adoption. These changes will not only enhance the efficiency of our legal proceedings but will also bolster confidence in our justice system among both legal professionals and the public it serves. They signify a significant step forward in ensuring that Mississippi's legal system remains fair, transparent, and accessible to all parties involved, ultimately advancing the cause of justice in our state.

Sincerely yours,


John W. Kitchens

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