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October 26, 2023

VIA USPS

**FILED**

**OCT 30 2023**

Mississippi Supreme Court  
Rules Committee on Civil Practice and Procedure  
c/o Clerk of Appellate Courts Post Office Box 249  
October 13, 2023  
Jackson, Mississippi 39205

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

Re: Public Comments: Proposed Amendments to Miss. R. Civ. P. 26

Dear Supreme Court Rules Committee:

Please accept this correspondence as my response to the Rules Committee's request for comments from members of the Bar and my opposition to the proposed amendments to Rule 26 of the Mississippi Rules of Civil Procedure, which were posted for public comment on September 28, 2023.

It is my opinion that the proposed amendments to Rule 26 are unnecessary and would serve to usurp a plaintiff's obligation to first meet his or her burden of establishing proof and unfairly prejudice a defendant's ability to timely evaluate a plaintiff's claims, its opportunity to meet that evidence and prepare its defense. Further, an automatic rebuttal expert deadline would encourage a strategy of avoidance and delay by plaintiffs of withholding proof and the disclosure of all of their experts' opinions until after the defendants' expert disclosures. Finally, providing for an automatic rebuttal expert witness deadline without a showing of unavoidable necessity or good cause, would not only disrupt an orderly pre-trial course of discovery, but also, unnecessarily lengthen and expand pre-trial preparations and expense. In effect, the overriding purpose of the rules of discovery, to promote economy and avoid surprise, would be defeated.

MOTION# 2018 2403  
attachment

In addition to my opinions as stated above, I have reviewed the attached and article authored by fellow member of the Defense Bar, Stephen G. Peresich, dated October 26, 2023, and hereby join in his well-stated positions contained therein.

Thank you for your consideration.

With kind regards, I remain

Respectfully,

BY:   
SHELLEY V. McDONALD (MSB # 2395)

SVM:mdm  
Enclosure