

Serial: 106881

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

FILED

SEP 04 2003

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

***RE: LOCAL RULES OF THE
FIFTEENTH CIRCUIT COURT
DISTRICT***

ORDER

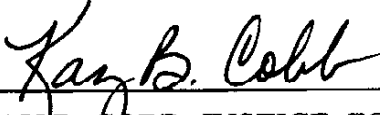
This matter has come before the Court en banc on petition of the judges of the Fifteenth Circuit Court District for approval of a new Local Rule 2. Having considered the petition, this Court finds that the petition should be granted and that the rule should be approved.

IT IS THEREFORE ORDERED that the petition of the judges of the Fifteenth Circuit Court District for approval of a new local rule is granted, and that Local Rule 2 as set forth in the order of the Fifteenth Circuit Court District of Mississippi attached as Exhibit "A" hereto is approved.

IT IS FURTHER ORDERED that the clerk of the Supreme Court shall spread this order on the minutes of the Court and shall forthwith forward a true certified copy of this

order to West Publishing Company for inclusion in the *Southern Reporter, Second Series*
(*Mississippi Edition*).

SO ORDERED, this the 2nd day of September, 2003.



KAY B. COBB, JUSTICE, FOR THE
COURT

McRAE, P.J. AND DIAZ, EASLEY AND GRAVES, JJ., NOT PARTICIPATING

EXHIBIT "A" TO SUPREME COURT ORDER

**IN THE CIRCUIT COURTS OF THE 15TH JUDICIAL DISTRICT
OF MISSISSIPPI**

Comprised of

**JEFFERSON DAVIS, LAMAR, LAWRENCE, MARION
and PEARL RIVER COUNTIES**

PROPOSED ORDER

THE COURT proposes this amendment to Local Rule 2 in accordance with and pursuant to The Supreme Court of Mississippi's adoption of U.R.C.C.C. 1.05A on May 29, 2003. The new Rule 1.05A reads, in pertinent part;

- A. In multi-judge 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. If an attorney or party shall attempt to manipulate or defeat the purpose of this rule, the case shall be reassigned to the judge who would have received the case under an assignment. If the judge who would have received the case under an assignment in compliance with this rule cannot be determined, a new assignment in compliance with this rule shall be made, excluding the judge to whom it was incorrectly assigned. Sanctions, including costs and attorney's fees, may be imposed by that Judge on reassignment. Such sanctions may include suspension from practice in the court imposing them for not more than 30 days and referral to the Bar for further discipline.

- C. [B]y 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.

The comment to the new rule states that the Court is exercising its inherent authority under *Newell v. State*, 308 So.2d 71 (1975) to supercede Miss. Code Ann. §11-1-56

which the Legislature adopted in 2002 and which stated that judicial assignments were not to be made until a responsive pleading was filed. The comment states the purpose of the new rule is to prevent "judge shopping" within multi-judge districts. The comment also states;

[A]ssignment of cases by regular rotation among the judges of the district is not a random assignment as contemplated by this rule since a regular rotation will allow those attentive to the docket to predict the judge who will receive a particular assignment.

This is exactly the manner in which cases are assigned in this district, with even-numbered cases being assigned to Place One and odd-numbered cases being assigned to Place Two.

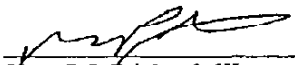
Though the Court is aware of allegations of "judge shopping" in other districts, after conducting its own investigation and having extensive discussions with all five Circuit Clerks, the Court can unequivocally declare that in the over twenty years that Judge Michael R. Eubanks has been on the bench, "judge shopping," has never been a problem in this district. Furthermore, the overwhelming majority of civil complaints filed in this district are received by the circuit clerks through the mail. This leaves little, if any opportunity for attorneys to chose Judge Eubanks over Judge R.I. Prichard, III or vice versa by being "attentive to the docket." Finally, the Court has determined that there is no alternative to the District's current system that will be more economic or improve efficiency.

This new requirement further taxes the time and resources of the circuit clerk's

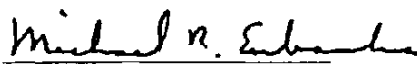
offices instead of punishing unethical behavior when it is discovered. The new rule requires the Court to devise a new system to thwart unethical behavior and then requires the circuit clerks to police this new system by keeping a watchful eye out for attorneys, that upon learning the name of their assigned judge, dismiss their complaint before a responsive pleading is filed just to re-file it hoping for a better result. An unethical attorney will easily defeat this system in the same manner he could defeat the current system by simply serving his own process and not serving the defendants until getting the judge he prefers assigned to the case.

Nevertheless, the Court proposes the attached amendment to its Local Rule 2 for the Supreme Court's consideration and approval. This amendment does not strictly meet the immediacy requirement of Rule 1.05A, but it is the least time consuming option for the circuit clerks to implement and helps insure an even docket between Place One, Place Two, and should a third judge be added to this district, Place Three.

SO ORDERED AND ADJUDGED this, the 27th day of June 2003.



Hon. R.I. Prichard, III
Circuit Judge Place One



Hon. Michael R. Eubanks
Circuit Judge Place Two

IN THE CIRCUIT COURTS OF THE 15TH JUDICIAL DISTRICT
OF MISSISSIPPI

Comprised of

JEFFERSON DAVIS, LAMAR, LAWRENCE, MARION
and PEARL RIVER COUNTIES


AMENDED LOCAL RULE 2

The 15th Judicial Circuit Court District shall utilize a "Place System" for assigning civil cases. The Place System shall be filled by seniority first, and should future judges have equal seniority, then the system shall be filled alphabetically. As of the adoption of this rule, Judge R.I. Prichard, III fills Place One Judge Michael R. Eubanks fills Place Two.

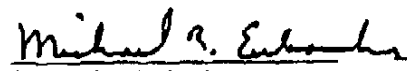
The Circuit Clerk of each County of the District shall keep a separate Judges' civil docket for each Place and cases shall be assigned to each Place by the first letter of the last name of the Judge. Upon receipt of the complaint the clerk shall file the complaint and assign a case number but not a judge. The party presenting a complaint to the clerk shall provide a 3" x 5" index card stating the name of the first plaintiff vs. the name of the first defendant which the clerk shall place in a box. At the end of the work day the clerk shall randomly determine which Judge will receive the first case drawn by rolling a six-sided die with 1-3 representing Place One and 4-6 representing Place Two. Should a third judge be added to the District, 1-2 shall represent Place One, 3-4 shall represent Place Two and 5-6 shall represent Place Three. After determining which Judge will receive the first case drawn, the clerk shall then draw out the index cards and assign Judges accordingly. Should a third judge be added to the District, after determining which Judge will receive the first case drawn, the clerk shall assign cases in ascending order.

Once a case is assigned to a Judge by the letter system, that Judge shall handle that case until final disposition. For good cause, a Judge may transfer a case to another Judge of the District for that Judge's handling and, upon transfer, the clerk is to add a hyphen and the letter of that Judge's Place to show the case has been transferred. This rule is for the assignment of civil cases only and shall not be used in the assignment of criminal cases.

SO ORDERED AND ADJUDGED this, the 27th day of June 2003.



Hon. R.I. Prichard, III
Circuit Judge Place One



Michael R. Eubanks
Circuit Judge Place Two