

Serial: 131805

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

FILED

IN RE: LOCAL RULES

MAY 18 2006

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

ORDER

This matter is before the Court en banc on the Court's own motion. The local rules for those certain circuit, chancery and county courts which maintain such rules have been converted into a consistent format for publication in *Mississippi Rules of Court*. The re-formatted local rules are attached as exhibits, as follows:

First Chancery Court District	Exhibit A
First Circuit Court District	Exhibit B
Second Chancery Court District	Exhibit C
Fourth Chancery Court District	Exhibit D
Fifth Chancery Court District	Exhibit E
Fifth Circuit Court District	Exhibit F
Sixth Chancery Court District	Exhibit G
Sixth Circuit Court District	Exhibit H
Seventh Chancery Court District	Exhibit I
Seventh Circuit Court District	Exhibit J
Eighth Chancery Court District	Exhibit K
Eighth Circuit Court District	Exhibit L
Tenth Chancery Court District	Exhibit M
Eleventh Circuit Court District	Exhibit N
Fourteenth Chancery Court District	Exhibit O
Fifteenth Circuit Court District	Exhibit P
Sixteenth Chancery Court District	Exhibit Q
Eighteenth Chancery Court District	Exhibit R
Eighteenth Circuit Court District	Exhibit S
Nineteenth Chancery Court District	Exhibit T
County Court of Harrison County	Exhibit U
County Court of Lowndes County	Exhibit V
County Court of Rankin County	Exhibit W

After due consideration, the Court finds that the re-formatted local rules should be approved.

IT IS THEREFORE ORDERED that local rules are hereby revised as set forth in Exhibits A through W attached hereto.

IT IS FURTHER ORDERED that the Clerk of the Supreme Court shall record this order in the minutes of the Court and shall forward a true certified copy of this order to West Publishing Company for inclusion in the *Southern Reporter, Second Series (Mississippi Edition)*. The Clerk shall also forward a copy of the revised local rules as set forth in Exhibits A through W attached hereto to West Publishing Company for publication in the *Mississippi Rules of Court*.

SO ORDERED, this the 10th day of May, 2006.

/s/ William L. Waller, Jr.
WILLIAM L. WALLER, JR.,
PRESIDING JUSTICE

NOT PARTICIPATING: DIAZ AND RANDOLPH, JJ.

EXHIBIT A
LOCAL RULES
FOR
FIRST CHANCERY COURT DISTRICT OF MISSISSIPPI

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

RULE 1. ASSIGNMENT OF CASES

(a) Pursuant to Uniform Chancery Court Rule 1.06, and subject to Paragraphs (b) and (c) of this rule, all matters filed in this district on and after September 8, 2003, shall be assigned to a single active Chancellor of this district at the time of filing of the action by such method as described in Paragraph (a)(1) of this rule and in such fashion as to ensure such assignments shall be equal and random, that no discernible pattern of assignment exists, and that no person shall know to whom the case will be assigned until such time as it has been accomplished.

(1) Unless the matter is indicated by the party or his attorney by separate certificate as "exempt from initial assignment" pursuant to Paragraph (b) or a "continued assignment" pursuant to Paragraph (c) at the time of filing of the pleadings, the Clerk, upon receiving the Civil Case Filing Form and the pleadings, shall proceed to draw by lot from a pool of thirty (30) lots bearing in equal numbers the first letter of the last name of the active Chancellors. The case shall be assigned to the Chancellor indicated upon the first lot drawn from the pool. Once drawn from the pool, a lot shall not be replaced until all lots have been drawn from the pool. Upon the drawing of the final lot, the pool shall be replenished with all of the aforesaid lots, and the process shall resume in a like manner.

(2) If a Chancellor has directed reassignment of a case pursuant to Paragraph (e) of this rule, then the matter shall be assigned to the Chancellor indicated on the next lot drawn by the Clerk from the pool described in Paragraph (a)(1) which does not indicate the Chancellor directing the reassignment; and each lot drawn during this reassignment bearing the mark of the Chancellor by whom the reassignment was directed shall be returned to the pool.

(3) The lots comprising the pool described in Paragraph (a)(1) shall be so fashioned as to bear no marks or characteristics which would differentiate one or more from the others, other than the required markings specified in Paragraph (a)(1).

(4) Upon assigning or reassigning a case pursuant to these rules, the Clerk shall notate the result accordingly upon the docket book.

(b) The following matters may be exempt from initial assignment to an active Chancellor if the party or his attorney shall certify by a separate Certificate of Exemption from Initial Assignment submitted simultaneously with the filing of the pleadings, in the manner set out in section (3) of this paragraph:

(1) Joint Complaints, including irreconcilable differences divorce actions and other uncontested matters; Pro se irreconcilable differences divorce actions; Name Changes or Birth Certificate Corrections; uncontested Adoptions; uncontested Guardianship or Conservatorship matters; Removal of Minority; Commitments; Bond validations; and any actions initiated by the Department of Human Services, Child Support Enforcement Division.

(2) If a matter listed in Paragraph (b)(1) which has not otherwise been assigned pursuant to these rules becomes a contested matter, or a response from the other party or parties indicating opposition to the requested relief is filed or stated to the Court, the Chancellor to whom the matter is submitted may, on his own motion or on the motion of any party, direct the Clerk to thereafter assign the case by the method specified in Paragraphs (a) or (c).

(3) If a party or his attorney desires to proceed with his case as "exempt from initial assignment," the party or his attorney must file a signed Certificate of Exemption from Initial Assignment with the Clerk simultaneous with the filing of the pleadings, which certifies that (1) he has reviewed Uniform Chancery Court Rule 1.06 and Local Rule 1, and (2) that the matter is exempt from initial assignment.

(4) For purposes of this rule, "uncontested" means that no summons shall be issued in the matter.

(5) Actions initiated by the Department of Human Services, Child Support Enforcement Division, shall be "exempt from initial assignment" without the necessity of filing the separate certificate as otherwise required under this Rule.

(c) All modification, contempt, or other matters seeking enforcement, clarification, amendment, or relief from a prior order entered by the Court, except those concerning orders entered in the categories listed in Paragraph (b)(1), shall be assigned to the active Chancellor by whom the order at issue was entered. The party or his attorney shall certify by a separate Certificate of Continued Assignment submitted simultaneously with the filing of the pleadings, in the manner set out in section (1) of this paragraph, that the matter is a "continued assignment." Upon receipt of the pleadings, and the aforesaid certificate, a lot containing a mark representing that Chancellor's name shall be removed by the Clerk from

the pool described in Paragraph (a)(1) and assignment made thereby. In any case in which the Chancellor by whom the order at issue was entered is no longer serving as Chancellor in this district, the matter shall be assigned by the Clerk as specified in Paragraph (a)(1).

(1) The Certificate of Continued Assignment shall be submitted simultaneously with the filing of the pleadings, signed by the party or his attorney, and shall state (1) that he has reviewed Uniform Chancery Court Rule 1.06 and Local Rule 1; (2) that the case was previously assigned pursuant to the Local Rule on Assignment of Cases; and (3) the name of the Chancellor to whom the case remains assigned.

(2) Matters remanded from the appellate courts or transferred from the chancery court of another county in this district shall be assigned in the manner set forth in Paragraph (a), unless the foregoing provisions on "continued assignments" are applicable.

(3) Matters that are transferred from the chancery court of another county outside of this district, or from the county court or circuit court of any county, or matters that are brought before the chancery court on appeal from any inferior tribunal, shall be assigned in the manner set forth in Paragraph (a).

(d) Temporary Restraining Orders are to be presented to the assigned Chancellor. However, in the event the assigned Chancellor is not available and the matter is of a genuine emergency nature, it may be presented to any available Chancellor who may act for and on behalf of the assigned Chancellor. The matter shall be heard on the merits by the assigned Chancellor.

(e) The assignment of a civil action is permanent, unless, and for good cause stated, the assigned Chancellor directs the Clerk to reassign the case to one of the other Chancellors. Where such reassignment is necessary, the Clerk shall use the method described in Paragraph (a)(2) if no method is directed by the Chancellor.

(f) Each case filed in this district after September 8, 2003, shall bear a number as follows: The last two digits of the calendar year in which the case is filed, followed by the sequential number of the case for the county and year, followed by the numerical designation for the county in which the matter is filed, followed by the first letter of the last name of the Judge to whom the case is assigned (e.g., 03-1234-02-M or 03-1234-02-L or 03-1234-02-S).

The following numerical designations shall be used for the counties of this district:

County	Numerical Designation
Alcorn	02
Itawamba	29
Lee	41
Monroe	48
Pontotoc	58
Prentiss	59
Tishomingo	71
Union	73

(g) If a divorce action has been assigned pursuant to these rules, and the parties have prepared and executed an agreement concerning all issues in the case, including withdrawal of all requests for relief based on fault grounds for divorce, an attorney of record may submit the agreed Judgment for Divorce-Irreconcilable Differences to any available Chancellor, if the requested Chancellor shall consent for the convenience of the parties and their attorneys. However, any subsequent action in such cause shall be brought before the Chancellor who was assigned to the case pursuant to these rules.

(h) Any matter not otherwise addressed by these rules shall be assigned in accordance with Paragraph (a) of this rule.

[Adopted by order entered August 30, 2004 and approved by the Supreme Court by order entered on October 11, 2004.]

EXHIBIT B

**LOCAL RULES
FOR
FIRST CIRCUIT COURT DISTRICT OF MISSISSIPPI**

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

RULE 1. CASE ASSIGNMENT PROCEDURE

(a) All Civil Cases filed after December 31, 1989, in the Circuit Courts of this district shall be assigned at the time of filing by such method as to insure that such 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 such time as it has been accomplished.

(b) Each Civil Case filed in this Court after December 31, 1989 shall bear a number as follows: The last two digits of the year in which the case is filed followed by the sequential number of the case for the county and year, followed in parenthesis by the first letter of the name of the Judge to whom the case is assigned. The suffix (G) designates Gardner; the suffix (PF) designates Funderburk; the suffix (A) designates Aycock. In addition, the first letter of the County name shall be added. Pontotoc County shall be (PO), Prentiss County shall be (PR).

(c) The Circuit Clerks of each of the Counties of this district shall immediately adapt a method of making assignments contemplated by this Order and have same approved by the Court prior to the effective date of this rule. In addition the Court Administrator's shall maintain a trial calendar so the Court, the Court Administrator and the Attorneys may schedule the trial of cases at times other than regularly scheduled term times.

RULE 2. TRIAL SETTINGS, DOCKET SETTINGS

(a) All Civil matters assigned to a Judge will be scheduled for trial by the Judge at such time, in term or otherwise, as shall insure the rapid disposition of the Court's business and in accord with the rules of discovery.

(b) All Criminal Cases shall be set by the Court on regularly scheduled docket setting on the suggested trial calendar prepared by the Office of the District Attorney. In the event the Court Administrator's Office is unable to resolve any conflicts concerning trial dates, the attorney for the Defendant will seek a continuance from the date scheduled by the trial docket prepared by the District Attorney.

(c) The matter of scheduling all cases for trial shall be under the direction and control of the Administrator, subject to approval of the Judges.

RULE 3. SCHEDULING ORDER

(a) Within thirty (30) days after issue is joined in a case, but no later than 120 days after the complaint is filed, counsel are required to present the Court a proposed Order setting forth deadlines for the joining of other parties and amending the pleadings; service of motions; and the completion of discovery. If more than six months discovery time is requested, the proposed Order should be accompanied by an explanation of the necessity for the protracted period. The proposed order shall provide that motions to add parties or amend the pleadings must be served no more than thirty (30) days after the date scheduled for completion of discovery. All counsel are required to make a realistic estimate of the time needed for discovery, but all requested periods of discovery shall remain under the supervision of the Court, and lengthened or shortened as the case dictates, and the Court shall enter a Scheduling Order accordingly. In the event counsel are unable to agree upon the terms of the scheduling order or fail to submit a proposed order to the Court within the time required by this paragraph, discovery shall be limited to the time provided in the Mississippi Rules of Civil Procedure. Extensions of deadlines will be granted by the Court only upon a showing of good cause.

(b) Within thirty (30) days after expiration of the time provided for discovery, Counsel are required to present an order to the Court setting a date for status conference or pretrial conference or providing that no pretrial conference is needed or required.

(c) If no pretrial conference is to be had the parties shall file with the Court an agreed pretrial order or note in the form previously provided by the Court. A copy of said form is appended to this rule.

(d) Following the pretrial conference or status conference, counsel shall submit to the Court an order setting the cause for trial and reflecting any ruling by the Court during such meeting.

RULE 4. MOTION PRACTICE

(a) **Applicability.** The provisions of this rule apply to all written motions filed in civil actions.

(b) **Filing; Proposed Orders.** The original of each motion, and all affidavits and

other supporting documents shall be filed with the Clerk where the action is filed. The moving party at the same time shall mail a copy thereof to the Judge presiding in the action at his home office mailing address.

A proposed Order shall accompany the court's copy of any motion which may be heard ex parte or is granted by consent.

(c) Responses. The original of any response to the motion, all opposing affidavits, and other supporting documents shall be filed with the Clerk where the action is filed and any response to the motion and all objections shall be filed and copies distributed as provided in Paragraph (B) of this rule.

(d) Memoranda; Documents Required With Motions to Dismiss or for Summary Judgment; Failure to Submit Required Documents. At the time the motion is served, other than motions or applications which may be heard ex parte or those involving necessitous or urgent matters, counsel for movant shall mail to the Judge the original of a memorandum of authorities upon which he relies and pertinent portions of the pleadings filed in the case. Counsel for respondent shall submit the original memorandum of authorities in reply, and shall do so within (10) days after service of movant's memorandum. Counsel for movant desiring to submit a rebuttal memorandum may do so within (5) days after the service of the respondent's memorandum. Any requests for extension of time shall be made in writing to the Judge before whom the motion is noticed. Memoranda submitted in connection with any dispositive motion shall be accompanied by separate proposed findings and conclusions. Failure to timely submit the required motion documents may result in the denial of the motion and/or the imposition of appropriate sanctions.

(e) Length of Memoranda. Movant's original and rebuttal memoranda together shall not exceed a total of thirty-five (35) pages, and respondent's memorandum shall not exceed thirty-five (35) pages. Memoranda and other submissions required by Paragraph (D), except as therein provided, are not to be filed with the Clerk's office.

(f) Notice and Hearings. All Motions in which a hearing is requested shall be noticed for hearing "as soon as counsel can be heard" but no date certain shall be set by the moving party except as approved by the Court Administrator's Office.

All motions shall be decided by the Court without a hearing or oral argument unless otherwise ordered by the Court on its own motion, or, in its discretion, upon written motion made by either counsel.

The scheduling of an evidentiary hearing or oral argument, where allowed, shall be

set at such time and place as may suit the convenience of Counsel and the Judge assigned to the case. The Court may, in its discretion, hear oral argument by telephone conference.

(g) Urgent or Necessitous Matters. Where the motion relates to an urgent or necessitous matter, counsel for the movant shall, prior to the filing the motion, contact the Judge to whom the action has been assigned, and arrange a definite time and place for the hearing of the motion. In such cases, counsel for movant shall endorse upon the motion a separate certificate giving notice to the other parties of the time and place fixed by the Court for hearing of the motion. The Court, upon receipt of the motion, may in its own discretion direct counsel as to the submission of memoranda of authorities for the Court's consideration.

(h) Service. Movant and respondent shall serve copies of all motions, responses, and/or memoranda upon opposing counsel. When service is by mail, three (3) days shall be added to the periods prescribed in Paragraph (D) of this rule.

(i) Court Reporters. If the hearing of a motion, whether at a regular motion day, pretrial conference, or special setting, requires the presence of a court reporter, the party requesting a court reporter shall obtain prior approval from the Judge before the motion is set.

(j) Untimely Motions. Any motion served beyond the motion deadline imposed in the Scheduling Order entered pursuant to Rule 3, may be denied solely because the motion is served untimely.

(k) Sanctions-Frivolous Motions or Opposition. A patently frivolous motion or opposition to a motion on patently frivolous grounds may result in the imposition of appropriate sanctions, including the assessment of costs and attorney fees.

(l) Sanctions-Unreasonable Delays. Delays, or continuances, or waste of the Court's time occasioned by the failure of a party to follow the procedures outlined in this rule may result in the imposition of appropriate sanctions, including assessment of costs and attorney's fees. In this regard, counsel shall notify the appropriate Judge immediately if a submitted motion is resolved by the parties or the case in which the motion has been pending is settled.

(m) All pleadings shall, in addition to other requirements, clearly indicate the complete name, mailing address and phone number of counsel filing same.

RULE 5. PRETRIAL CONFERENCES AND PRETRIAL ORDERS

(a) **Cases In which Conference to Be Held; Scheduling.** A pretrial conference may be held in all civil actions pursuant to a calendar periodically prepared by the Court Administrator's Office at the direction of the Court Administrator or the Judge and furnished by mail to counsel for all parties.

(b) Whenever possible, pretrial conferences shall be separately scheduled at a date, place and hour and for such period of time as the subject matter of the particular case may require, but in all events, pretrial conferences shall be scheduled in such manner as not to cause undue or inordinate inconvenience to counsel scheduled for pretrial conferences in other cases.

RULE 6. CONTINUANCES

No Continuance of any case may be agreed to by the parties after the cause has been scheduled for trial. Unless an order is entered by the Court prior to the date set for trial, the matter will proceed to trial as to all parties. This provision shall apply to civil and criminal matters.

RULE 7. CONFLICTS, RECUSAL

In the event a case is assigned to a Judge having a conflict as contemplated by the Canon (3) et seq. Code of Judicial Conduct which requires that he disqualify himself, then he shall advise the Clerk of the Court making the assignment of such conflict and return all materials connected with the matter.

Upon receipt of such notification the Clerk shall proceed to reassign the case to another of the judges, returning the disqualified Judges name to the pool so that he will draw another case to replace that one returned.

In the event all Judges of the District disqualify themselves the Senior Circuit Judge shall make proper application for appointment of a Judge from without the District.

RULE 8. NON-FILING OF DISCOVERY MATERIALS

(a) Interrogatories under Rule 33, M.R.C.P., and the answers thereto, Request for Production of Inspection under Rule 34, M.R.C.P., Request for Admissions under Rule 36, M.R.C.P., and responses thereto, and depositions under Rule 30 and 31, M.R.C.P., shall be served upon other counsel or parties as provided by the Rules, but *shall not* be filed with the Circuit Court Clerks. The party responsible for service of the discovery material shall retain the original and become the custodian.

(b) If relief is sought under the Mississippi Rules of Civil Procedure concerning any interrogatories, requests for production or inspection, request for admissions, answers to interrogatories, responses to request for admission or depositions, copies of the *portions* of the interrogatories, requests, answers, responses or depositions *in dispute* shall be filed with the appropriate Circuit Court Clerk and with the assigned Judge contemporaneously with any motion filed under said Rules.

(c) If interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a pre-trial motion which might result in a final order on any issue, the portions to be used shall be considered an exhibit and filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

(d) When documentation of discovery not previously in the record is needed for appeal purpose, upon an application and order of the Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

(e) The Clerks of this Court are authorized and directed to return forthwith any discovery materials submitted for filing which does not comply with the requirements set forth hereinabove. This order shall be spread on the minutes of this Court and a copy thereof made available to any attorney and/or party requesting same.

RULE 9 VIDEOTAPE DEPOSITIONS

The videotaping of a deposition in addition to the preparation of the usual written transcript shall be permitted as a matter of course provided the order or stipulation authorizing such deposition contains the following requirements:

(a) The time and place of the taping of the deposition shall be set by notice served in the same manner as for a regular deposition, except it shall state that a videotape deposition is being taken.

(b) The videotape operation technician shall certify as to the correctness and completeness of the videotape.

(c) At the beginning of the deposition the parties and counsel shall be shown in the visual portion of the deposition.

(d) During the deposition the witness shall be recorded in as near to courtroom atmosphere and standards as possible. There will not be any "zoom in" procedures to unduly emphasize any portion of the testimony, but "zoom in" will be allowed for exhibits and charts

to make them visible to the jury. The camera shall focus as much as possible on the witness. The attorneys may be shown on introduction, the beginning of examination and during objections.

(e) It shall not be necessary for a witness to view and/or approve the videotape of a deposition.

(f) Any party may purchase a duplicate original or edited tape from the video operator technician at any time.

[Adopted by order entered December 27, 1989 and approved by the Supreme Court by order entered on February 14, 1990.]

EXHIBIT C

**AMENDED LOCAL RULES FOR
SECOND CHANCERY COURT DISTRICT OF MISSISSIPPI
Adopted November, 2001**

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

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APPENDIX OF FORMS

**I.
GENERAL RULES**

RULE NO. 1. Commencement of Court. (Revised 04/90).

Court shall commence each day at 9:00 o'clock a.m. unless otherwise set by order of the Court.

RULE NO. 2. Establishment of Terms of Court and Ex Parte/Motion Days. (Revised 04/90)

The Court will enter an Order annually establishing the commencement and continuation of regular terms of Court as well as Motion and Ex Parte Days in the various Counties comprising the Second Chancery Court District. If no such order is entered prior to January 1, the Order for the previous year shall remain in effect.

RULE NO. 3. Duties of the Clerk/Court files. (Revised 11/01)

- A. It shall be the duty of the Clerk, or the Clerk's designated representative, to be present in the courtroom at all times Court is in session, unless excused by the Court.
- B. Other than Ex Parte and Motion Days, it shall also be the duty of the Clerk to have available in the courtroom the Court files and Exhibits of all cases set for hearing or motions that day.
- C. At all other times, the files of this court shall not be removed from the office of the Clerk except by permission of the Clerk. The Clerk shall maintain an appropriate system whereby court files may be checked out in accordance with this rule.
- D. Only attorneys, or parties who represent themselves, may remove files from the office of the Clerk, and they shall assume full responsibility for the safekeeping and return of such files. In addition, attorneys who have actions set on the court calendar when the Court is setting in another county shall check out the file from the Clerk's office and bring same to Court for such hearing. In either event, all files shall be promptly returned to the Clerk's office following the hearing by the Court, or within ten (10) working days from the day such file is checked out. (§ 9-5-165; M.R.C.P. 79; U.C.C.R. 1.02, 1.04)
- E. It shall also be the responsibility of the Clerk to notify the Bailiff of each day and time the Court will be sitting in their County.

RULE NO. 4. Dockets and Calendars. (Revised 11/01)

- F. The Clerk of the Court and the Court Administrator shall maintain General Dockets, Trial Calendars, Trial Dockets and other records and books as set forth in Rules 79

and 40 of the Mississippi Rules of Civil Procedure. [§9-17-1, et seq., Miss.Code. Ann] As a minimum, the following dockets shall be maintained at all times:

1. **General Docket:** A chronological log of activities of all actions filed with the Court. Every case filed with the Court is listed on this docket. (§ 9-5-201)
2. **Probate Docket:** All actions for the administration of estates, probate of a will, appointment of a Guardian, and appointment of a Conservator are hereby assigned to the Probate Docket, and shall be listed thereon.
3. **Family Master Docket:** All actions filed to establish paternity pursuant to the Mississippi Uniform Law on Paternity, and all actions filed by the State or County Department of Human Services, or its successor, for the purpose of establishing, modifying and enforcing orders for support, are hereby assigned to the Family Master from the date of filing of same, and shall be placed on the Family Master Docket until disposed of by the Family Master by written report or recommendation to the Chancellor (§ 9-5-255). The duly appointed Family Master shall be authorized to enter general administrative orders including, but not limited to Orders setting causes for trial, Orders of continuance, and Orders requiring paternity testing. All final Orders or Judgments shall be entered by the Chancellor
4. **Trial Calendar:** All cases which have been filed for more than one hundred twenty (120) days, other than cases on the Probate or Family Master Dockets, shall be placed on the Trial Calendar to be set for final hearing, if no final hearing has been previously set. (M.R.C.P. 40 & 78)
5. **Trial Docket:** The trial Docket shall be prepared by the Court Administrator at the time actions are set for trial and shall state the case to be tried, the date of the trial, the attorneys of record in the case, and the place of the trial. Additionally, if the matter is set for trial at a duly conducted docket call, the Trial Docket shall reflect such attorneys of record and parties representing themselves as were present personally or by design when the trial docket was set. (M.R.C.P. 40(b) and §9-17-1, et seq., Miss.Code. Ann.) In the discretion of the Court, matters and actions on the trial docket may be tried and disposed of in such a manner as to give preference to those matters and actions which are approaching the trial standards deadline as established by the Supreme Court.

RULE NO. 5. Scheduling trials, hearings and ex parte matters. (Revised 11/01)

A. Scheduling Rule 81(d)(1) and (2) matters.

- 1 Upon the filing of any action or matter listed in M.R.C.P. 81 (d)(1) and (2), Summons substantially similar to Form 1D or Form 1DD of said Rules shall be prepared by the party filing same and issued by the Clerk commanding the defendant or respondent to appear and defend at a time and place, either in term time or vacation, at which the same shall be heard. Pursuant to this rule, the attorney filing same may select any Ex Parte or Motion Day as the time and place of such hearing, and shall immediately notify the Court Administrator thereof.

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- Alternatively, the attorney filing such matter may, prior to the issuance of a summons thereon, obtain a different time and place for such hearing [other than an Ex Parte or Motion Day] by contacting the office of the Court Administrator.
- 2 If such action or matter is not heard on the day set for hearing, it may, by order signed on that day, be continued to a later day for hearing without additional summons on the defendant or Respondent, provided sufficient process on the Defendant was acquired to make the case otherwise triable on that date. Pursuant to this rule, the Clerk of the Court in the county in which said action is filed is hereby authorized to execute Orders setting such cases for hearing, or continuing same, on dates, and at locations within the district to be designated by the attorney filing same. It shall be the responsibility of said attorney to obtain the date, time and place of such setting from the Court Administrator.
 - 3 In the event that Summons is issued pursuant to this rule for any actions or matters enumerated in Rule 81(d)(1) and (2) M.R.C.P., and there is not sufficient service of process upon the Defendant or Respondent to make the cause triable on the date set in the summons, such process shall be void and a new Summons must issue pursuant to this rule for the Defendant or Respondent. (M.R.C.P. 81)

B. Scheduling other cases for Trial.

- 1 All Irreconcilable Difference divorce actions, and all actions wherein process is issued pursuant to MRCP 4, wherein the defendant is in default, will automatically be placed on the trial calendar by the Court Administrator. The Court Administrator will then prepare and forward to counsel for Plaintiff a Notice of Trial Setting advising counsel of the date, time and place of final hearing of said matter. The Notice of Trial Setting shall be in substantial conformity with Form CA.5B1.100.
- 2 Upon completion of process in any action wherein process is issued pursuant to MRCP 4, and the defendant has answered or otherwise made an appearance, the Court will enter a Time Standards Order which will, inter alia, set the matter for trial, subject to the following provisions. The Time Standards Order shall be in substantial conformity with Form CT.5B2.100 for contested domestic relations matters, and with Form CT. 5B2.200 for general civil actions.
 - a In all actions in which an answer has been filed by any Defendant, the Court will select a trial date which follows the date for completion of discovery as allowed by Uniform Chancery Court Rule 1.10, but prior to the deadline established by the Supreme Court in its Time Standards for Trial Courts. If no answer is filed following completion of process, the Court will place the action on the Trial Docket for the first available trial date for final resolution of the matter.
 - b Counsels for all parties should reserve the entire court term in which each action is set for trial. Although the trial date established by the Court in its Time Standards Order is the preferred date for trial of the matter, same may

be called up for trial at any time during the entire court term upon proper notice from the Court.

- c. In the event any attorney shall have any conflicts with the assigned trial date, notice thereof must be received by the Court Administrator within 10 days from the date of the Trial Standards Order. In such event, counsel with such conflict should, within 15 days from the date of the Trial Standards Order, arrange a conference call between the Court Administrator and all counsels for the purpose of selecting an alternate trial date, failing in which the trial date assigned in the Time Standards Order shall stand.
 - d. Absent unforeseen emergency or immediate exigent circumstances, only conflicts noticed to the Court Administrator within 10 days of the date of the Time Standards Order shall be considered by the Court. Unforeseen emergency or immediate exigent circumstances shall be considered by the Court on a case by case basis.
3. Any action may be set for trial by submission to the Court Administrator of an Agreed Order setting cause for hearing signed by at least one attorney of record for each party. Such Agreed Order shall provide either that:
 - a. All discovery has been completed, and all motions have been previously filed and finally disposed of; or alternatively,
 - b. Such Order may establish deadlines for the completion of all discovery, joinder of parties, designation of experts, as well as the filing and hearing of Motions. The Court Administrator should be contacted to ascertain available dates for trial settings.
 4. Alternatively, cases may be set for trial upon the Motion for Trial Setting of any party, and proper notice to all other parties. Such Motion shall be set for hearing on any Ex Parte or Motion day, with notice of such setting provided to the Court Administrator by the party setting same. However, notice of such Motion need not be made to any party in default for failure to appear. (M.R.C.P. 5(a))
 5. Cases may also be set for trial at a duly noticed and conducted Docket Setting pursuant to M.R.C.P. 40.
 6. In no event will such actions be set for trial unless and until process is completed on all parties, all motions have been filed, heard and finally disposed of, and all discovery is completed, unless prior authorization is obtained from the Court, and an Agreed Order is entered establishing deadlines for the completion of all discovery, as well as the filing and hearing of all Motions. **Once an action is set for Trial, all outstanding motions shall be deemed withdrawn, and all outstanding discovery shall be deemed waived, unless provided otherwise in the Order setting said cause for hearing.**

C. Scheduling motions and ex parte matters.

1. Pursuant to M.R.C.P. 78, all Motions and Ex Parte Matters shall be scheduled for hearing in the following manner:

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- a. The Court has established and will maintain scheduled days in vacation for hearing ex parte matters and motions. Any day designated as an Ex Parte day shall also be a Motion Day.
 - b. The Court Administrator shall maintain an Ex Parte and Motion Docket for each Ex Parte and Motion Day. Cases will be called on such days as they appear on the Ex Parte and Motion Docket. Attorneys, or parties representing themselves, who have matters they wish to schedule on an Ex Parte or Motion Day may do so by contacting the Court Administrator, whose address is Post Office Box 434, Forest, Mississippi 39074, and whose telephone number is (601) 469-2447.
 - c. It shall be the responsibility of each attorney, or each party representing themselves, to produce to the Court the original court file prior to the hearing of any case scheduled on an Ex Parte and Motion Day.

RULE NO. 6. Pre-Trial procedures. (Adopted 11/01)

A. Definitions:

1. The term "Filing Date" shall refer to the date of the filing of any original complaint or petition in any matter.
2. The term "Service of an Answer" shall refer to the date upon which an answer is due from the last of the Defendants required to respond. If no answer is required by applicable statutes or rules, the date of "Service of an Answer" shall be that date which is thirty days for divorce actions and all Rule 81(d)(1) matters, or seven days for all Rule 81(d)(2) matters after the date of service of process on the defendant, all as calculated pursuant to M.R.C.P.6.
3. The term "Target Date" shall refer to that date which is one year following the date of the filing of the complaint/petition [Filing Date] in contested domestic relations cases, or 18 months following the date of the filing of the complaint/petition [Filing Date] in general civil cases.
4. The terms "Counsels" or "Attorneys" shall include not only attorneys but also pro se litigants.

B. Scheduling Orders.

1. An appropriate Scheduling Order, in substantial conformity with Form CT.6B1.100, shall be submitted to the Court within thirty (30) days of the date of "Service of an Answer", as defined in this rule.
2. Counsels for all parties are under an affirmative duty to timely present the proposed Scheduling Order to the Court setting forth deadlines required therein, including, but not limited to deadlines for the joinder of other parties, amendments to pleadings, service of motions, designation of experts [whether requested by counsel opposite or not], service of dispositive motions and the **completion** of discovery. [The discovery deadline shall require that all discovery be **completed** and not simply filed by that date. For example, interrogatories should be filed more than thirty days prior to the discovery deadline, plus three days for mailing, if applicable. (See M.R.C.P. 6(e))]

3. Not later than twenty (20) days after the date of "Service of an Answer", as defined in this rule, lead counsel for Plaintiff shall initiate a conference call between counsels for all parties who shall then confer regarding preparation of the Scheduling Order and the content thereof. By agreement of all counsels, this conference may be conducted in person at a locations to be agreed upon. Unless agreed otherwise, Counsel for Plaintiff shall thereupon prepare the proposed Scheduling Order and submit same to Counsels for all defendants within four (4) days thereafter. Counsel for Defendants shall thereafter submit same to the Court no later than thirty (30) days following the date of "Service of an Answer".
4. In selecting applicable deadlines to be prescribed by the Scheduling Order, counsels for all parties must consider the "Target Date" as designated by the Supreme Court. Further, counsels for all parties should consider that all requests for continuances and all request for extensions of the deadlines set forth in the Scheduling Order will require a showing of good cause.
5. In the event counsels for all parties cannot agree on applicable deadlines to be contained in the Scheduling Order, all counsels shall submit to the Court, no later than twenty-six (26) days after the date of "Service of an Answer", a proposed Scheduling Order containing the deadlines which they propose for this case. In this situation, counsel should attach to the proposed Scheduling Order an Affidavit explaining the disagreement between counsels regarding the proposed deadlines, as well as an explanation as to why their proposed deadlines are more applicable to this situation.
6. In arriving at the deadlines to be prescribed in the Scheduling Order, counsels for all parties should consider the following as an initial guide:
 - a. Discovery Deadline 90 days from Service of an Answer, pursuant to U.C.C.R. 1.10;
 - b. Joinder of Parties 45 days from Service of an answer;
 - b. Amendments to Pleadings 45 days from Service of an Answer;
 - c. Designation of Experts 45 days from Service of an Answer;
 - d. Motions 120 days from Service of an Answer;
 - e. Dispositive Motions 150 days from Service of an Answer.
7. No new discovery shall be commenced after a case is set on the Trial Docket except by Order of the Court. (M.R.C.P. 16, 40)

RULE NO. 7. Filing and special contents of pleadings. (Revised 11/01)

- A. All pleadings, accounts and other papers filed in any action shall be mailed or delivered to the Office of the Clerk of the appropriate County, and not to the Court Administrator nor to the Chancery Judge. Such pleadings shall conform to the paper size and margin requirements set forth in the Rules and/or Tracking System of the Mississippi Supreme Court governing transcripts of judicial proceedings, and those which do not so comply shall not be accepted or filed by the Clerk.
- B. For the benefit and convenience of the Court and the Clerk, all documents (complaints, answers, motions, judgments, discovery pleadings, etc.) shall have typed

thereon the style of the case and the case number (if a number has been previously assigned).

- C. The Complaint/Petition and the Answer shall include the complete physical and mailing address and telephone number of the party upon whose behalf such is filed.
- D. Every pleading or motion of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, and whose address and telephone number shall also be stated. (M.R.C.P. 5 and 11; U.C.C.R. 2.02)

RULE NO. 8. Preparation of process. (Revised 04/90)

All process shall be prepared by the party requesting issuance of same, and presented to the Clerk of the Court for issuance.

RULE NO. 9. Administrative/Ex Parte matters. (Revised 11/01)

Administrative/Ex parte matters, or matters submitted on sworn pleadings not requiring testimony, may be handled by mail, provided "FILED" stamped copies of the pleadings and all exhibits, and proof of sufficient process are included with the requested or proposed Judgment or Order. Any correspondence by mail with the Court shall include an addressed and stamped envelope for the Court's response, or return of said Judgment or Order. (U.C.C.R. 7.02)

RULE NO. 10. Preparation and submission of judgments and orders. (Adopted 11/01)

- A The Court shall designate the attorney to prepare all judgments and orders of the Court. The attorney designated to prepare the judgment or order shall submit same to counsel opposite who shall sign said judgment or order indicating approval of same as to form. The purpose for this is to let the Court know that opposing counsel has had the opportunity to read the judgment or order and, while he may disagree with the ruling of the Court, agrees that the judgment or order contains what the Court did in fact hold. When there is no opposite counsel and the judgment or order is sent to the Court by mail, the accompanying letter shall contain sufficient facts as to remind the Chancellor of the specific case.
- B All agreed judgments or orders shall be presented to the Court within ten (10) days from the announcement of such agreement to the Court, failing in which, see Rule 10(c)(5) below. All agreed judgments and orders shall be signed by all attorneys in such fashion as to indicate their agreement with the adjudications contained therein.
- C Problems have arisen with regard to compliance with UCCR Rule 5.04 requiring that judgments be presented to the Chancellor within ten (10) calendar days. In an effort to avoid such problems and to ensure compliance with UCCR 5.04, the following procedure for preparation and submission of judgments and order is hereby adopted by the Court.
 1. Upon the completion of the hearing of any matter, the Court will designate which attorney is to prepare the judgment or order.
 2. The attorney designated by the Court to prepare the judgment or order shall forward a proposed judgment or order to counsel opposite, if any, within three

days following the hearing. When there is no opposite counsel and the judgment or order is sent to the Court by mail, the accompanying letter shall contain sufficient facts as to remind the Chancellor of the specific case.

3. Upon receipt of the proposed judgment or order, counsel opposite shall immediately review it and sign it, if correct, and send it to the Court, copying the attorney who prepared same. If counsel opposite disagrees with the form of the order or judgment, he/she shall immediately contact the attorney who prepared same in an attempt to resolve the disagreement. If additional time is absolutely necessary to resolve this disagreement, counsel opposite shall advise the Court *prior to expiration of the ten (10) day period* and obtain an extension of time within which to submit the judgment or order, *but in no event shall such addition time exceed ten (10) additional days.*

4. If counsels are able to resolve the disagreement, an appropriate judgment or order shall be forwarded to the Court within the ten (10) day period, plus any extension allowed by the Court, not to exceed ten (10) additional days. If counsels are unable to resolve the disagreement, counsel opposite shall so notify the Court Administrator *prior to the expiration of the ten (10) day period, plus any extension of time allowed by the Court.* The Court Administrator shall then schedule the matter for further hearings for the purpose of entry of a judgment or order. Such hearing for the entry of an appropriate judgment or order shall be scheduled as soon as possible, but in no event later than twenty (20) days following the date of the hearing at which the Court directed the preparation of the judgment or order. Notice of such hearing, in substantial conformity with form CA.10C4.100, shall be provided to both counsels by the Court Administrator. Both counsel are required to personally appear before the Court at such hearing and to present to the Court a proposed judgment or order.

5. If the judgment or order is not presented to the Court within the ten (10) day period allowed, plus any extension of time granted by the Court, and neither attorney has contacted the Court Administrator to have the matter set for hearing for the purpose of entry of a judgment or order, the Court will enter an **ORDER TO SHOW CAUSE** in substantial conformity with Form CT.10C5.100 directing that both attorneys personally appear before the Court to show cause why they should not be held in contempt of Court and assessed cost and expenses, if appropriate.

RULE NO. 11. Willful violation of rules constitutes contempt. (Revised 04/90)

Any willful violation of these rules shall constitute contempt of Court, for which any person may be fined and/or imprisoned in the County jail

II.
RULES CONCERNING DOMESTIC RELATIONS MATTERS

RULE NO. 12. Full financial information in domestic relations matters.(Revised 11/01)

- A. In all domestic case wherein economic issues and/or property division has been plead, the parties and their attorneys shall comply with Rule 8.05, Uniform Chancery Court Rules. Each party shall provide the opposite party or counsel, if known, the following disclosures:
 - 1 A detailed written statement of actual income and expenses and assets and liabilities in the forms proscribed by Rule 8.05, Uniform Chancery Court Rules;
 - 2 Copies of the preceding year's Federal and State Income Tax returns, in full form as filed, or copies of W-2's if the return has not yet been filed;
 - 3 A general statement of the providing party describing employment history and earnings from the inception of the marriage or from the date of divorce, whichever is applicable.
- B. The party providing the required written statement shall immediately file a Certificate of Compliance, in the form contained in Rule 8.05 with the Chancery Clerk for filing in the Court file.
- C. These voluntary disclosures shall be made by Plaintiff not later than the time that the Defendant's Answer is due, and by the Defendant at the time that the Defendant's Answer is due but not later than 45 days from the date of the filing of the commencing pleading, if discovery was filed with the commencing pleading.
- D. If the original consideration of the matter by the Court is in the form of a Temporary Hearing or Contempt Hearing, such financial information shall be furnished to the Court and to opposing counsel as soon as Court convenes on the date of the hearing; except that, in contempt cases, Plaintiff need not submit full financial information.

RULE NO. 13. Family Support Act of 1988--Findings of fact. (Revised 04/90)

Pursuant to the Family Support Act of 1988, [P.L. 100-485, Section 103, 42 U.S.C. Section 667(b)], and § 43-19-101, Mississippi Code of 1972, as amended (Miss.Laws, ch. 439, 1989), the guidelines adopted by the State of Mississippi for establishing child support obligations shall be considered by the Court, along with those items of consideration heretofore enumerated by the Supreme Court, in all cases wherein child support is awarded or modified, whether such award be by agreement or by opinion of the Court. In all actions in which § 43-19-101, Mississippi Code of 1972, as amended is applicable, any party who requests a variance from the guidelines enumerated therein, either by way of increase or decrease, should present to the Court, at the time of the hearing, proposed written findings of facts as to why the application of the guidelines would be unjust or inappropriate in that particular case. Such proposed written findings may be in the form of a proposed Judgment containing the reasons for deviation.

RULE NO. 14. Appointment of valuation expert. (Adopted 11/01)

