

Serial: 231557

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99001-SCT

FILED

***IN RE: THE RULES OF CIVIL
PROCEDURE***

MAY 05 2020

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COURT OF APPEALS

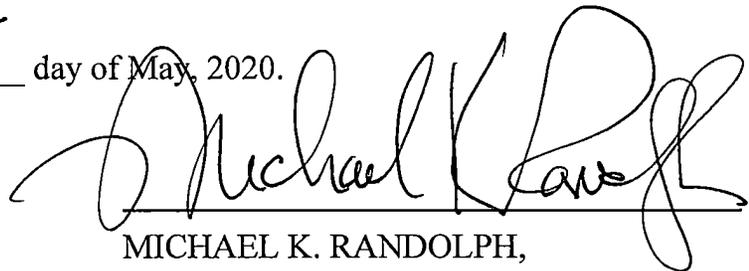
EN BANC ORDER

Before the en banc Court is the Motion to Amend M.R.C.P. 43 (Motion No. 2019-3487), filed by the Advisory Committee on Rules.

After due consideration, we find that the motion should be granted.

IT IS THEREFORE ORDERED that the Motion to Amend M.R.C.P. 43 is granted. Rule 43 is amended as set forth in the attached Exhibit A. The amendments shall be effective on July 1, 2020.

SO ORDERED, this the 5 day of May, 2020.



MICHAEL K. RANDOLPH,
CHIEF JUSTICE
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT A

RULE 43. TAKING OF TESTIMONY

(a) Form and Admissibility. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by these rules or the Mississippi Rules of Evidence.

~~**(b) [Abrogated].**~~

~~**(c) [Abrogated].**~~

(d) (b) Affirmation in Lieu of Oath. Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.

(e) (c) Evidence on Motions. When a motion is based on facts not appearing of record the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or depositions.

(f) (d) Interpreters. The court may appoint an interpreter of its own selection and may ~~assess~~ ~~fix~~ his reasonable compensation. The compensation shall be paid out of funds provided by law or by one or more of the parties as the court may direct and may be taxed ultimately as costs, in the discretion of the court. However, in the event and to the extent that such interpreters are required to be provided under the provisions of the Americans with Disabilities Act, 42 U.S. C. § 12131, *et seq.* or under rules or regulations promulgated pursuant thereto, such compensation and other costs of compliance shall be paid by the county in which the court sits, and shall not be taxed as costs.

[Amended effective January 10, 1986; amended June 5, 1997; amended effective July 1, 2020.]

Advisory Committee Historical Note

Effective July 1, 2020, Rule 43 was amended to re-designate former Rule 43(d) [Affirmation in Lieu of Oath] as Rule 43(b); to re-designate former Rule 43(e) [Evidence on Motions] as Rule 43(c); and to re-designate former Rule 43(f) [Interpreters] as Rule 43(d).

Effective July 1, 1998, Rule 43(f) [Interpreters] was amended in regard to compliance with the Americans with Disabilities Act, 42 U.S.C. § 12131, *et seq.*

Effective January 10, 1986, Rule 43(a) was amended to provide that testimony may be taken other than in open court, as provided by the Mississippi Rules of Evidence, and to

delete references to the admissibility of evidence; Rule 43(b) [Mode and Order of Interrogation], and Rule 43(c) [Record of Excluded Evidence] were abrogated. 478-481 So. 2d XXVII (West Miss. Cas. 1986).