

Serial: 245438

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99015-SCT

FILED

MAR 01 2023

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

IN RE: LOCAL RULES

EN BANC ORDER

Before the Court is the Motion to Amend Local Rules for the Tenth Chancery Court District filed by the Chancellors for the Tenth Chancery District.

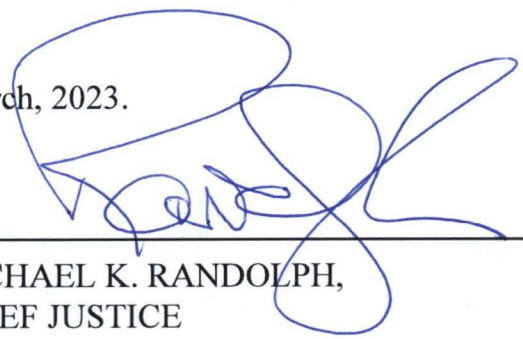
The Chancellors seek approval of amendments to the Local Rules for the Tenth Chancery Court District.

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

IT IS THEREFORE ORDERED that the motion is granted. The Local Rules for the Tenth Chancery Court District are amended as set forth in the attached Exhibit A, and the amended rules are effective upon entry of this order.

IT IS FURTHER ORDERED that Clerk of this Court must spread this order upon the minutes of the Court and send a certified copy to West Publishing Company for publication in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*, and in the next edition of the *Mississippi Rules of Court*.

SO ORDERED, this the 1 day of March, 2023.



MICHAEL K. RANDOLPH,
CHIEF JUSTICE
FOR THE COURT

ALL JUSTICES AGREE.

EXHIBIT A

**LOCAL RULES
FOR
TENTH CHANCERY COURT DISTRICT OF MISSISSIPPI**

PREAMBLE

The purpose of these rules is to continue the fair and orderly disposition of civil actions filed in the Tenth Chancery Court District of Mississippi. These rules shall govern the management and disposition of all civil actions filed in this district.

These Local Rules shall be effective upon the approval of the Supreme Court of Mississippi. All amendments to these Rules shall be by Order of the Court and shall require the approval of a majority of the Chancellors of the District and of the Supreme Court of Mississippi.

RULE 1. TERMS OF COURT AND CASE ASSIGNMENT

(a) The Chancery Court of the Tenth Chancery District shall be in continuous terms in each county of the District. ~~The Court Calendar or Docket shall not be called at any time except by special order of any Chancellor or chancellors of the District with proper notice being given at least thirty (30) days in advance to the attorneys of record or unrepresented parties (who, acting pro se as their own attorneys, are to be given notice in the same manner as licensed attorneys).~~

(b) All new civil actions filed in this district shall be assigned equally and randomly among the four Chancellors by random computer assignment except as provided hereafter. The assignment of a civil action is permanent unless, for good cause stated, the assigned Chancellor transfers the case to the general docket for reassignment by way of Order or Recusal. Notice in writing of any prior filing ~~(s)~~ involving the same parties over the same or similar issues in any Mississippi court, will be provided to court clerks by the attorney or party filing of an action. UCCJEA disclosures containing such information will be pointed out to the filing clerk at the same time.

(c) The assigned Chancellor shall have the sole responsibility for the management and disposition of all cases assigned to his/her docket.

(d) If an assigned civil action is settled, the case may be presented to any Chancellor for Final Order provided approval by the assigned Chancellor or his/her Staff Attorney ~~Court~~

~~Administrator~~ is obtained for another Chancellor to sign the order. Such Final Order shall reflect that the signature of the signing Chancellor is "for the assigned Chancellor."

(e) If an assigned matter is heard as an accommodation by another Chancellor, the case shall nonetheless remain the assigned Chancellor's case for all future action.

(f) 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. Each Chancellor shall preside over ~~have responsibility for~~ such cases by County as follows:

The Place 1 Chancellor ~~Judge~~ shall have ~~responsibility for~~ Lamar and Perry Counties.

The Place 2 Chancellor ~~Judge~~ shall have ~~responsibility for~~ Marion County.

The Place 3 Chancellor ~~Judge~~ shall have ~~responsibility for~~ Forrest County.

The Place 4 Chancellor ~~Judge~~ shall have ~~responsibility for~~ Pearl River County.

Based on the limited court terms in Marion and Perry Counties, any Chancellor can preside over cases in those counties based on availability.

(g) Youth Court cases in Perry and Marion Counties, Mental Commitments and Alcohol and Drug Commitments are exempt from random assignment and will be handled by the Youth Court Referee or Special Master appointed for such hearings. If the Youth Court Referee or Special Master is unavailable, then one of the chancellors may hear case.

(h) Guardianships and Minor Settlements. When a need arises to open guardianships and/or minor settlements for siblings, step-siblings, half-siblings and/or other unrelated children and the basis for such filings has arisen from the same causation, each such case shall be assigned to the Chancellor to whom the first case is assigned. If any minor's settlement arises out of an estate, the minor settlement(s) shall be assigned to the Chancellor to whom the estate matter is assigned. If the minor's settlement is opened for the purpose of receiving an inheritance from two (2) or more estates and they are assigned to different Chancellors ~~Judges~~, then the minor's settlement action will remain with the Chancellor to whom it was assigned upon filing.

(i) Reciprocal Causes of Action. When one party initiates a cause of action against another party and the defendant from the first action later files a reciprocal cause of action against the plaintiff from the first action and both actions arise from the same set of facts, the two (2) actions shall be consolidated into the smaller cause number with that Chancellor regardless of to whom the later filed action was assigned or in what order service of process was accomplished.

(j) Dismissed Causes of Action. If a party initiates a cause of action which is voluntarily dismissed or dismissed on a Clerk's motion for want of prosecution and later re-files a new cause of action based upon the same or substantially similar causation as the previously dismissed filing, then the new cause of action shall be assigned to the Chancellor to whom the initial cause of action had been assigned.

(k) 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.

RULE 2. SCHEDULES ING EX PARTE

(a) In September of each year, the Senior Chancellor shall prepare and publish a schedule for weekly dockets for all four Chancellors for the coming year which shall be published on the web site page for of the 10th Chancery District (chancery10th.com). The first day of each week (Tuesday if Monday is a holiday) set shall be designated Ex Parte Days.

(b) Attorneys, their staff or any pro se litigant shall visit the web site for the 10th Chancery District at chancery10th.com to obtain settings for any matter before the Court. If they are unable to obtain a setting via the web site, the attorneys, their staff or any pro se litigant shall contact the Court Administrator assigned to each respective Chancellor to schedule any matter. Unless otherwise permitted by the sitting Chancellor or his Administrator, all Ex Parte Days are reserved exclusively for non-contested matters as well as any conferences set in advance by the sitting Chancellor's Court Administrator and any matter set by special order of the sitting Chancellor for hearing.

RULE 3. RULE 81 RETURN DATES

(a) In all civil actions governed by M.R.C.P. 81(d) the summons shall be made returnable to a day certain scheduled Ex Parte Day of the assigned Chancellor unless another date is obtained from the Court Administrator for the assigned Chancellor and a Setting Order presented to the Chancellor to authorize issuance of such process or on special days for an individual chancellor set in accord with a general order of such Chancellor filed with the clerks of all counties in the district and made available on the Chancery District 10 web page. Any such days shall also be reflected on the general web page Calendar of such Chancellor. If any case is not heard on the date set for the original hearing, the process may be preserved by compliance with M.R.C.P. Rule 81 and Notice of the new hearing date shall be given by Plaintiff, all as provided by M.R.C.P. 5(b). All

trial dates shall be provided by the Court Administrator for the assigned Chancellor. The prior practice in this District of issuing a Fiat is hereby terminated.

(b) Any M.R.C.P. 81 process returnable to a day certain regularly scheduled Ex Parte Day shall be considered as a return day only. If the Respondent or Defendant appears and to contests the matters asserted in the Complaint, a later trial date will be set by the Court Administrator of the assigned Chancellor; otherwise, the case may be proceeded upon on the day certain and per the M.R.C.P. at the time provided no testimony is required of record.

RULE 34. TRIAL SETTINGS

Trial shall be set in the following manner:

(a) By agreement of the parties with the approval of the Court Administrator of the assigned Chancellor as to the time and place;

(b) Upon Motion for Trial Setting of a party and properly noticed to other parties. The return date for such motion shall be provided by the Court Administrator of the assigned chancellor upon request; or

(c) By the Court after proper notice to the parties.

(d) After trial is set, the Court Administrator shall e-file a notice of setting with the trial date and location notifying all attorneys of record and shall send notice by regular mail to litigants or other interested parties acting as self-represented litigants who do not have access to MEC in addition to placing it on the District Web Page, mail notice of the trial date and location to all attorneys of record and litigants representing themselves pro se. Continuances thereafter shall be requested by motion and shall be granted or denied in the discretion of the Court may only occur on motion signed by both parties and their attorneys.

RULE 45. MOTIONS

(a) Motions not requiring testimony and which can be heard in less than fifteen (15) minutes shall be treated as non-contested matters and may be set for hearing and presented at the discretion of the assigned Chancellor will be heard on Ex Parte Days after the other matters have been completed.

(b) Upon the filing of any post-trial or post-judgment motions, a copy of such motion shall be forwarded immediately to the presiding Chancellor and the filing attorney(s) shall subsequently set the motion for hearing and/or conference no later than forty-five (45)

days after the filing of the motion(s). The failure of the filing attorney to have the matter set within this timeline may result in a denial and dismissal of the motion *sua sponte* at the discretion of the Chancellor. Pleadings to Modify and pleadings for Citations for Contempt shall be treated as Complaints to Modify and Complaints for Citation for Contempt and shall be heard as contested matters and therefore set for hearing by the Court Administrator.

(c) Successive M.R.C.P. Rule 59 motions are not permitted. Once the Court has ruled on initial Rule 59 motion(s), neither party may file any more Rule 59 motion(s). Upon filing of any post-trial or post-judgment motions, a copy of such motion shall be forwarded immediately to the presiding Chancellor and subsequently set for hearing and/or conference by the Court Administrator of the assigned Chancellor.

RULE 6. FILING OF DISCOVERY MATERIALS

Responses to Discovery Requests shall not be filed in the Court file, only the Notice of Service of such responses.

RULE 67. PRE-TRIAL/SETTLEMENT CONFERENCES

(a) This District Court encourages the use of informal conferences for the purpose of settlement or resolution of pre-trial issues.

(b) Any action before the Court may be set for Settlement Conference at the request of any party, or on the Court's own motion, or by entry of an Agreed Order. The Court Administrator of the assigned Chancellor will provide, upon request, available dates for informal or formal (M.R.C.P. 16) conferences.

(c) All Settlement Conferences shall be conducted and set on Fridays with dates to be obtained from the Court Administrator of the presiding Chancellor.

(d) All counsel and their clients or client representative(s) shall be present at any scheduled settlement conference absent any unforeseen emergency or exigent circumstances.

(e) Counsel for all parties shall be prepared to produce to the Court and counsel opposite at the time of the settlement conference the following:

1. The Court file (if it is maintained),
2. All discovery responses and tangible things produced in discovery,
3. 8.05 Financial Statements with tax returns and employment history (for those cases requiring submission of 8.05 Financials).

4. Copies of written reports for any expert expected to testify at trial, and
5. Copies of any Appraisals of property at issue.

ADDENDUM

Attorneys and pro se litigants should verify settings in advance by consulting the docket on the District Web Page (www.chancery10.com)

Video conferencing is available, subject to prior court approval, for temporary hearings, motion hearings, settlement conferences, minor settlements and other *ex parte* matters.

All attorneys are expected to be familiar with the Uniform Chancery Court rules and particular attention is invited to the following:

Rule 1.08 Withdrawal of Counsel ~~WITHDRAWAL OF COUNSEL~~

Rule 1.10 Discovery Deadlines and Practice

Rule 5.04 Judgment Must be Submitted to Opposing Counsel and Chancellor - When

Rule 6.01 Attorney Must be Retained

Rule 6.03 Fiduciary and Attorney Must be Diligent

Rule 6.08 ~~ALLOWANCE FOR SUPPORT OF WARD~~

Rule 6.13 Pleadings Must be Sworn to ~~LEADINGS MUST BE SWORN TO~~

Rule 7.02 ~~RETURN ENVELOPE MUST BE ENCLOSED~~

Rule 8.05 Financial Statement Required ~~FINANCIAL STATEMENT AND DISCLOSURE REQUIRED~~

Rule 8.06 Change of Address of Children ~~CHANGE OF ADDRESS OF CHILDREN~~

All attorneys are expected to be familiar with the Mississippi GAP Act which was implemented within this district as of July 1, 2019 and statewide on January 1, 2020. This Act repeals and replaces prior Mississippi statutes involving Guardianships and Conservatorships of minors and adults. These statutes can be located at § 93-20-101 through § 93-20-431.

[Approved as amended by the Supreme Court by order entered . . .; Approved as amended by the Supreme Court by order entered April 26, 2012; Adopted by order entered October 25, 1991 and approved by the Supreme Court by order entered June 24, 1992.]