

**NOTICE OF REQUEST FOR COMMENTS  
REGARDING PROPOSED AMENDMENT TO URCCC 1.05A**

Pursuant to Rule 27(f) of the Mississippi Rules of Appellate Procedure, the Supreme Court now seeks comments from the bench, the bar, and the public on the proposed amendment to URCCC 1.05A.

Comments should be filed with the Clerk of the Supreme Court, Gartin Justice Building, P.O. Box 249, Jackson, Mississippi 39205-0249, no later than Monday, December 22, 2008.

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**Exhibit A**

**UNIFORM RULES OF CIRCUIT AND  
COUNTY COURT PRACTICE**

**Rule 1.05A ASSIGNMENT OF CASES**

**A.** In multi-judge districts and courts, all civil and criminal 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 otherwise received the 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 the 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 also include suspension from practice in the court imposing them for not more than 30 days and referral to the Bar for further discipline.

**B.** Decisions regarding this rule shall be subject to review by the Supreme Court under M.R.A.P. 21, and appropriate stays shall be entered by the trial court to allow such review.

**C.** In districts where motion days are set in advance with judges specifically assigned, preliminary procedural matters may be submitted to the judge assigned such duties, notwithstanding the fact that the case has been assigned to another judge. Furthermore, by 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.

[Adopted effective May 29, 2003; amended effective \_\_\_\_\_ to provide for random assignment of criminal cases.]

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## Comment

In 2002 the Legislature adopted Miss. Code Ann. § 11-1-56, which required civil case assignments to be delayed until one defendant has filed responsive pleadings. By the adoption of this rule, the Supreme Court has superceded Section 11-1-56, exercising its inherent authority to adopt rules of practice, procedure and evidence to promote justice, uniformity, and the efficiency of the courts, as articulated in *Newell v. State*, 308 So. 2d 71 (Miss. 1975) and *Hall v. State*, 539 So. 2d 1338 (Miss. 1989).

The purpose of this rule is to prevent “judge shopping” within a district or a court. Although voluntary dismissal is allowed under M.R.C.P. 41 at any time prior to service by the adverse party of an answer or summary judgment, when a civil case is so dismissed and then refiled immediately thereafter with no substantial change in the parties or claims, such practice, as an example, may be taken as a wilful violation of this rule. Wilful violation of this rule may constitute an offense subject to suspension and other discipline under Rule 3.4(c) of the Rules of Professional Conduct. Sanctions authorized by this rule are cumulative to discipline under the Rules of Professional Conduct.

The assignment 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.

A party who believes that a case has been assigned in violation of this rule will first submit the issue to the judge before whom the case is pending; thereafter, either party aggrieved by the judge’s decision on the issue may seek review of that decision by this Court under the provisions of M.R.A.P. 21.

In some districts, local modifications, which to some degree are at variance with the strict provisions of this rule, may be made while fulfilling the policy of the rule. These modifications are to be made by local rule, on petition of the local district under M.R.C.P 83 to the Supreme Court. ~~The order by which this Rule 1.05A was adopted provides:~~

~~It is further ordered that this new rule shall be effective upon issuance of this order; however, local practices adopted for the purpose of accommodating the needs of economy and efficiency may be continued for a period of forty-five days from the issuance of this order; and in districts wherein the judges of the district have within such period petitioned the Court under M.R.C.P. 83 for local rules seeking approval of such practices or of other practices which might otherwise be in variance to this rule, the practices may continue to be used until the Supreme Court has considered the petition.~~

[Comment adopted effective May 29, 2003; amended effective \_\_\_\_\_]