

## REQUEST FOR COMMENTS

The Supreme Court's Rules Committee on Civil Practice and Procedure seeks comments from the bench, the bar, and the public on proposed amendments to Rules 27, 28, 30, 31, 32, and 40 of the Mississippi Rules of Appellate Procedure, filed by F. M. Turner, III. The proposal is attached.

Comments must be filed with the Clerk of Appellate Courts at Post Office Box 249, Jackson, MS 39205. **The filing deadline is May 9, 2016.**

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89-R-99027

**FILED**

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OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

Rules Committee on Civil Practice and Procedure  
Supreme Court of Mississippi  
P.O. Box 249  
Jackson, MS 39205

Re: Proposed amendment to Rules 27, 28, 30, 31, 32 and 40 of the Mississippi Rules of Appellate Procedure

Ladies and Gentlemen:

On June 6, 2013, the Supreme Court ordered mandatory electronic filing of briefs and motions through the Mississippi Electronic Courts system effective January 1, 2014. In light of the adoption of mandatory electronic filing, Rules 27, 28, 30, 31, 32 and 40 of the Mississippi Rules of Appellate Procedure should be amended to conform to the process of electronic filing and service, requiring physical service only on non-participants in the MEC system (e.g., the lower court judge). In doing so, references to numbers of physical copies of documents to be filed, binding requirements, specification of colors for covers and other matters not relevant to electronic filing should be eliminated. These requirements are not being enforced by the Clerk's office as a matter of practice and would require needless duplication of filings and added expense to the Clerk's office and litigants if enforced.

To aid the committee in identifying the areas requiring revision, I offer the following subsections that I have identified:

Rule 27(d) requires that the original and four (4) copies of motions and related papers "securely bound" be filed with the clerk of the Supreme Court. Electronic filing of motions and related papers makes these requirements unnecessary.

The Committee recently sought comments on proposed amendments to Rule 28. Subsection (n) of Rule 28, presently and as amended, provides:

(n) Filing of Briefs on Electronic Media. All parties filing a brief on the merits of any case with the Clerk of the Supreme Court shall file with that brief a copy thereof in an electronically formatted medium (such as USB Flash Drive or CD-ROM), and the Clerk shall receive and file such with the papers of that case. All electronic media and electronic files stored thereon must be in an industrial standardized format with the electronic brief stored in the Adobe Portable Document Format (PDF). All electronic media shall be labeled to include the following information:

- (1) the style of the case, and,
- (2) the number of CD-ROMs, i.e., "1 of 2, 2 of 2, etc.,"

Subsection (n) is at best redundant, since all appellate filings are already in electronic form, and would require needless duplication of filings and added expense to the Clerk's office and litigants if enforced.

Rule 30(a) requires the appellant to file four (4) copies of specified portions of the trial court record. Rule 30(b) places a similar requirement on appellee's record excerpts. Electronic filing makes these requirements unnecessary. These requirements are no longer enforced by the Clerk's office and should be eliminated.

Rule 31(c) requires filing of the original and three (3) copies of all briefs in all cases except death penalty cases, where the original and nine (9) copies are to be filed. Electronic filing makes these requirements unnecessary. These requirements are no longer enforced by the Clerk's office and should be eliminated.

Rule 32(a) specifies printing and binding requirements for briefs and record excerpts and the color of the covers of briefs and record excerpts. Electronic filing makes these requirements unnecessary. These requirements are no longer enforced by the Clerk's office and should be eliminated.

Rule 40(b) requires an original and ten (10) copies of motions for rehearing be filed with the clerk of the Supreme Court, and in cases decided by the Court of Appeals an original and eleven (11) copies filed. Electronic filing makes these requirements unnecessary. These requirements are no longer enforced by the Clerk's office and should be eliminated.

I hope that the foregoing is of assistance to the Committee. I would be happy to submit specific suggestions for the revisions proposed. If the Committee desires this input, please let me know.

Very truly yours,



F. M. Turner, III