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**FILED**

**NOV 27 2019**

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

26 November 2019

D. Jeremy Whitmire  
Clerk of Appellate Courts  
Post Office Box 249  
Jackson, Mississippi 39205

RE: Comments on Motion to Amend Rule 45

Dear Mr. Whitmore:

In response to the request for comments, please file this letter with my comments on the motion to amend Rule 45 of the MISSISSIPPI RULES OF CIVIL PROCEDURE.

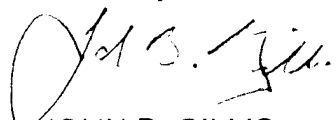
Proposed Rule 45(a)(5) reads:

(5) Once a subpoena has been issued and filled out, a copy of such subpoena shall be immediately served upon each party in accordance with M.R.C.P. 5, even though the subpoena itself has not yet been served.

This proposed rule would provide notice to the parties of the issuance and intent to serve a subpoena, but there would be nothing in the court file. I recommend that the rule require the service of a "Notice of Intent to Serve Subpoena" similar in form to the enclosed notice. The issued subpoena would be attached as an exhibit and the notice would be filed with the clerk and served on the parties of record. I recommend that proposed Rule 45(a)(5) read:

(5) Once a subpoena has been issued and filled out, the party having the subpoena issued shall file with the clerk a notice of intent to serve subpoena with the subpoena attached as an exhibit and serve the notice on each party in accordance with Miss. R. Civ. P. 5, even though the subpoena itself has not yet been served.

Sincerely,

  
JOHN B. GILLIS

Enclosure

MOTION#  
response

2019

3488

[COURT]

[PARTY NAME]

)

PLAINTIFF

)

V.

)

) NO. \_\_\_\_\_

)

[PARTY NAME]

)

DEFENDANT

)

)

**NOTICE OF INTENT TO SERVE SUBPOENA**

PLEASE TAKE NOTICE that the [plaintiff/defendant], through counsel, will serve the subpoena attached as exhibit 1 on [person/entity to whom subpoena is directed] to compel [his/her/its] [appearance at deposition, hearing, trial] [production of documents or things] [inspection of premises] scheduled for [date] starting at [time] at [location].

Respectfully submitted,

[PARTY]

\_\_\_\_\_  
[LAWYER FOR PARTY]  
MISSISSIPPI BAR NO. \_\_\_\_\_

[LAWYER'S NAME]  
[ADDRESS]  
[PHONE NUMBER]  
[EMAIL]

CERTIFICATE OF SERVICE

[CERTIFICATE FOR SERVICE BY MAIL OR CERTIFICATE FOR MEC FILING]

\_\_\_\_\_  
[LAWYER FOR PARTY]