

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

**IN THE MATTER OF:
AMENDMENTS TO THE MISSISSIPPI
UNIFORM CHANCERY COURT RULES**

FILED

OCT 01 2019

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

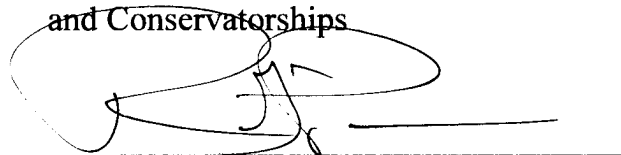
**PETITION TO AMEND CERTAIN RULES OF THE MISSISSIPPI
UNIFORM CHANCERY COURT RULES**

COMES NOW, Randy G. Pierce and Dawn H. Beam, Co-Chairs of the Mississippi Commission on Guardianships and Conservatorships, and petitions the Supreme Court of Mississippi to approve and expedite amendments to the Mississippi Uniform Chancery Court Rules under Rules 6.01, 6.02, and 6.03, as the Mississippi GAP Act goes into effect January 1, 2020.

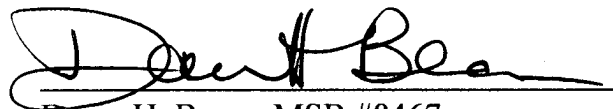
WHEREFORE, the Mississippi Commission on Guardianships and Conservatorships respectfully recommends and requests that the Mississippi Supreme Court approve and expedite amendments to the Mississippi Uniform Chancery Court Rules by adopting the revisions set forth in Exhibit A.

RESPECTFULLY SUBMITTED, this the 30th Day of September, 2019.

Mississippi Commission on Guardianships
and Conservatorships



Randy G. Pierce, MSB # 10576



Dawn H. Beam, MSB #8467

MOTION#

3800

6.00 RULES CONCERNING PROBATE
MATTERS

PART SIX
FIDUCIARY MATTERS
AND FIDUCIARIES

RULE 6.01
ATTORNEY MUST BE RETAINED

Every fiduciary must, unless he is licensed to practice law, retain an attorney or firm of attorneys to represent, advise and assist him during the whole term of his office, whose compensation will be fixed or approved by the Chancellor. When an attorney has once appeared for such a fiduciary, in any respect, he may withdraw only with the consent of the Chancellor, after notice to the client. However, if he shall be or become negligent or unfaithful, in any respect, he may, with the consent of the Chancellor, be discharged. The practice of employing different attorneys, at the will of the fiduciary will not be tolerated.

RULE 6.01
ATTORNEY MUST BE RETAINED

(A) Every fiduciary must, unless licensed to practice law in Mississippi, retain an attorney or firm of attorneys to provide representation, advice and assistance during the entire term of the fiduciary's appointment.

(B) Compensation for the attorney shall be fixed and approved by the Chancellor.

(C) Once an attorney has entered an appearance for a fiduciary, in any respect, the attorney shall be permitted to withdraw only with the consent of the Chancellor, with notice to the client and any adverse party as required by UCCR 1.08.

(D) An attorney who is negligent or unfaithful in any respect may be discharged by order of the court on motion of the fiduciary or on motion of the court.

(E) The practice of employing different attorneys at the will of the fiduciary will not be tolerated.

(F) The chancellor may relieve a fiduciary of the obligation to retain an attorney in matters involving guardianship (of the person only), and in cases where the court finds that it will impose an undue or unnecessary financial burden on the ward's estate. All other duties of a fiduciary remain the same with or without representation.

Exh. A

**RULE 6.02
FIDUCIARIES AND ATTORNEY MUST
BE DILIGENT**

Every fiduciary and his attorney must be diligent in the performance of his duties. They must see to it that publication for creditors is promptly made, that inventories, appraisements, accounts and all other reports and proceedings are made, done, filed and presented within the time required by law, and that the estates of decedents are completed and assets distributed as speedily as may be reasonably possible. In guardianships and conservatorships an attorney must be faithful to both fiduciary and the ward and if it appears to the attorney that the fiduciary is not properly performing duties required by the law then he shall promptly notify the Court in which the estate is being administered. Failure to observe this rule without just cause shall constitute contempt for which the Chancellor will impose appropriate penalties.

**RULE 6.03
STATEMENT APPENDED TO ANNUAL
ACCOUNT**

Every fiduciary shall append to each annual account, as a part thereof, a list or statement of all assets, real and personal, of the estate then in his hands or under his control. If any part thereof shall consist of money, bonds or other securities negotiable by delivery, then

**RULE 6.02
FIDUCIARIES AND ATTORNEY MUST
BE DILIGENT**

(A) Every fiduciary and attorney must be diligent in the performance of their duties. They must see to it that publication for creditors is promptly made, that inventories, appraisements, accounts and all other reports and proceedings are made, done, filed and presented within the time required by law, and that the estates of decedents are completed and assets distributed in a timely manner.

(B) In guardianships and conservatorships an attorney must be faithful to both fiduciary and ward. If it appears to the attorney that the fiduciary is not properly performing duties required by the law then the attorney shall promptly notify the Court in which the estate is being administered.

(C) Until relieved of fiduciary duties by court order, every fiduciary shall notify the Chancery Clerk in writing of every change of address not later than five days after such change. The notice shall include the civil action number and the name of the fiduciary.

(D) Failure to observe this rule, unless just cause exists, shall constitute contempt for which the Chancellor will impose appropriate penalties.

**RULE 6.03
STATEMENT APPENDED TO ANNUAL
ACCOUNTS**

(A) Every fiduciary shall attach to each annual account a list or statement of all assets, real and personal, of the estate.

(B) If the annual account consists of money, bonds or other securities negotiable by

such statement shall also show the name of the bank where the same is deposited or kept. A certificate signed under oath by an officer of the bank that such money and bond or other securities are then on deposit or kept in such bank shall be attached. In case any of such assets shall consist of loans made by him or his predecessor in office, then such statement shall show to whom and when such loan was made, the amount remaining unpaid, how secured, whether all taxes have been paid on the property mortgaged or pledged as security for loan, and whether or not in his opinion the security is sufficient.

delivery, then the statement shall also show the name of the bank where the same is deposited or kept.

(C) ~~A certificate signed under oath by an officer of the bank that such money and bond or other securities are then on deposit or kept in such bank shall be attached:~~ Verification of account balances in the form of statements issued by the depository showing the balance at the beginning of the accounting period, and the most recent statement at the end of the accounting period.

(D) If the assets consist of loans made by the fiduciary or the predecessor in the fiduciary office, then the statement shall show to whom and when the loan was made, the amount remaining unpaid, how secured, whether all taxes have been paid on the property mortgaged or pledged as security for the loan, and whether or not the security is sufficient.

RULE 6.04
WHAT VOUCHERS MUST SHOW

Every disbursement shown by an account of fiduciary must be supported by proper vouchers, which shall conform to the requirements of Miss. Code Ann. (1972) Section 91-7-279 and Miss. Code Ann. Section 93-13-71. Every such voucher shall consist of a receipt or canceled bank check showing to whom and for what purpose the money was paid. All vouchers for claims paid which arose during the lifetime of a decedent or the sanity of a person of unsound mind shall show that the claim was properly probated, allowed and registered. This rule is modified as to banks or trust companies which are subject to the

RULE 6.04
WHAT VOUCHERS MUST SHOW

(A) Every disbursement shown by an account of fiduciary must be supported by proper vouchers, which shall conform to the requirements of Miss. Code Ann. (1972) Section 91-7-279 ~~and Miss. Code Ann. Section 93-13-71.~~ the Mississippi Guardianship and Conservatorship Act (S.B. 2828, 2018, Section 423).

(B) ~~Each voucher shall consist of a receipt or canceled bank check showing to whom and for what purpose the money was paid.~~

(C) ~~All vouchers for claims paid which arose during the lifetime of a decedent or~~