

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

IN RE: AMENDMENT OF M.R.C.P. 7

MOTION TO AMEND M.R.C.P. 7

Comes now the Supreme Court Advisory Committee on Rules, pursuant to M.R.A.P. 27(f), and moves the Mississippi Supreme Court to amend M.R.C.P. 7 as follows:

Rule 7. Pleadings Allowed; Form of Motions

~~(a) Pleadings. There shall be a complaint and an answer; a reply to a counter-claim denominated as such; an answer to a cross claim, if the answer contains a cross claim; a third-party complaint, if a person who is not an original party is summoned under the provisions of Rule 14; and a third party answer, if a third party complaint is served. No other pleading shall be allowed, except that the court may order a reply to an answer or a third party answer. Only the following pleadings are allowed:~~

- (1) a complaint, or a petition under Rule 81;
- (2) an answer to a complaint or petition under Rule 81;
- (3) a counterclaim;
- (4) an answer to a counterclaim;
- (5) a cross-claim;
- (6) an answer to a cross-claim;
- (7) a third-party complaint;
- (8) an answer to a third-party complaint;
- (9) a claim by a third-party defendant against the plaintiff;
- (10) an answer to a third-party defendant's claim against the plaintiff;
- (11) a claim by the plaintiff against the third-party defendant; and
- (12) an answer to a plaintiff's claim against the third-party defendant.

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(b) Motions and Other Papers.

(1) Generally, An an application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion. No motion is required if the parties present a joint, consent or agreed order.

(2) The rules applicable to captions, signing, or other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(c) Size of Paper. All pleadings, motions and other papers, including depositions, shall be made on 8 1/2" by 11" paper. The format for all depositions shall comply with the Guidelines for Court Reporters as provided in Mississippi Supreme Court Rule 11.

~~(d) Demurrers, Pleas, etc., Abolished. Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.~~

[Voluntary compliance with Rule 7(c) beginning January 1, 1993, mandatory compliance effective July 1, 1993. Amended effective _____.]

Advisory Committee Historical Note

Effective _____, Rule 7(a) was amended so as to include a complete list of all pleadings. In addition, the amendment deleted M.R.C.P. 10(d) [Copy Must Be Attached.] XX So. 3d XX (Miss. 20__).

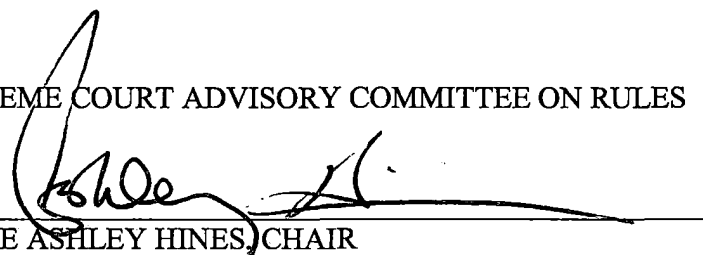
Effective November 19, 1992, Rule 7(c) was redesignated Rule 7(d), and a new Rule 7(c), requiring letter size paper for all pleadings, motions and other papers was adopted. 606- 607 So. 2d XIX-XX (West Miss. Cas. 1993).

The proposed amendment to Rule 7(a) contains a more concise and complete listing of all pleadings. The proposed amendment to Rule 7(b) clarifies that a written motion is unnecessary if the parties present a joint, consent or agreed order. The proposed amendment deletes Rule 7(d) because it is no longer necessary, given that demurrers, pleas and exceptions for insufficiency of a pleading became defunct with the adoption of the rules. The motion to amend M.R.C.P. 7 was unanimously approved by the Committee on October 5, 2018 and unanimously revised on November 2, 2018.

The Supreme Court Advisory Committee on Rules therefore moves that the above proposed amendment to M.R.C.P. ²7 be considered by the Mississippi Supreme Court.

SO MOVED, this the 7 day of February, 2020.

SUPREME COURT ADVISORY COMMITTEE ON RULES



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