



**FILED**

**JUN 15 2020**

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

**VAN CLEAVE LAW**

BILOXI, MS

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June 12, 2020

Clerk of the Appellate Court  
Post Office Box 249  
Jackson, Mississippi 39205


RE: Court's Advisory Committee on Rules  
Motion to Amend Miss.R.Civ.P. 56

Ladies and Gentlemen:

I am pleased to see the proposed amendment to Miss.R.Civ.P. 15(c), as ten (10) days is often insufficient to respond to a motion for summary judgment. This should cut down on motion practice requesting extensions of time to respond.

I urge you to reconsider the proposed amendment to (and deletion of) Miss.R.Civ.P. 56(h), however. The Committee's observation about the lack of appellant review on Rule 56(h) cost awards would seem to support retention of the Rule as one that is working. This brings to mind the old adage, "don't fix it if it ain't broke".

In many instances, Rule 56 motions are filed when facts are obviously in dispute, and serve only to generate fees for the petitioners, and to unnecessarily burden the respondents and the Court. The cost provisions and standards provided by Rule 56(h) are distinct from the types of sanctions that may be discretionarily awarded by the Court under Rule 11 and/or the Litigation Accountability Act. Rule 56(h) serves an important purpose in deterring some of the worst abuses of Rule 56, and I respectfully submit it should be maintained.

Sincerely,  
  
Christopher C. Van Cleave

**MOTION#**

**2020**

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