

IN THE MISSISSIPPI SUPREME COURT

**IN THE MATTER OF THE MISSISSIPPI
RULES OF CIVIL PROCEDURE; UNIFORM
CIRCUIT AND COUNTY COURT RULES;
UNIFORM CHANCERY COURT RULES; AND
UNIFORM RULES OF PROCEDURE IN
JUSTICE COURTS**

NO. _____

**PETITION TO AMEND
RULE 65 OF THE MISSISSIPPI RULES OF CIVIL PROCEDURE;
RULES 5.04, 5.07 AND 5.09 OF THE
UNIFORM CIRCUIT AND COUNTY COURT RULES;
RULE 1.06 OF THE UNIFORM CHANCERY COURT RULES; AND
RULES 1.25 AND 2.04 OF THE UNIFORM RULES OF PROCEDURE IN
JUSTICE COURTS:
AND
TO CREATE A NEW RULE 3.13 IN THE UNIFORM CHANCERY COURT
RULES**

COMES NOW, the Office of the Mississippi Attorney General, pursuant to Rule 27(f) of the Mississippi Rules of Appellate Procedure, and files this Petition to Amend Rule 65 of the Mississippi Rules of Civil Procedure; Rules 5.04, 5.07 and 5.09 of the Uniform Circuit and County Court Rules; Rule 1.06 of the Uniform Chancery Court Rules; and Rules 1.25 and 2.04 of the Uniform Rules of Procedure in Justice Courts, and to create a new Rule 3.13 in the Uniform Chancery Court Rules, and in support thereof would show unto this Honorable Court the following, to-wit:

PURPOSE OF THE CHANGES

The proposed amendments to Mississippi's court rules will serve several important purposes.

1. The amendments will provide litigants, attorneys and the courts with a roadmap for guiding actions for protection against domestic abuse through the

courts. Chapter 21 of Title 93 of the Mississippi Code of 1972 is entitled the “Protection from Domestic Abuse Act.” This chapter of the Code recognizes a civil action for those individuals alleging to be victims of domestic abuse, and prescribes that an individual may seek injunctive relief from that abuse by filing a petition with the court. The statutes do not, however, prescribe mechanisms to be utilized by the courts in addressing these matters in all cases. The proposed rules changes would fill this void and provide standardized procedures for handling these matters which will be uniform throughout the State.

2. A number of the existing court rules contain provisions which are inconsistent with statutory mandates. The conflict between the Rules and the statutes leads to uncertainty and confusion on the part of litigants, attorneys and the courts as to the proper procedures to be utilized in Domestic Abuse Protection actions. Changes to the rules which govern practice in the Chancery, County and Justice courts are necessary to ensure consistency.

3. As a result of the uncertainty, lack of procedures and uniformity between the courts, and inconsistencies between the statutes governing domestic abuse protection orders and the court rules, many victims of domestic violence are not able to access the courts to obtain the protections afforded by law in a timely and meaningful manner. In fact, in its Final Report to the Court, the Mississippi Supreme Court Commission for the Study of Domestic Abuse Proceedings identified three major areas of concern surrounding domestic abuse proceedings: confusion in the interaction between the courts having jurisdiction in these matters; the lack of uniformity in proceedings and pleadings statewide; and the lack of

adequate access of victims to the courts.¹ Many of the changes recommended in this petition are a result of the discussions and suggestions of this Commission to achieve balance in the competing interests of victim access and safety, and maintenance of the integrity of the judicial system.

MISSISSIPPI RULES OF CIVIL PROCEDURE

Amendments to Rule 65 are proposed in this Petition and are set forth in Exhibit A, which is attached and incorporated by reference.

4. Senate Bill 2925 (2009), which has not yet been codified, tracks requirements of federal law by providing a fee exemption for individuals who are seeking injunctive relief from domestic violence, stalking or sexual assault.² Current Rule 65 requires the posting of security by all individuals, which is contrary to the strict prohibition against the assessment of such expenses against a victim of these behaviors.³ Although a provision of Rule 65 provides a judge the discretion to waive

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Report of the Mississippi Supreme Court Commission for Study of Domestic Abuse Proceedings, December 11, 2008, p. 11.

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This legislative change was necessary to ensure that the State of Mississippi continues to be eligible to receive federal funding under the Violence Against Women Act (42 U.S.C.S. §§3796gg-5(a)(1) and 3796hh(c)(4)(2008), which require that the laws and practices of a state provide that no victims of domestic violence, stalking or sexual assault are charged fees when seeking injunctive relief against their abuser before funds shall be awarded.

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SB 2925 became effective upon its adoption on March 20, 2009 and reads as follows:

(1) A victim of stalking, as defined in Section 97-3-107, or sexual assault, as defined in Section 97-3-65 or 97-3-95, who files an action seeking injunctive relief preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to the

fees in domestic relations actions⁴, this is not consistent with the mandates of both federal and state laws. Furthermore, not all victims of sexual assault and stalking are married or otherwise related to the offender from whom they seek protection, thus taking such relief out of the general description of a “domestic relations” action. An amendment to Rule 65(c) is proposed to provide an exemption from the requirement of posting security to petitioners seeking domestic abuse protection orders or other forms of injunctive relief from stalking, sexual assault or abuse.

5. The relief that may be granted as a result of an action brought pursuant to the provisions of Chapter 21 of Title 93 is injunctive in nature, in that the relief is intended to prohibit or prescribe certain behavior by one party to the action. Although Rule 65 of the Mississippi Rules of Civil Procedure governs injunctive relief and temporary restraining orders, it does not specifically reference matters brought pursuant to the Protection from Domestic Abuse Act. Certain provisions of Rule 65 are contrary to the mandates of the Protection from Domestic Abuse Act⁵ and also

victim against the perpetrator of that offense, shall not be assessed any fees related to the filing of such request, the issuance of any process of court or the issuance of any order providing such protection.

(2) The court, upon issuing any such relief, shall assess costs of court to the perpetrator of the offense. In the event the court determines the request is frivolous, the court shall assess the costs of court to the petitioner.

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Rule 65(c).

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For example, Rule 65 requires that a party must prove immediate and irreparable injury, loss, or damage before the issuance of a temporary restraining order without notice, and requires the applicant’s attorney to certify efforts to provide notice. Section 93-21-11(2) provides that when a person is seeking relief from domestic abuse, the only proof necessary to obtain an ex parte order is proof of “immediate and present danger of

to best practices with regard to the needs of victims of domestic violence, who may be in need of immediate action by the court. Strict application of Rule 65 in its current form to actions brought pursuant to the Protection from Domestic Abuse act would result in violations of the Act and could result in denial of protections to deserving victims of violence. In addition, the statutory framework is incomplete, and amendment of the rules to create a process for the handling of such matters in the courts is imperative.⁶ The proposed amendments to Rule 65 set out specific procedures to be utilized in actions for protection from domestic abuse, where the statutory provisions are silent, or where existing court rules may be in conflict. A new Section (f) to Rule 65 is proposed to accommodate the proposed amendments.

- (i) Proposed Rule 65(f)(1). This provision requires that a hearing be set immediately upon the filing of a petition pursuant to Section 93-21-1 et seq., and that the hearing be held within ten (10) days of that filing. It directs the court clerk to coordinate with the court administrator, if necessary, in establishing that hearing date.
- (ii) Proposed Rule 65(f)(2). This provision provides requirements for notice upon the respondent of the date for the hearing. The statute

abuse” and specifically provides that such an order may be granted, without a prior attempt to notify the respondent, and pending a hearing on the question.

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See e.g. Sections 93-21-13(3) and 93-21-15(1)(c) , which provide for a de novo appeal of decisions of a municipal or justice court judge to the county or chancery court, but do not establish the procedure for perfecting such appeal or the handling of that appeal by the courts.

requires personal service of process,⁷ and this rule would prescribe the manner of personal service which is permissible for resident and non-resident respondents. It also provides for the procedures upon a request for a continuance of the hearing date.

- (iii) Proposed Rule 65(f)(3) provides special procedures to be utilized by the courts when considering requests for emergency relief and issuing emergency domestic abuse protection orders.⁸ Due to the exigency of such situations, this rule requires that a clerk of the court present that petition to a judge as soon as possible, and if no judge is available in that court, to take steps to direct the petitioner to a court having a judge available. By imposing a requirement to refer victims to a court having a judge available to hear the emergency request for relief, this provision will ensure that a victim seeking emergency relief will have determination on that request in an expedited manner as provided by law.⁹ The proposed amendment also clarifies that discussing a request for emergency relief with a petitioner without notice to the respondent is not considered earwiggling.

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Section 93-21-11(2) requires a respondent be personally served with the petition and notice of a hearing.

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Section 93-21-13 provides that a party may request emergency relief without prior notice to the Respondent.

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Section 93-21-7(1) provides that these matters are to be treated as priorities on the docket.

- (iv) Proposed Rule 65(f)(4) requires that standardized forms be utilized in matters brought pursuant to the Protection from Domestic Abuse Act.¹⁰ The use of standardized forms will increase the accessibility of the courts and will promote judicial economy. Samples of the forms created pursuant to the dictates of the statute are attached to this Petition for reference purposes.
- (v) Proposed Rule 65(f)(5) addresses the statutory prohibition against the collection of fees from persons seeking protection from domestic abuse¹¹, and reiterates the proposed change to Rule 65(c). It provides for assessment of fees at the conclusion of the matter by the judge, similar to the statutory provisions.
- (vi) Proposed Rule 65(f)(6) fills a void in current law by establishing the procedures for de novo appeals in action under the Act. In doing so, the proposed rule provides a mechanism different from that currently provided by existing court rules. It provides for a hearing on the de novo review to be held within ten (10) days of the notice, thus comporting with the mandate to these matters as priority on the docket. It provides for the notice of appeal to be filed in the lower court, to be forwarded to the county court, if there is one, and to the

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Sections 93-21-9(9), 93-21-13(2) and 93-21-15(4) require the creation of standardized form petitions and orders, respectively.

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Section 93-21-7(3) and 42 U.S.C.S. §§ 3796gg-5(a)(1) and 3796hh(c)(4)(2008).

chancery court if there is not. This procedure is different from the established procedure for perfection of de novo appeals due to the short time period provided by statute. The proposed procedure also clarifies that a petitioner/appellant who is alleging to be a victim of domestic violence is not be assessed a cost bond or other fees on such an appeal, consistent with state and federal requirements.

UNIFORM RULES OF CIRCUIT AND COUNTY PRACTICE

Amendments to several rules in the Uniform Rules of Circuit and County Practice are necessary to ensure uniformity and consistency necessary in domestic abuse protection order actions. Amendments proposed in this Petition and are set forth in Exhibit A, which attached and incorporated by reference.

7. Amendments to Rule 5.04, Rule 5.07 and Rule 5.09 of the Uniform Rules of Circuit and County Practice are necessary to establish the different process for perfecting a de novo appeal from a municipal or justice court to a county court as provided by the Protection from Domestic Abuse Act and as recommended by the Commission for the Study of Domestic Abuse Proceedings.¹² These three rules address the procedures for appeals de novo from lower courts, but the provisions are not compatible with and, in one instance, are in conflict with several provisions of the Act.¹³ Rather than an extensive amendment to these rules, the proposed

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Report of the Mississippi Supreme Court Commission for Study of Domestic Abuse Proceedings, December 11, 2008, pp. 11-12.

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Rule 5.09 requires the payment of a cost bond, unless the party is allowed to proceed *in forma pauperis*, while Section 93-21-7 of the Act prohibits a petitioner who is a victim

amendment to these rules would simply refer an attorney or litigant to the procedures established by the proposed Rule 65(f) for de novo appeals in domestic abuse protection order proceedings.

UNIFORM CHANCERY COURT RULES

Amendments to several rules in the Uniform Chancery Court Rules are necessary to ensure uniformity and consistency necessary in domestic abuse protection order actions. Amendments proposed in this Petition and are set forth in Exhibit A, which attached and incorporated by reference.

8. An amendment is proposed to Rule 1.06 of the Chancery Court Rules to comport with the statutory requirement and recommendation of the Commission for the Study of Domestic Abuse Proceedings that matters brought pursuant to the Act be handled in an expedited manner.¹⁴ The current manner of assignment of judges in many judicial districts does not allow for a hearing to be held within ten (10) days of the filing of the petition. For instance, if the assigned judge is scheduled to be in another county in the district, it may be difficult to set a hearing within the necessary time frame. Rather than mandate a specific procedure, this proposed amendment requires each individual district develop rules for how to expeditiously and efficiently handle actions pursuant to the Act.

9. A new rule is proposed as Rule 3.13, which simply serves to direct

of domestic violence from paying any fees associated with seeking protection from domestic abuse from the courts, regardless of that person's financial ability.

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Report of the Mississippi Supreme Court Commission for Study of Domestic Abuse Proceedings, December 11, 2008, pp. 11-12.

attorneys and litigants to the procedures set forth in proposed Rule 65(f) for handling de novo appeals from municipal and justice court to chancery court. Rather than create an additional process, it was felt more efficient to utilize the procedures set forth in proposed Rule 65(f).

UNIFORM RULES OF PROCEDURE IN JUSTICE COURTS

Amendments to several rules in the Uniform Rules of Procedure in Justice Court are necessary to ensure uniformity and consistency necessary in domestic abuse protection order actions. Amendments proposed in this Petition and are set forth in Exhibit A, which attached and incorporated by reference.

10. Amendment is proposed to Rule 1.25 of the Justice Court Rules to refer attorneys and litigants to the procedures set forth in proposed Rule 65(f) for the procedures for de novo appeals of decision of that court to the county or chancery court. This amendment is necessary as current Rule 1.25 does not reference appeals to chancery courts, as is provided by statute. The reference to Rule 65(f) is necessary to ensure uniformity in these proceedings. Rather than create an additional process, it was felt more efficient to utilize the procedures set forth in proposed Rule 65(f).

11. Amendment is proposed to Rule 2.04 of the Justice Court Rules to refer attorneys and litigants to the provisions of Rule 65(f) for service of process on respondents in domestic abuse proceedings before the Justice Court. Current statutory authority for service of process permits service by posting in certain

circumstances.¹⁵ This manner of service is contrary to the statutory requirement of personal service.

WHEREFORE, PREMISES CONSIDERED, the Petitioner, the Mississippi Attorney General's Office prays that its Petition be received and upon due consideration, that the Court grant the relief requested. The Petitioner asserts that the procedures as set forth in the proposed amendments will serve to protect the rights of all parties involved, will provide clarity for parties, will protect the due process rights of all parties, and will enhance safety for victims of domestic violence by facilitating *pro se* access to the courts and improving recognition and enforcement of domestic violence protection orders issued by Mississippi courts. The proposed amendments will serve the best interests of the citizens of Mississippi, by striving to achieve balance between the compelling needs of victims of the domestic violence for safety and access to the court, and the needs of the judicial system to maintain integrity and promote judicial economy.

RESPECTFULLY SUBMITTED, this the _____ day of _____,
2009.

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¹⁵
Sections 11-9-107, 11-9-109 and 13-3-5(2).

Exhibit A

Proposed Amendments to Mississippi Court Rules to Address Proceedings for Protection from Domestic Abuse

Mississippi Rules of Civil Procedure

MRCP Rule 65. Injunctions.

(a) Preliminary Injunction.

(1) Notice. No preliminary injunction shall be issued without notice to the adverse party.

(2) Consolidation of Hearing With Trial on Merits. Before or after the commencement of the hearing on application for a preliminary injunction, the court may order the trial of the action on the merits to be advanced and consolidated with the hearing of the application. Even when this consolidation is not ordered, any evidence received upon an application for a preliminary injunction which would be admissible upon the trial on the merits becomes part of the record on the trial and need not be repeated upon a trial. This subdivision (a)(2) shall be so construed and applied as to save to the parties any rights they may have to trial by jury.

(b) Temporary Restraining Order; Notice; Hearing; Duration. A temporary restraining order may be granted, without notice to the adverse party or his attorney if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and reasons supporting his claim that notice should not be required. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed ten days, as the court fixes (except in domestic relations cases, when the ten-day limitation shall not apply), unless within the time so fixed the order for good cause shown is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be stated in the order.

In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and

take precedence over all matters except older matters of the same character. When the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the court shall dissolve the temporary restraining order.

On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) Security. No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs, damages, and reasonable attorney's fees as may be incurred or suffered by any party

who is found to have been wrongfully enjoined or restrained; provided, however, no such security shall be required of the State of Mississippi or of an officer or agency thereof, and provided further, in the discretion of the court, security may not be required in domestic relations actions. The provisions of Rule 65 apply to a surety upon a bond or undertaking under this rule. A victim of domestic violence, stalking or sexual assault shall not be assessed any fees related to the filing of a request for injunctive relief, the issuance of any process of court, or issuance of any order for such relief pursuant to Rule 65. Such fees may be assessed by the court after a hearing, but may only be assessed to the petitioner if a finding is made that the request is frivolous and the petitioner is not a victim of domestic violence, stalking or sexual assault.

(d) Form and Scope of Injunction or Restraining Order.

(1) Every order granting a restraining order shall describe in reasonable detail and not by reference to the complaint or other document the act or acts sought to be restrained; it is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

(2) Every order granting an injunction shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail and not by reference to the complaint or other document the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

(e) Jurisdiction Unaffected. Injunctive powers heretofore vested in the circuit and

chancery courts remain unchanged by this rule.

(f) Procedures Applicable to Domestic Abuse Protection Orders. The procedures in subsection (f) apply solely to actions brought pursuant to 93-21-1 et seq., of the Mississippi Code of 1972, as amended, known as the Protection from Domestic Abuse Act, and shall control to the extent they may be in conflict with any other provisions of these rules or any local rules established by any jurisdiction. Actions for protection from domestic abuse are to be handled as priority cases on the court's docket, and each court shall establish rules to expedite proceedings in such cases and to ensure that hearings are held in a timely fashion which meets the requirements of the statutes and this Rule.

(1) Filing. A person seeking protection from domestic abuse may obtain relief by filing a petition with the court. Upon receipt of a petition for relief by the court clerk, the petition shall be accepted for filing and a hearing date shall be set. If necessary, the court clerk shall contact the court administrator to obtain a hearing date within ten (10) days of the filing of the petition for protection from domestic abuse.

(2) Notice and Hearing. In all cases, the respondent shall be provided with notice of the hearing by personal service of process in the manner specified by Rule 4(c)(1) or (2) of these Rules. Non-resident respondents shall be served as provided in Rule 4(c)((5). The matter shall be triable within a reasonable period of time after completion of service of process. If process is not completed in a timely fashion, the hearing shall be continued, unless the respondent executes a waiver of process. The court may, on its own motion or at the request of either party, grant a continuance for cause. However, in cases where an emergency order has been entered, a continuance may not exceed 20 (twenty) days.

(3) Emergency Relief. Pending a full hearing on the matter, a petitioner may request an emergency order of protection from domestic abuse. Upon receipt of a petition requesting emergency relief, the clerk of the court shall ascertain whether a judge of that court is available to hear the emergency request. If no judge is available, the clerk of the court shall attempt to locate a judge from another court of the jurisdiction authorized to issue emergency relief by contacting the court clerk and/or court administrator; and upon locating a judge, the court clerk may refer the petitioner to the appropriate court for the purpose of consideration of the emergency request. An emergency order may be issued without prior notice to the adverse party. Upon the issuance of emergency relief, the adverse party shall be served with a copy of the emergency order and provided with notice of a hearing on the matter, as provided above. The presentation and consideration of a petition requesting emergency relief shall not be considered earwiggling.

(4) Uniform Pleadings and Orders. Petitions seeking relief from domestic abuse and all orders granting such relief shall be in the form prescribed by the MS Attorney General, MS Supreme Court and MS Judicial College.

(5) Costs. No costs are to be collected from a petitioner at the time of filing of a petition for protection from domestic abuse, including filing fees and any fees for service of process or witness subpoenas. A petitioner shall not be required to file *in forma pauperis*. The Court may assess fees after a hearing is held on the matter. A petitioner may only be required to pay fees upon an affirmative determination by the court that the petitioner is not a victim of domestic abuse.

(6) De Novo Appeals.

(a) Appeals from the issuance or denial of a domestic abuse protection order by a municipal or justice court shall be made to the county or chancery court, and shall be conducted on a de novo basis. The de novo hearing shall be held within ten (10) days of the filing of the notice for such appeal, unless for good cause the matter is continued by the court.

(b) The party desiring to appeal a decision from a municipal or justice court must file a written notice of appeal with the clerk of that court. The written notice of appeal must specify the party or parties taking the appeal and must designate the judgment or order from which the appeal is taken. Upon receipt of a notice of appeal, the municipal or justice court clerk shall forward same, accompanied with a copy of the entire court file, to the county court, or if there is none, to the chancery court. Upon receipt of a notice of appeal from the lower court, the county or chancery clerk shall set a date for a hearing on the matter and shall mail a copy of the notice of appeal and of the hearing date to all parties or their attorneys of record.

(c) In all appeals, unless the court allows an appeal *in forma pauperis*, the appellant shall pay all court costs incurred in the municipal or justice court and likely to be incurred on appeal. The municipal and justice courts shall be provided a schedule of costs of such an appeal by the county court and chancery court clerks. A petitioner/appellant seeking de novo review of the denial of an order of protection by a municipal or justice court shall not be required to pay any such costs to perfect the appeal, nor shall such petitioner/appellant be required to appeal *in forma pauperis*. In such circumstances, the Court may assess costs after conducting its de novo review. A petitioner/appellant may only be required to pay costs upon an affirmative determination by the court that the petitioner is not a victim of domestic abuse.

Uniform Rules of Circuit and County Court Practice

URCCCP Rule 5.04. Notice of Appeal

The party desiring to appeal a decision from a lower court must file a written notice of appeal with the circuit court clerk. A copy of that notice must be provided to all parties or their attorneys of record and the lower court or lower authority whose order or judgment is being appealed. A certificate of service must accompany the written notice of appeal. The court clerk may not accept a notice of appeal without a certificate of service, unless so directed by the court in writing. In all appeals, whether on the record or by trial de novo, the notice of appeal and payment of costs must be simultaneously filed and paid with the circuit court clerk within thirty (30) days of the entry of the order or judgment being appealed. The timely filing of this written notice and payment of costs will perfect the appeal. The appellant may proceed in forma pauperis upon written approval of the court acting as the appellate court. The written notice of appeal must specify the party or parties taking the appeal; must designate the judgment or order from which the appeal is taken; must state if it is on the record or an appeal de novo; and must be addressed to the appropriate court. Parties seeking a de novo appeal of an action pursuant to M.C.A. Section 93-21-1 et seq. shall follow the procedure as prescribed by Rule 65(f)(6) of the Mississippi Rules of Civil Procedure.

URCCCP Rule 5.07. Procedure on Appeals by Trial De Novo

In appeals by trial de novo, the circuit court clerk, upon the filing of the written notice of appeal, must enter the case on the docket, noting that it is an appeal with trial de novo. The appeal will proceed as if a complaint and answer had been filed, but the court may require the filing of any supplemental pleading to clarify the issues. Parties seeking a de novo appeal of an action pursuant to M.C.A. Section 93-21-1 et seq. shall follow the procedure as prescribed by Rule 65(f)(6) of the Mississippi Rules of Civil Procedure. All proceedings on an appeal de novo will be governed by the Mississippi Rules of Civil Procedure, where applicable, the Mississippi Rules of Evidence, and these Rules.

URCCCP Rule 5.09. Cost Bond

In all appeals, unless the court allows an appeal in forma pauperis, the appellant or appellants shall pay all court costs incurred below and likely to be incurred on appeal as estimated by the circuit court clerk. Parties seeking a de novo appeal of an action pursuant to M.C.A. Section 93-21-1 et seq. shall be required to pay costs as provided by Rule 65(f)(6) of the Mississippi Rules of Civil Procedure. Should a dispute arise, a party may apply to the court for relief.

Uniform Chancery Court Rules

UCCR Rule 1.06. Assignment of Cases

(A) In multi-judge districts and courts, all civil cases shall be assigned immediately on the filing of the complaint by such method which shall insure that the assignment shall be random, that no discernable pattern of assignment exists, and that no person shall know to whom the case will be assigned until it has been assigned. If an attorney or party shall attempt to manipulate or defeat the purpose of this rule, the case shall be reassigned to the judge who would have otherwise received the assignment. If the judge who would have received the case under an assignment in compliance with this rule cannot be determined, a new assignment in compliance with the rule shall be made, excluding the judge to whom it was incorrectly assigned. Sanctions, including costs and attorney's fees, may be imposed by that judge on reassignment. Such sanctions may also include suspension from practice in the court imposing them for not more than 30 days and referral to the Bar for further discipline.

(B) Decisions regarding this rule shall be subject to review by the Supreme Court under M.R.A.P. 21, and appropriate stays shall be entered by the trial court to allow such review.

(C) In districts where motion days are set in advance with judges specifically assigned, preliminary procedural matters and those matters enumerated under M.R.C.P. 81(d)(1) and (2) and M.R.C.P 65(f) may be submitted to the judge assigned such duties, notwithstanding the fact that the case has been assigned to another judge. Furthermore, by local rule approved by the Supreme Court, the trial court may make special provisions accommodating local needs of economy and efficiency which might otherwise be at variance with this rule.

(D) Each district shall adopt local rules for the handling and assignment of matters initiated pursuant to MCA 93-21-1 et seq., the Protection from Domestic Abuse Act, which shall provide for such matters to be heard in an expedited manner.

UCCR Rule 3.13 Procedure on Appeals by Trial De Novo

De novo appeals of actions pursuant to M.C.A. Section 93-21-1 et seq., the Protection from Domestic Abuse Act, shall be governed by the provisions of Rule 65(f)(6) of the Mississippi Rules of Civil Procedure.

Uniform Rules of Procedure for Justice Courts

URPJC Rule 1.25. Appeals from Justice Court

Appeals from justice court shall be governed by the rules approved by the Supreme Court for the governance of appeals to the county or circuit courts. Appeals of the

issuance or denial of an order of protection pursuant to MCA 93-21-1 shall be made to the county or chancery court pursuant to M.R.C.P. 65(f)(6).

URPJC Rule 2.04. Issuance of Summons

Summons shall be issued and served pursuant to Miss. Code Ann. § § 11-9-107, 11-9-109 and 13-3-5(2). Summons and orders shall be served in actions brought pursuant to MCA 93-21-1 et seq.in the manner prescribed by Rule 65(f) of the Mississippi Rules of Civil Procedure.