

89-11-99001

The Winn Brown Law Firm, PLLC

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Board Certified - Creditors' Rights Specialist
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Administrator/Accounting - *Peggy O. Young, Ext. 102*
Collection Manager - *Debbie W. McClain, Ext. 103*
Collection Paralegals: - *Jamie D. Holland, Ext. 107*
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The Supreme Court of The State of Mississippi
Att'n: Rules Committee on Civil Practice and Procedure
P. O. Box 249
Jackson, MS 39205

FILED

JAN -4 2015

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Re: Mississippi Rules of Civil Procedure

Please change the official abbreviation to "MRCP"

We comment on each rule:

Rule 1: No changes recommended.

Rule 2: No changes recommended.

Rule 3: No changes recommended.

Rule 4: (1) Delete Rule 4(h).

(2) Revise Rule 4 (a)(3) to allow service of process upon in state defendants using certified mail as currently allowed for persons outside the state under Rule 4(a)(5).

(3) Revise Rule 4(d)(B) by replacing the term "defendant's family" with the term "defendant's household." (Or adopt the language of Rule 5(b)(1) "with some person of suitable age and discretion then residing therein....")

(4) Add Rule 4(c)(5): "By other methods specifically determined to give the defendant adequate notice of the pending action and authorized by the court issuing the process when it appears that the defendant is evading service of process.

Rule 5: (1) Delete from Rule 5(b)(1) the words "... or, if there is no on (sic) one in charge, leaving it is a conspicuous place therein;"

Rule 5.1 Leave it suspended.

Rule 6: No changes recommended.

Rule 7: Rule 7(b)1: Add at the end "... or if the order is a joint, agreed or consent order."

Rule 8: No changes recommended.

Rule 9: No changes recommended.

Rule 10: Rule 10(d): add after the final word "(pleading) or the pleading states that the information has been provided to the defendant prior to suit."

Rule 11: No changes recommended.

Rule 12: No changes recommended.

Rule 13: No changes recommended.



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December 21, 2015

- Rule 14: No changes recommended.
- Rule 15: Delete the reference to Rule 4(h).
- Rule 16: No changes recommended.
- Rule 17: No changes recommended.
- Rule 18: No changes recommended.
- Rule 19: No changes recommended.
- Rule 20: No changes recommended.
- Rule 21: No changes recommended.
- Rule 22: No changes recommended.
- Rule 23: No changes recommended.
- Rule 23.2: No changes recommended.
- Rule 24: No changes recommended.
- Rule 25: No changes recommended.
- Rule 26: No changes recommended.
- Rule 27: No changes recommended.
- Rule 28: No changes recommended.
- Rule 29: No changes recommended.
- Rule 30: No changes recommended.
- Rule 31: No changes recommended.
- Rule 32: No changes recommended.
- Rule 33: No changes recommended.
- Rule 34: No changes recommended.
- Rule 35: No changes recommended.
- Rule 36: No changes recommended.
- Rule 37: No changes recommended.
- Rule 38: No changes recommended.
- Rule 39: No changes recommended.
- Rule 40: Delete Rule 40(a)(1) and (3) and 40(b). The parties can best determine when a case is ready of trial. Rule 41 will dispose of cases that have not been set. Docket calls are expensive wastes of time and economic resources.
- Rule 41: Revise the next to the last sentence of Rule 41(d)(1) to read: "If action of record is not taken or good cause not shown, the court shall dismiss each such case without prejudice *and the statute of limitations shall have been tolled until the date of such dismissal.*"
- Rule 42: No changes recommended.
- Rule 43: No changes recommended.

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- Rule 44: No changes recommended.
- Rule 44.1: No changes recommended.
- Rule 45: Add 45(a)(1)(A) "Subpoenas for production of documents and things may be issued by attorneys of record within specific cases. Such subpoenas shall state the name of the court and the title of the action and shall command each person to whom it is directed to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things in the possession, custody or control of that person. The attorney issuing the subpoena shall sign the such subpoena and the seal of the court are not needed on such subpoenas. Proof of service shall be as provided in Rule 45(c)(2).
- Rule 46: No changes recommended.
- Rule 47: No changes recommended.
- Rule 48: No changes recommended.
- Rule 49: Rule 49(b) add at the beginning of the first sentence: "After finding good cause and stating the nature of the cause found" (the court may).
- Rule 50: No changes recommended.
- Rule 51: No changes recommended.
- Rule 52: No changes recommended.
- Rule 53: No changes recommended.
- Rule 54: No changes recommended.
- Rule 54: Rule 55(a): Add a final sentence: "After entry of the clerk's default against any party, the court may enter default judgment without further motion for default judgment."
- Rule 55: No changes recommended.
- Rule 56: No changes recommended.
- Rule 57: No changes recommended.
- Rule 58: No changes recommended.
- Rule 59: No changes recommended.
- Rule 60: No changes recommended.
- Rule 61: No changes recommended.
- Rule 62: No changes recommended.
- Rule 63: No changes recommended.

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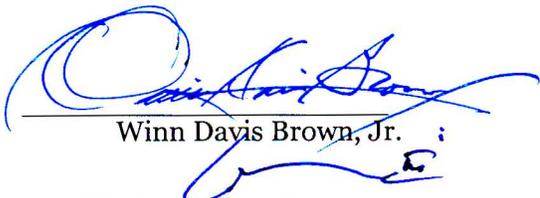
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- Rule 64: No changes recommended.
- Rule 65: No changes recommended.
- Rule 65.1: No changes recommended.
- Rule 66: No changes recommended.
- Rule 67: No changes recommended.
- Rule 68: Add to the fifth sentence : "including reasonable attorney's fees to be determined by the court to the party making the offer."
- Rule 69: Add to the final sentence: "... or subpoena as provided by Rule 45."
- Rule 70: No changes recommended.
- Rule 71: No changes recommended.
- Rule 77: No changes recommended.
- Rule 78: Alter the second paragraph to read: "To expedite its business, the court *shall* make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition."
- Rule 79: No changes recommended.
- Rule 80: No changes recommended.
- Rule 81: No changes recommended.
- Rule 82: No changes recommended.
- Rule 83: No changes recommended.

Respectfully,



Winn Davis Brown, Jr.

Winn Davis Brown, III

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