

Serial: 250511

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99006-SCT

FILED

MAR 20 2024

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

***IN RE: UNIFORM CHANCERY COURT
RULES***

EN BANC ORDER

Before the en banc Court are the Conference of Chancery Judges' Petition to Adopt Revised Uniform Chancery Court Rules Approved by the Conference on October 24, 2019, and its Amended Petition to Adopt the Revised Uniform Chancery Court Rules Approved by the Conference on April 27, 2023.

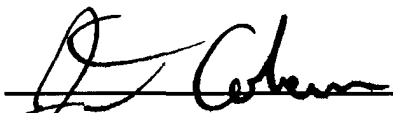
The petition was referred to the Court's Advisory Committee on Rules, which responded with comments. Then, from August 18 to September 21, 2023, the amended petition was posted for comment. And as part of the Court's Rules Committee on Civil Practice and Procedure's review, it met with former Chancellor Lawrence Primeaux, Chancellor Carter O. Bise, Chancellor Cynthia Lee E. Brewer, Chancellor Gerald M. Martin, and Chancellor Crystal Wise Martin.

The Court sincerely appreciates not only the Conference's and the Advisory Committee's work but also the contributions of Chancellors Primeaux, Bise, Brewer, Martin, and Wise Martin.

After due consideration, we find that the Uniform Chancery Court Rules should be revised as set forth in the attached Exhibit A. A clean copy of the revisions is attached as Exhibit B.

IT IS, THEREFORE, ORDERED that the Uniform Chancery Court Rules shall be revised as set forth in the attached Exhibit A. The revisions will be effective on April 18, 2024.

SO ORDERED, this the 19th day of March, 2024.



JOSIAH DENNIS COLEMAN, JUSTICE
FOR THE COURT

AGREE: RANDOLPH, C.J., KITCHENS AND KING, P.JJ., COLEMAN, MAXWELL, BEAM, CHAMBERLIN AND ISHEE, JJ.

DISAGREE: GRIFFIS, J.

GRIFFIS, J., OBJECTS TO THE ORDER WITH SEPARATE WRITTEN STATEMENT.

IN THE SUPREME COURT OF MISSISSIPPI

NO. 89-R-99006-SCT

***IN RE: UNIFORM CHANCERY COURT
RULES***

**GRIFFIS, JUSTICE, OBJECTING TO THE ORDER WITH SEPARATE
WRITTEN STATEMENT:**

¶1. I respectfully object to the Order Granting Petition to Adopt Revised Uniform Chancery Court Rules.

I. The changes are not ready to be finalized.

¶2. The Conference of Chancery Judges submitted two petitions to adopt revised Uniform Chancery Court Rules on October 31, 2019, and July 11, 2023. The petitions were posted for comment on August 18, 2023, and were submitted to the Supreme Court’s Civil Rules Advisory Committee.

¶3. The Court’s Committee on Civil Procedure has made substantial changes to the rules that have not been viewed or considered by the Conference of Chancery Judges. In my opinion, the final version that shows all proposed changes should be returned to the Conference of Chancery Judges for discussion and approval and then posted for public comment before these revised rules are adopted.

II. Some of the revisions are meaningless.

¶4. There are several revisions that, in my opinion, are simply meaningless and have no effect on chancery court practice.

a. Revision of Title from “Judge” to “Chancellor”

¶5. The petition filed by the Conference of Chancery *Judges* asks that this Court change their title from “judge” to “chancellor.” Until now, both the Uniform Chancery Court Rules (UCCR) and the Uniform Civil Rules of Circuit and County Court Practice (UCRCCC) have consistently used the title of “judge” when referring to the presiding judicial officer. In chancery court, the presiding judicial officer is routinely called both “judge” and “chancellor.” I would defer to consistency in our rules and not make this distinction in judicial officers. I am of the opinion that the presiding judicial officer is consistently referred to as “judge” in all of our rules of court. The Conference of Chancery *Judges* has not provided any substantial reason for this change.

b. Use of Subparagraph Letters

¶6. In these revised rules, the revisions merely divide what was previously a paragraph with several sentences into now several sub paragraphs that consist of a single sentence. This is not the proper way to format and style rules.

¶7. Also, the revisions that use subparagraphs are not consistent. Revised Rule 1.01 uses lowercase letters (a, b, c, etc.), while other revisions use large capital letters and parentheses ((A), (B), (C), etc.).

III. The revised rules do not retain consistency between the UCCR and the UCRCCC.

¶8. As discussed above, until now, several UCCR provisions were *identical* to UCRCCC provisions. Now, these revisions create unnecessary differences in the title of the presiding judicial officer and in other areas, which do away with the consistency of the UCCR and the UCRCCC. Here are a few examples:

a. Assignment of Cases

¶9. First, the UCCR and the UCRCCC currently have an identical rule for “Assignment of Cases.” UCCR 1.06, UCRCCC 1.05A. This revision in the UCCR creates an inconsistency in these rules for no particular reason.

¶10. Of more concern, however, is that the comment has been deleted from the UCCR but the comment remains in the UCRCCC. Again, there is no particular reason for this action.

b. Discovery Deadlines

¶11. Second, the UCCR and the UCRCCC currently have an identical rule for “Discovery Deadlines.” UCCR 1.10, UCRCCC 4.03. Unlike other revisions, the revisions in the UCCR actually have a meaningful and significant change. I agree with these revisions. But the same revisions should be made to the UCRCCC.

¶12. Also, the time has come that this Court should either delete the ninety day discovery rule or revise it. The ninety day discovery rule should be considered and revised in such a manner as to actually work and be enforced. This rule is routinely ignored, and this Court should now fix it.

c. Motions to Recuse

¶13. Third, the UCCR and the UCRCCC currently have an identical rule for “Motions to Recuse.” UCCR 1.11, UCRCCC 1.15. The revision in the UCCR is meaningless.

d. Withdrawal from Case

¶14. Finally, the UCCR and the UCRCCC currently have a rule for the “Withdrawal of Counsel” that are almost identical. UCCR 1.08, UCRCCC 1.13. Now, this revision makes

withdrawal of counsel different in chancery court as opposed to circuit or county court.

¶15. UCCR 1.08(B) revision now defines “reasonable notice” differently for chancery court. Of more concern, however, is that revised UCCR 1.08(B) now provides for another use of a Rule 81 Summons that is not authorized under Rule 81 of the Mississippi Rules of Civil Procedure. This rule now presents a concern. What is a chancellor to do if the Withdrawal of Counsel—Rule 81 Summons is properly served on a client for a motion for withdrawal of counsel, but the hearing does not occur on the date certain used in the summons? Rule 81(d)(5) provides, “[i]f such action or matter is not heard on the day set for hearing, it may by order signed on that day be continued to a later day for hearing without additional summons on the defendant or respondent.” Case law provides that if such Rule 81(d)(5) order of continuance is not signed on that day, the court loses jurisdiction of the defendant. I suppose the attorney would have to either reset the hearing by order signed on that day or re-serve the Rule 81 Summons; the revised rule should address this issue. Nevertheless, this revision is not authorized by Rule 81. Also, if this is the procedure to withdraw as counsel in chancery court, it should also be the procedure in circuit and county court.

¶16. There is simply no good reason to make these changes and create inconsistencies in the UCCR and the UCRCCC. These chancery and circuit court rules should be the same.

IV. Unnecessary redundancies in the UCCR should be omitted or addressed.

a. Findings

¶17. Both the current and revised UCCR 4.01 are redundant to Rule 52(a) of the

Mississippi Rules of Civil Procedure and its advisory committee note. The revisions should delete UCCR 4.01. Rule 52(a) and its advisory committee note say the same thing. UCCR 4.01 is unnecessary.

b. Wrongful-Death Actions

¶18. UCCR Parts 6 and 8 need further attention and revision. Currently, Part 6 applies to Fiduciary Matters and Fiduciaries. The revised UCCR 6.01 adds “APPLICABILITY. This Part shall apply to all fiduciary matters, including estates, administrations, guardianships, and trusts.” Then, in Part 8, UCCR 8.01 is revised to move “minors’ business” from Part 6 to Part 8. This revision is confusing because now both Parts 6 and 8 will apply to “minors’ business” in the compromise and settlement of a wrongful-death claim. The revisions to UCCR 6.01, 6.11, and 8.01 simply do not make sense.

c. Weapons in the Courtroom and Courthouse

¶19. There is a serious issue regarding weapons in the courtroom and courthouse. Neither the Conference of Chancery Judges nor the Court have addressed this issue. The issue should be addressed. This revision simply moves Rule 3.08 to Rule 1.03 and deletes part of 1.01. The Court has missed an opportunity to undertake a more substantive review and consideration of this important issue.

d. Abortion

¶20. In light of *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 142 S. Ct. 2228, 213 L. Ed. 2d 545 (2022), the Court should address the status of abortion law in Mississippi and consider whether Part 10—Abortion—should remain in the UCCR.

e. Conflicts

¶21. Finally, with no research, serious discussion, or input from the Conference of Chancery Judges, the Court has decided to delete Part 11. This was not part of the proposal from the Conference of Chancery Judges and has not been given any consideration or review.

V. Conclusion

¶22. I support and agree with several of the revisions made by the Court to the UCCR. I object to this order, however. I urge my distinguished colleagues to return these proposed revisions to the Supreme Court's Committee on Civil Rules for additional research, consideration, and revision.

EXHIBIT A

UNIFORM CHANCERY COURT RULES

Table of Rules

PART ONE

~~1.00~~ GENERAL RULES

1.00 Designation of Rule Name and Proper Citation

~~1.01 Proceedings Must Be Orderly and Dignified.~~ Court Decorum

~~1.02 Officers Must Be Present in Court.~~

~~1.03 Sheriff Must Keep Courtroom Clean and Comfortable.~~ Firearms Prohibited on the Witness Stand and in Courtroom

~~1.04 Clerk Must Have Papers and Docket in Courtroom.~~ Sheriff Must Keep Courtroom Clean, Comfortable, and Secure

~~1.05 Officers, Witnesses and Solicitors Must Be Prompt.~~ Clerk Must Make Papers and Dockets Available

~~1.06 Assignment of Cases.~~

~~1.07 Prohibition Against Presentation to Other Chancellor of Matter When Relief is Denied Prohibited.~~

~~1.08 Withdrawal of Counsel.~~

~~1.09 Notification of Relevant Pending Cases.~~ and Reassignment

~~1.10 Discovery Deadlines and Practice.~~

~~1.11 Motions for Recusal of Judges.~~

~~1.12 Electronic Media Coverage.~~

~~1.13 Electronic Filing and Service Procedures.~~ Sanctions

1.14 Applicability

PART TWO

PLEADINGS AND MOTIONS

~~2.00 RULES CONCERNING PLEADINGS~~

~~2.01 {Deleted}.~~ Pleadings and Motions Must Be Filed Before Being Presented

~~2.02 Pleadings Must Be Filed Before Presented.~~ Blanks Must Be Filled In

~~2.03 No Blanks in Pleadings. Amendments During Trial~~

~~2.04 [Deleted].~~

~~2.05 [Deleted].~~

~~2.06 Blanks in Pleadings Must Be Filled In.~~

~~2.07 Pleadings Must Be Paragraphed.~~

~~2.08 Delay in Answering.~~

~~2.09 Amendments During Trial Term.~~

~~2.10 Trial Not Delayed Because Demurrer Is Overruled.~~

~~2.11 Motions for Security for Costs.~~

PART THREE

~~3.00~~ RULES CONCERNING TRIALS

~~3.01 Vacation Business— Rules of Precedence.~~

~~3.02 Cloud of Witness— What Done. Avoiding Summoning of Redundant Witnesses~~

~~3.03 Examination of Witnesses.~~

~~3.04 Rulings on Objections to Testimony—Rulings Thereon.~~

~~3.05 Copy of Exhibits.~~

~~3.06 Only One Attorney for Each Party May Examine Witness.~~

~~3.07 Conference With Witnesses.~~

~~3.08 Firearms Prohibited on the Witness Stand or in Courtroom.~~

~~3.097 Agreements of Counsel.~~

~~3.1008 Earwiggling of the Chancellor Prohibited.~~

~~3.1109 Argument of Counsel.~~

~~3.1210 Notification of Settlement or Possible Continuance.~~

PART FOUR

~~4.00~~ RULES CONCERNING OPINIONS

~~4.01 Findings by the Court.~~

~~4.02 Opinion a Part of Record.~~

~~4.03 No Interruption While Rendering Opinion.~~

PART FIVE
5.00 JUDGMENTS AND ORDERS

~~5.01 Judgments—Form of Caption.~~

~~5.021 Judgments—Contents and Form.~~

~~5.032 Consent Judgments Must Be Approved and Orders Signed by Both Counsel.~~

~~5.043 Judgment Must Be Submitted Submission to Opposing Counsel Party and Chancellor Court.~~

~~5.054 Presentation of Court File.~~

~~5.065 Judgment Must Be Delivered to the Clerk.~~

PART SIX
FIDUCIARY MATTERS AND FIDUCIARIES

~~6.00 RULES CONCERNING PROBATE MATTERS~~

~~6.01 Applicability~~

~~6.012 Attorney Must Be Retained Unless Excused.~~

~~6.023 Fiduciaries and Attorney Must Be Diligent.~~

~~6.034 Statement Appended to Annual Accounts.~~

~~6.045 What Vouchers Must Show.~~

~~6.056 Disbursements and Receipts; Annual and Final Accounts.~~

~~6.067 Lost Vouchers—How Substituted.~~

~~6.078 Claims Arising After Death of Decedent.~~

~~6.089 Allowance for Support of Ward.~~

~~6.0910 Petitions for Authority to Make Loans or Investments.~~

~~6.1011 Petitions for Authority to Compromise Claims for Wrongful Death or Injury.~~

~~6.1112 Petitions for Commissions.~~

~~6.1213 Petitions for Allowance of Attorney's Fees.~~

~~6.1314 Pleading Must Be Sworn Filings To.~~

~~6.14 Court Costs Must Be Paid Annually.~~

~~6.15 Copy of Will Filled With Original.~~

~~6.16 [Deleted].~~

6.1716 Failure to File Accountings.

PART SEVEN
[VACATION MATTERS] [OMITTED]

~~7.00 RULES CONCERNING VACATION MATTERS~~

~~7.01 [Deleted].~~

~~7.02 Return Envelope Must Be Enclosed.~~

~~7.03 Removal of Disability.~~

PART EIGHT
DIVORCE AND OTHER DOMESTIC MATTERS

~~8.00 RULES CONCERNING DIVORCE~~

~~8.01 [Deleted].~~ Applicability

~~8.02 [Deleted].~~ Removal of Disability

~~8.03 Corroboration.~~

~~8.04 Irreconcilable Differences Divorce.~~

~~8.05 Financial Statement and Disclosure Required.~~

~~Exhibit "A".~~

~~Exhibit "B".~~

~~8.06 Change of Address of Children.~~

PART NINE
9.00 RULES CONCERNING DUTIES OF THE CLERK

~~9.01 Costs of Court.~~

~~9.02 All Papers Must Be Kept in Proper Files.~~

~~9.03 [Deleted].~~

~~9.043 Original Wills and Bonds;—How Kept.~~

~~9.05 [Deleted].~~

PART TEN
10.00 ABORTION

10.01 Waiver of Consent to Abortion-

~~11.00 CONFLICTING RULES~~

~~11.01 Priority-~~

Administrative orders

UNIFORM CHANCERY COURT RULES
Adopted Effective February 1, 1989
Revised and Amended Effective

PART ONE
1.00 GENERAL RULES

RULE 1.001 ~~PROCEEDINGS MUST BE ORDERLY AND DIGNIFIED~~

DESIGNATION OF RULE NAME AND PROPER CITATION

These rules are the Uniform Chancery Court Rules and may be cited as UCCR.

RULE 1.01

COURT DECORUM

~~All proceedings in the Chancery Court~~ The chancellor shall ensure that all proceedings in the chancery court, whether in term time or in vacation, shall be conducted with due formality and in an orderly and dignified manner, observing the following:

- a. The court shall be opened formally and conducted with dignity and decorum at all times.
- b. No drinks, food, gum, or smoking shall be permitted except as allowed by the court.
- c. The eCounsel, parties, and witnesses, must be respectful to the court and to each other. Bickering or wrangling and disrespectful behavior between counsel, or between counsel and witness, will not be tolerated.
- d. Applause or demonstration or approval or disapproval, and the use of profane or indecent language are prohibited.
- e. Counsel shall not approach the witness without leave of court.
- f. Counsel, iIn examining witnesses, in reading from a brief or opinion, and in all presentations, to the Ccourt, counsel shall stand unless specifically excused from doing so by the Ccourt.

- g. Counsel shall in formal hearings address the Court in the historic manner of “Your Honor” and/or “May it please the Court.” The dignity and the respect of the Court shall be preserved at all times.
- h. All attorneys, bailiffs, clerks, witnesses, and other personnel shall be prompt and timely in attendance, and shall be fully prepared to proceed at the appointed time.
- i. Use of cell phones and recording of proceedings in the courtroom and chambers are prohibited except as allowed by the court.
- j. Each officer of the court is responsible for the promotion of respect for the court.

~~In the interest of security, all persons entering the courtroom may be searched for weapons.~~

RULE 1.02

OFFICERS MUST BE PRESENT IN COURT

When the Court is in session the Sheriff and Clerk, in person or by competent deputies, must be present in the courtroom to perform such duties as may be required of them by law or the direction of the Chancellor unless excused by the Chancellor. The Court Reporter shall be present, as the Chancellor may direct, to perform the duties of Court Reporter.

~~RULE 3.08~~ 1.03

FIREARMS PROHIBITED ON THE WITNESS STAND ~~OR~~ AND IN COURTROOM

No person other than law enforcement officers shall take or carry firearms or other weapons into the courtroom. When law enforcement officers take the stand as litigants or witnesses, such officers shall remove their firearms and place same in the possession of the bailiff until the witness or litigant has left the witness stand.

RULE 1.034

SHERIFF MUST KEEP COURTROOM CLEAN, ~~AND~~ COMFORTABLE, AND SECURE

The sheriff must see that the courtroom, library, Judge's court chambers, witness rooms, and rest-rooms are kept secure, clean, and in comfortable condition.

RULE 1.045

~~CLERK MUST HAVE~~ MAKE PAPERS AND DOCKETS ~~IN COURTROOM~~
AVAILABLE

~~Unless the Chancellor directs otherwise, the Clerk shall, while the court is in session, have and keep in the courtroom, or in an office adjoining, the court file of each action pending for that day in the Court, and all dockets he is required to keep.~~

The clerk shall, while court is in session, provide the court with a device to access the internet and the Mississippi Electronic Court System (MEC).

~~**RULE 1.05 OFFICERS, WITNESSES AND SOLICITORS MUST BE PROMPT**~~

~~When any civil action has been set for, or adjourned to, a particular day or hour, all officers, parties, witnesses and solicitors whose presence is necessary for the trial shall be present promptly at the time set. Any negligent or willful failure to obey this rule shall be punished by contempt.~~

RULE 1.06

ASSIGNMENT OF CASES

(A) In multi-~~judge~~chancellor 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.

(B) If an attorney or party shall attempt to manipulate or defeat the purpose of this rule, the case shall be reassigned to the ~~judge~~ chancellor who would have otherwise received the assignment.

(C) If the ~~judge~~ chancellor 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~~ chancellor to whom it was incorrectly assigned.

~~(D)~~ (D) Sanctions, including costs and attorney's fees, may be imposed by that judge chancellor 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)~~ (E) 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)~~ (F) In districts where motion days are set in advance with judges chancellors specifically assigned, preliminary procedural matters ~~and those matters enumerated under M.R.C.P. 81(d)(1) and (2)~~ may be submitted to the judge chancellor assigned such duties, notwithstanding the fact that the case has been assigned to another judge chancellor.

~~(G)~~ (G) ~~Furthermore, b~~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.

[Adopted effective May 29, 2003.]

Comment

~~In 2002 the Legislature adopted Miss. Code Ann. § 11-1-56, which required civil case assignments to be delayed until one defendant has filed responsive pleadings. By the adoption of this rule, the Supreme Court has superceded Section 11-1-56, exercising its inherent authority to adopt rules of practice, procedure and evidence to promote justice, uniformity, and the efficiency of the courts, as articulated in *Newell v. State*, 308 So. 2d 71 (Miss. 1975) and *Hall v. State*, 539 So. 2d 1338 (Miss. 1989).~~

~~The purpose of this rule is to prevent "judge shopping" within a district or a court. Although voluntary dismissal is allowed under M.R.C.P. 41 at any time prior to service by the adverse party of an answer or summary judgment, when a civil case is so dismissed and then refiled immediately thereafter with no substantial change in the parties or claims, such practice, as an example, may be taken as a wilful violation of this rule. Wilful violation of this rule may constitute an offense subject to suspension and other discipline under Rule 3.4(e) of the Rules of Professional Conduct. Sanctions authorized by this rule are cumulative to discipline under the Rules of Professional Conduct.~~

~~The assignment of cases by regular rotation among the judges of the district is not a random assignment as contemplated by this rule since a regular rotation will allow those attentive to the docket to predict the judge who will receive a particular assignment.~~

~~A party who believes that a case has been assigned in violation of this rule will first submit the issue to the judge before whom the case is pending; thereafter, either party~~

~~aggrieved by the judge's decision on the issue may seek review of that decision by this Court under the provisions of M.R.A.P. 21.~~

~~In some districts, local modifications, which to some degree are at variance with the strict provisions of this rule, may be made while fulfilling the policy of the rule. These modifications are to be made by local rule, on petition of the local district under M.R.C.P. 83 to the Supreme Court. The order by which this Rule 1.06 was adopted provides:~~

~~It is further ordered that this new rule shall be effective upon issuance of this order; however, local practices adopted for the purpose of accommodating the needs of economy and efficiency may be continued for a period of forty-five days from the issuance of this order, and in districts wherein the judges of the district have within such period petitioned the Court under M.R.C.P. 83 for local rules seeking approval of such practices or of other practices which might otherwise be in variance to this rule, the practices may continue to be used until the Supreme Court has considered the petition.~~

~~[Comment adopted effective May 29, 2003.]~~

RULE 1.07

PROHIBITION AGAINST PRESENTATION TO OTHER CHANCELLOR OF MATTER WHEN RELIEF IS DENIED ~~PROHIBITED~~

~~When any has matter has been presented to one of the ~~C~~hancellors and the relief denied, the attorney shall not ~~go to one of the other Chancellors and~~ present the same matter to another chancellor.~~

RULE 1.08

WITHDRAWAL OF COUNSEL

(A) When an attorney makes an appearance for any party in an action, the attorney will not be allowed to withdraw as counsel for the party except upon: (1) written motion; and after (2) reasonable notice to the client and opposing counsel; and (3) order of the court.

(B) Reasonable notice to the client within the meaning of this rule requires either that:

(1) the client has agreed to and signed off on the order allowing withdrawal;

(2) the client has agreed to and joined in the motion for withdrawal; or

(3) the client has been timely served with an M.R.C.P. Rule 81 summons for the date and time of the hearing.

RULE 1.09

NOTIFICATION OF RELEVANT PENDING CASES AND REASSIGNMENT

(A) When counsel in a cause is aware of a case pending in this court or another court of this or any other state or federal jurisdiction, which that likely may affect the subject matter or jurisdiction of the cause pending in the Chancery Court, such counsel shall immediately notify the Chancery Court by written notice docketed for such other cause.

(B) When a case has been filed and assigned to a chancellor, any subsequent filing involving the same subject matter shall be assigned to that same chancellor. When a chancellor becomes aware that there is a prior proceeding involving the same subject matter, the chancellor shall direct that the clerk reassign the later-filed case to the chancellor in the earlier proceeding.

RULE 1.10

DISCOVERY DEADLINES AND PRACTICE

(A) All discovery must be completed within ninety days from service of an answer by the applicable defendant. If the pleading is one to which no answer is required, either party desiring discovery may timely move the court for an order scheduling discovery to extend or shorten the time for discovery, according to the issues involved. If no such motion is filed, then discovery shall be completed ninety days from completion of service of process on all defendants.

(B) Additional discovery time may be allowed with leave of court upon written motion setting forth good cause for the extension. Absent special circumstances the court will not allow testimony at trial of an expert witness who was not designated as an expert witness to all attorneys of record at least sixty days before trial.

(C)B. When responding to discovery requests, interrogatories, requests for production, and requests for admission, the responding party shall, as part of the responses, set forth immediately preceding the response the question or request to which such response is given. Responses shall not be deemed to have been served without compliance to with this subdivision.

~~(D)C.~~ No motion to compel shall be heard unless the moving party shall incorporate in the motion a certificate that movant has conferred in good faith with the opposing attorney in an effort to resolve the dispute and has been unable to do so. Motions to compel shall quote verbatim each contested request, the specific objection to the request, the grounds for the objection, and the reasons supporting the motion.

RULE 1.11

MOTIONS FOR RECUSAL OF JUDGES

(A) Any party may move for the recusal of a judge chancellor ~~of the chancery court~~ if it appears that the judge's chancellor's impartiality might be questioned by a reasonable person knowing all the circumstances, or for other grounds provided in the Code of Judicial Conduct or otherwise as provided by law.

(B) A motion seeking recusal shall be filed with an affidavit of the party or the party's attorney setting forth the factual basis underlying the asserted grounds for recusal and declaring that the motion is filed in good faith and that the affiant truly believes the facts underlying the grounds stated to be true.

(C) Such motion shall, in the first instance, be ~~filed with~~ served on the judge chancellor who is the subject of the motion within 30 days following notification to the parties of the name of the judge chancellor assigned to the case; or, if it is based upon facts which could not reasonably have been known to the filing party within such time, it shall be ~~filed~~ served within 30 days after the filing party could reasonably discover the facts underlying the grounds asserted.

(D) The subject judge chancellor shall consider and rule on the motion within 30 days of ~~the filing service~~ of the motion, with hearing if necessary. If a hearing is held, it shall be on the record in open court.

(E) The denial of a motion to recuse is subject to review by the Supreme Court on motion of the party filing the motion as provided in M.R.A.P. 48B.

[Adopted April 4, 2002.]

RULE 1.12

ELECTRONIC MEDIA COVERAGE

Electronic media coverage of judicial proceedings by means of cameras, television, and other electronic devices is governed by the Rules for Electronic and Photographic Coverage of Judicial Proceedings.

[Adopted effective April 17, 2003 for proceedings conducted from and after July 1, 2003.]

~~Rule 1.13. ELECTRONIC FILING AND SERVICE PROCEDURES~~

~~A court may, by local rule, allow pleadings and other papers to be served, filed, signed, or verified by electronic means in conformity with the Mississippi Electronic Court System procedures. Pleadings and other papers filed electronically in compliance with the procedures are written papers for purposes of these rules. Please refer to the Administrative Procedures for Mississippi Electronic Court System on the Supreme Court's website at www.msse.state.ms.us.~~

~~[Adopted effective January 8, 2009, for purposes of a pilot program for the Mississippi Electronic Court System.]~~

Comment

~~Section 3B(12) of the Code of Judicial Conduct prohibits broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto except as authorized by rule or order of the Supreme Court. The Supreme Court has now adopted the Rules for Electronic and Photographic Coverage of Judicial Proceedings which provides detailed guidance for such coverage.~~

~~[Adopted effective April 17, 2003.]~~

Rule 1.13

SANCTIONS

Any person who violates the provisions of these rules may be subject to sanctions, contempt proceedings, or other disciplinary actions imposed or initiated by the court.

Rule 1.14

APPLICABILITY

These rules shall apply to self-represented litigants.

PART TWO
PLEADINGS AND MOTIONS

~~2.00 RULES CONCERNING PLEADINGS~~

RULE 2.01 ~~{DELETED}~~

~~RULE 2.02~~ PLEADINGS AND MOTIONS MUST BE FILED BEFORE BEING PRESENTED

All pleadings, motions, accounts, and other papers in any action shall be filed with the Clerk of the proper Court before being presented to the Chancellor. If to do so would inflict undue hardship on the attorney, or in emergency matters, the papers may be presented to ~~the Chancellor~~ and marked "Filed" by ~~him~~ the chancellor as provided in M.R.C.P. 5(e). Thereafter, ~~the said papers shall be forthwith transmitted by the attorney to the proper~~ shall file the papers with the Clerk.

RULE 2.03~~2~~

~~NO~~ BLANKS IN PLEADINGS MUST BE FILLED IN

~~No~~ All blanks shall be contained in any pleading, motion, paper, order, or judgment must be filled in before being filed with the clerk or presented to the court.

~~RULES 2.04 AND 2.05 {DELETED}~~

~~{Deleted September 19, 1979.}~~

~~RULE 2.06 BLANKS IN PLEADINGS MUST BE FILLED IN~~

~~All blanks contained in any pleading must be properly filled in according to the fact or facts before being filed with the clerk or presented for consideration by the Court or Chancellor. If the pleader does not know, and is unable to learn, the necessary fact or facts to enable him to fill in such blanks accurately, he must so state in his pleading.~~

~~RULE 2.07 PLEADINGS MUST BE PARAGRAPHED~~

~~Each of the several facts on which a complainant may rely for relief shall be set forth in his bill of complaint in a separate paragraph, so far as can be conveniently done, and each paragraph shall be numbered consecutively. The defendant shall answer the bill in like numerical order, and may plead to the fact or facts stated in each such paragraph of the bill, any proper affirmative defense thereto. Or the defendant may answer the bill paragraphically and then plead such affirmative matters of defense to the bill as a whole as he may deem advisable or proper. But in such case, each of the several facts relied on as an affirmative defense shall be stated in a separate paragraph, so far as to distinguish the matters therein pleaded from those previously admitted or denied in response to the bill. And the same rule shall be observed in regard to cross bills and answers thereto. Any failure to comply with this rule may be taken advantage of by motion to strike such defective pleading.~~

~~RULE 2.08 DELAY IN ANSWERING~~

~~If after a cause is otherwise triable by law the defendant shall obtain leave to answer the bill and thereby delay the trial beyond the term, he shall, on motion of the complainant, be taxed with all costs accrued to the time of granting such leave, unless good cause be shown why it would be inequitable so to do.~~

~~RULE 2.09~~

~~AMENDMENTS DURING TRIAL TERM~~

~~Where either party during the term at which a cause is triable, or during the trial thereof, shall When a matter has been set on the trial docket and one party obtains leave to amend his the pleadings, or to file an answer and counterclaim, and concerning any material matter, which the opposite party is not prepared to proceed upon the issues raised in the pleadings, the court may grant the opposing party's motion for a continuance, and the court may award expenses caused by the delay, unless good cause be shown for the delay meet, shall, if he so requests be entitled to a continuance, and the party so making such amendment shall, on motion of the opposite party, be taxed with all costs accrued to the time of granting such leave, unless special circumstances of the case make it inequitable so to do.~~

~~RULE 2.10 TRIAL NOT DELAYED BECAUSE DEMURRER IS OVERRULED~~

~~The complainant shall not be delayed of a trial in any case because a demurrer is overruled. If, in such a case, the defendant has failed to file his answer with his demurrer he shall, if the complainant so insists, be required to answer within such time as will not delay the trial beyond the term.~~

~~RULE 2.11 MOTIONS FOR SECURITY FOR COSTS~~

~~All motions for security for costs must be filed and presented not later than the second day of the term next after process has been served on the movant. Otherwise such motion will be overruled unless good cause is shown why this rule was not complied with.~~

PART THREE

~~3.00~~ RULES CONCERNING TRIALS

RULE 3.01

VACATION BUSINESS RULES OF PRECEDENCE

(A) Where the Chancellor has, by order or custom, set apart time for hearing vacation actions, all vacation matters ~~coming before him~~ presented at such time and place shall have precedence over all the business of any term of Ccourt that may be then in session and not finally adjourned.

(B) At all other times during any term of Ccourt, the business of the term shall have precedence over all vacation matters presented to the Chancellor.

RULE 3.02

~~CLOUD OF WITNESS—WHAT DONE~~ AVOIDING SUMMONING OF REDUNDANT WITNESSES

(A) The practice of summoning numerous witnesses to prove the same fact or set of facts often serves merely to increase the costs and consume the time of the Ccourt.

(B) In such cases the Chancellor may, ~~in his discretion,~~ tax the per diem and mileage of all such unnecessary witnesses against the party causing them to be summoned whether they be called to testify or not.

(C) In all cases the mileage and per diem of all witnesses who are not called to testify shall be taxed against the party causing them to be summoned, unless good cause to the contrary be shown.

RULE 3.03

EXAMINATION OF WITNESSES

(A) The examination of witnesses shall be limited to the direct examination, the cross-examination, and the redirect examination concerning matters brought out on cross-examination.

(B) Counsel for either party may be permitted, on request, to inquire about new matters pertinent to the issues which may have been inadvertently omitted. Opposing counsel may also inquire concerning the same matter.

(C) In all cases the examination must be conducted in an orderly and decorous manner without interruption from opposing counsel except for the purpose of interposing objections.

RULE 3.04

RULINGS ON OBJECTIONS TO TESTIMONY ~~RULINGS THEREON~~

(A) All objections to testimony must be made to the Chancellor, not to opposing counsel.

(B) The objection must be specific rather than general.

(C) If requested by the Chancellor, counsel offering the testimony must state the purpose for which it is offered, and counsel objecting thereto must state the reasons for ~~his~~ the objection.

(D) If the Chancellor shall reserve his ruling, counsel interposing the objection shall make a note thereof and renew ~~his~~ their objection at the conclusion of the testimony; otherwise, ~~he~~ the objection shall be deemed to ~~have~~ waived ~~his~~ objection.

RULE 3.05

COPY OF EXHIBITS

(A) Unless excused by the ~~C~~ourt prior to trial, it shall be the duty of an attorney to distribute copies of any exhibits to the ~~C~~ourt and opposing counsel when offered.

(B) If a party is to make a substitution of a copy for any exhibit introduced into evidence, the copy shall be presented at the time the original is presented unless it could not be reasonably anticipated that the exhibit was to be offered.

RULE 3.06

ONLY ONE ATTORNEY FOR EACH PARTY MAY EXAMINE WITNESS

Only one attorney for each party to the action may examine a witness, interpose objections, or respond to objections except by permission of the ~~C~~hancellor.

~~RULE 3.07 CONFERENCE WITH WITNESSES~~

~~Counsel for each party shall confer with his witness before beginning the taking of testimony in behalf of his client. This rule shall not apply to witnesses who are inaccessible before that time.~~

~~RULE 3.08 FIREARMS PROHIBITED ON THE WITNESS STAND OR IN COURTROOM~~

~~No person other than law enforcement officers shall take or carry firearms or other weapons into the courtroom. When law enforcement officers take the stand as litigants or witnesses, such officers shall remove their firearms and place same in the possession of the bailiff until the witness or litigant has left the witness stand.~~

RULE 3.097

AGREEMENTS OF COUNSEL

(A) ~~Oral~~ Agreements of counsel made orally in the presence of the ~~C~~ourt must be recorded by the ~~C~~ourt Reporter, or an order entered in accordance therewith approved by counsel incorporated into an agreed order entered by the court in order to be binding on the parties.

(B) All other agreements should be reduced to writing and filed among the papers in the case.

RULE 3.408

EARWIGGING THE CHANCELLOR PROHIBITED

(A) Except in the orderly progress of the trial, and in the arguments or briefs connected therewith, No person shall undertake to discuss or communicate in writing with the chancellor, or in the presence or hearing of the Chancellor, the law or the facts or alleged facts of any litigated action then pending in the Court or likely to be instituted therein; except in the orderly progress of the trial, and arguments or briefs connected therewith.

(B) No attempt in any manner, except as above stated, to influence the Chancellor's decision shall be made in any manner except as allowed in Paragraph (A) above.

(C) No person shall send any written communication to the Chancellor concerning procedural matters and matters unrelated to the merits of the case a pending action in the Court without delivering or mailing a copy of that communication to the opposing party. The Chancellor shall file in the court file all such written communications received by him.

(D) Any person who shall violate this rule, knowing that such conduct is prohibited, shall be guilty of a contempt.

RULE 3.409

ARGUMENT OF COUNSEL

(A) The Chancellor may dispense with argument in any action.

(B) He The chancellor may require counsel to argue or brief the law and facts, either or both, in any action, and shall not be bound to decide the same until that counsel's duty has been performed to his satisfactorily.

(C) In all cases counsel must be prepared to argue the case as soon as at the conclusion of the taking of the testimony is concluded. The Chancellor may specify the points of law or fact on which he desires argument is desired and regulate the order and limit the length of oral arguments. In all cases where briefs are requested by the Chancellor, copies thereof must be delivered in person or by mail to opposing counsel. Any negligent or willful failure on the part of counsel to fully argue or brief any question when requested by the Chancellor will be considered a grave discourtesy.

RULE 3.1210

NOTIFICATION OF SETTLEMENT OR POSSIBLE CONTINUANCE

(A) ~~When~~ a case has been set for trial on a day certain (placed on trial docket) and the parties have settled or agreed to settle the case before the trial date, then plaintiffs' attorney shall immediately upon such agreement being reached so notify the ~~C~~ourt.

(B) Where parties agree before the day set for trial to continue their case, then plaintiffs' attorney shall likewise be obligated to immediately notify the ~~C~~ourt that the parties desire to mutually seek a continuance.

PART FOUR
OPINIONS

~~4.00 RULES CONCERNING OPINIONS~~

RULE 4.01

FINDINGS BY THE COURT

~~In all actions where it is required or requested, Any request for findings of fact by the court pursuant to M.R.C.P. 52, the Chancellor shall find the facts specially and state separately his conclusions of law thereon. The request must be made either in writing, and filed among the papers before the court begins rendering its bench opinion, judgment, order, or ruling, and before the court issues its written opinion, judgment, order, or ruling in the action, or dictated to the Court Reporter for record and called to the attention of the Chancellor.~~

RULE 4.02

OPINION A PART OF RECORD

The ~~C~~hancellor shall not be bound to render a formal opinion in deciding any action except as required by the preceding rule. ~~He~~ The chancellor may at his election render an opinion either orally or in writing. If ~~he~~ the chancellor shall renders an oral opinion, it shall be taken down by the ~~C~~ourt ~~R~~eporter who shall, when directed by the ~~C~~ourt, transcribe the same and submit it to the ~~C~~hancellor for correction and approval. In either event the opinion so rendered shall be filed among the papers and become a part of the record in the cause without any order or direction to that effect.

RULE 4.03

NO INTERRUPTION WHILE RENDERING OPINION

~~While the Chancellor is rendering an oral opinion in any action he shall not be interrupted by anyone~~ No interruptions shall be allowed during the time that the chancellor is rendering an oral opinion, judgment, order, or ruling. After ~~he~~ the chancellor has concluded, counsel for either party may make such suggestions or request such further findings of law or fact as may be deemed proper. The right to make suggestions or requests shall not be construed as the right to reargue the case or any part thereof. If the ~~C~~chancellor desires reargument in whole or in part, ~~he~~ the chancellor will request it.

PART FIVE
JUDGMENTS AND ORDERS
5.00 JUDGMENTS

~~RULE 5.01 JUDGMENTS – FORM OF CAPTION~~

~~Every Judgment shall show the number and style of the action at the top and have a caption showing the nature thereof.~~

RULE 5.01~~2~~

~~JUDGMENTS – CONTENTS AND FORM~~

~~(A) Every Judgment shall adjudicate such state the facts as to showing that the Court has lawful authority to render it proper jurisdiction and venue.~~

~~(B) In every action wWhere multiple forms of relief is are granted, the several items or elements thereof each shall be stated in a separately numbered paragraph which shall be numbered consecutively.~~

~~(C) Every Judgments and orders shall should be so drawn so as to be unambiguous definite and certain in all its in their terms and provisions conditions.~~

~~(D) In all litigated cases, the court shall in the judgment tax all costs in its discretion final Judgment shall tax the costs as the Chancellor may require and direct the issuance of~~

~~appropriate process for its enforcement. No exception to the action of the Court may be embraced in any Judgment, but the party adversely affected thereby shall be deemed to have duly excepted thereto.~~

RULE 5.023

~~CONSENT JUDGMENTS MUST BE APPROVED AND ORDERS SIGNED BY BOTH COUNSEL~~

~~Every~~ All consent or agreed judgments and orders must be approved and signed by all counsel for all parties affected by the judgment, or if a party is self-represented, by the party, to the suit who may be represented by counsel and interested in or affected thereby before being presented to the Chancellor for his signature. The Court may also in its discretion, require the parties to sign approve the judgment as well.

RULE 5.034

~~JUDGMENT MUST BE SUBMITTED~~ SUBMISSION TO OPPOSING COUNSEL PARTY AND CHANCELLOR WHEN COURT

~~(A) In all litigated actions, the An~~ An attorney who shall be is directed to draw prepare the a judgment or order shall must submit the same to the opposing counsel attorney or party for criticism approval as to form only, unless excused by the court.

~~(B) If no such approval has been made, counsel may present the same to the court showing proof that the judgment or order was submitted to counsel or party opposite.~~

~~(C) Whether approved or not, the judgment or order and shall must be presented the same to the Chancellor within ten (10) calendar days after being directed to draw the judgment unless otherwise permitted prepare it, or within such time as directed by the court.~~

RULE 5.045

PRESENTATION OF COURT FILE

~~Unless excused by the Court, when attorneys personally present to the Court any proposed order, they shall also present the court file for the convenience of the Court.~~

An attorney presenting a judgment or order must include in the judgment or order an itemization of the MEC-numbered documents affected by the judgment or order.

RULE 5.056

~~JUDGMENT MUST BE DELIVERED TO THE CLERK~~

~~As soon as a Judgment has been signed by Any attorney or self-represented person obtaining a judgment or order from the Chancellor, it shall be promptly delivered the same to the Clerk of the proper Court for so that it may be recorded in the minute book. Any person to whom any Judgment may be entrusted by the Chancellor for delivery to the Clerk who shall either willfully or negligently fail to promptly deliver it to the Clerk, shall be guilty of a Failure to promptly deliver the judgment or order may, in the court's discretion, constitute contempt.~~

PART SIX
FIDUCIARY MATTERS AND FIDUCIARIES
~~6.00 RULES CONCERNING PROBATE MATTERS~~

RULE 6.01

APPLICABILITY

This Part shall apply to all fiduciary matters, including estates, administrations, guardianships, and trusts.

RULE 6.024

ATTORNEY MUST BE RETAINED UNLESS EXCUSED

(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.~~

~~(E)~~ (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.

RULE 6.032

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 6.043

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

(C) 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 shall be attached.

(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 6.054

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, Miss. Code Ann. (1972) §§ 93-20-101, et seq., (S.B. 2828, 2018, Section 423).

(B) Every ~~such~~ 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 during the sanity of a person later deemed of unsound mind shall show that the claim was properly probated, allowed, and registered.

(D) This rule is modified as to banks or trust companies which are subject to the supervision of the Department of Bank Supervision of the State of Mississippi, or The Comptroller of the Currency of the United States to the extent they are covered by Miss. Code Ann. (1972) ~~Section~~ § 91-7-277.

RULES 6.065

DISBURSEMENTS AND RECEIPTS; ANNUAL AND FINAL ACCOUNTS

~~Where~~ Each disbursements ~~are~~ shown on an annual or final account ~~there~~ shall ~~be~~ included ~~therewith~~ the voucher number, the date of the disbursement, the name of the payee, the

purpose of the disbursement, and the date of any court order authorizing such disbursement. ~~Where~~ Each receipts ~~are~~ shown on such accounts ~~there~~ shall ~~be~~ included the date of the receipt, the name of the payor, and on what account payment is made.

RULE 6.076

LOST VOUCHERS-HOW SUBSTITUTED

In case ~~of the lost or destruction of any original voucher is lost~~, the fiduciary may procure and present for allowance a duplicate or a receipt from the person or corporation to whom the money was paid or the property was delivered, which shall show on its face that it is a duplicate of the original voucher so lost ~~or destroyed~~. The ~~C~~hancellor may, if the proof be sufficient, allow the same as though the original had been produced.

RULE 6.087

CLAIMS ARISING AFTER DEATH OF DECEDENT

Claims arising after the death of a decedent, such as funeral bills, expenditures for monuments, attorney's fees, and the like must be approved by the ~~C~~hancellor before payment. Otherwise, payment ~~thereof~~ will be at the risk of ~~subsequent~~ disapproval by the ~~C~~hancellor ~~as to the propriety or reasonableness thereof~~.

RULE 6.098

ALLOWANCE FOR SUPPORT OF WARD

(A) Every petition for an allowance for the support of a ward shall show the amount of ~~his~~ the ward's current estate, the estimated amount of ~~his~~ the ward's monthly or yearly income, and the amount of the previous allowance.

(B) Where the ward is a minor, any request of a conservator or guardian to expend funds of the ward for necessities which are the responsibility of the parent shall not be considered unless the guardian, under oath, justifies the reason for such proposed expenditures.

RULE 6.1009

PETITIONS FOR AUTHORITY TO MAKE LOANS OR INVESTMENTS

Every petition for authority to loan or invest the funds of a ward shall show the amount to be loaned or invested, the kind and description of the security offered or investment proposed, and the value thereof. In the case of a loan, to whom it is made, ~~and~~ the time for which it is to be made, and the rate of interest it is to bear is required along with. ~~In all cases where a loan is proposed,~~ the affidavits of two or more credible persons touching setting forth the value of the security offered, must be attached to the petition ~~filed with the papers in the action,~~ or witnesses produced before the Chancellor.

RULE 6.~~11~~10

PETITIONS FOR AUTHORITY TO COMPROMISE CLAIMS FOR WRONGFUL DEATH OR INJURY

(A) Every petition for authority to compromise and settle a claim for wrongful death or injury shall set forth the facts in relation thereto and the reason for such compromise and settlement and the amount thereof.

(B) The material witnesses concerning the injury or death and the damages resulting therefrom shall be produced before the Chancellor for examination. Where counsel representing the petition has investigated the matter and advised settlement, ~~he~~ counsel shall ~~so~~ appear and give testimony touching the result of ~~his~~ the investigation.

(C) ~~Ø~~In “future payment” or “structured settlement” cases, a certified copy of any insurance policy or other security guaranteeing payment shall be made a part of the court file within ninety (90) days from the date of the entry of the judgment or decree authorizing the settlement, unless good cause is shown.

RULE 6.~~12~~11

PETITIONS FOR COMMISSIONS

(A) Every petition by a fiduciary for the allowance of commissions, or for compensation for extra services and expenses, shall show the total amount of the estate ~~coming into his hands,~~ the total amount disbursed, the balance on hand, the nature and extent of the service rendered and expense incurred ~~by him,~~ and the total amount previously allowed ~~to him~~ on the account thereof.

(B) Fees for fiduciaries and attorneys shall not be based on the value of any real property.

RULE 6.~~13~~12

PETITIONS FOR ALLOWANCE OF ATTORNEY'S FEES

(A) Every petition by a fiduciary or attorney for the allowance of attorney's fees for services rendered shall set forth the same facts as required in Rule 6.14~~2~~, when touching ~~his~~ compensation, and if so, the nature and effect thereof.

(B) If the petition be for the allowance of fees for recovering damages for wrongful death or injury, or other claim due the estate, the petition shall show the total amount recovered, the nature and extent of the service rendered and expense incurred by the attorney, and the amount, if any, offered in compromise before the attorney was employed in the matter.

(C) In such cases, the amount allowed as attorney's fees will be fixed by the ~~C~~hancellor at such sum as will be reasonable compensation for the service rendered and expense incurred without being bound by any contract made with any unauthorized persons.

(D) If the parties make an agreement for a contingent fee, the contract or agreement of the fiduciary with the attorney must be approved by the ~~C~~hancellor. Fees on structured settlements shall be based on the "present cash value" of the claim.

RULE 6.14~~13~~

~~PLEADING MUST BE SWORN FILINGS TO~~

All pleadings, ~~including~~ accounts, inventories, and reports, filed by a fiduciary shall be personally signed and sworn to by ~~him~~ the fiduciary. If required by the ~~C~~hancellor, ~~he~~ the fiduciary must produce proof touching the truth of the sworn facts therein stated.

~~RULE 6.14 COURT COSTS MUST BE PAID ANNUALLY~~

~~Every fiduciary shall at least annually pay all accrued court costs and present the clerk's receipt therefor as a voucher on his next accounting.~~

RULE 6.15

COPY OF WILL FILED WITH ORIGINAL

Every petition to probate a ~~W~~ill must have a copy of the ~~W~~ill attached ~~thereto~~ as an exhibit in the petition.

RULE 6.16 [DELETED]

RULE 6.167

FAILURE TO FILE ACCOUNTINGS

If, ~~without just cause,~~ an attorney or fiduciary fails to file accountings or other matters in ~~probate~~ fiduciary cases, (including estates, guardianships, ~~and~~ conservatorships, and trusts,) after being so directed in writing by the ~~C~~ourt, the ~~C~~ourt may consider such misconduct as contempt.

PART SEVEN

[VACATION MATTERS] [OMITTED]

~~7.00 RULES CONCERNING VACATION MATTERS~~

~~RULE 7.01 [DELETED]~~

~~RULE 7.02 RETURN ENVELOPE MUST BE ENCLOSED~~

~~When any attorney or Clerk shall forward papers to the Chancellor requesting a response or the return of a judgment, order or paper, a self-addressed, stamped envelope shall be enclosed for the return thereof to the Clerk by the Chancellor. If the attorney shall desire a copy of a judgment or order returned to him, he shall furnish such copy and self-addressed stamped envelope for the return thereof. All mail to the Chancellor should be fully prepaid.~~

~~RULE 7.03 REMOVAL OF DISABILITY~~

~~In all cases for the removal of disability of a resident minor, the minor must be produced before the Chancellor for observation and examination unless specially excused from so doing. Except in extraordinary and exceptional cases, the Chancellor will decline to remove generally the disability of any minor who is under eighteen years of age. In all such cases, oral proof or affidavits must be produced.~~

PART EIGHT
DIVORCE AND OTHER DOMESTIC MATTERS
~~8.00 RULES CONCERNING DIVORCE~~

~~RULES 8.01 AND 8.02 [DELETED]~~

RULE 8.01

APPLICABILITY

This Part shall apply to all actions involving divorce, separate maintenance, paternity, contested adoption, child custody or support, modification, minors' business, contempt and other enforcement, and all domestic matters of every kind and nature.

RULE 8.02

REMOVAL OF DISABILITY

In all cases for removal of disability of a resident minor, the minor must be produced before the chancellor for observation and examination unless specially excused from so doing. In all such cases, oral proof or affidavits must be produced.

RULE 8.03

CORROBORATION

In all ~~uncontested~~ divorce cases, except on the sole ground of irreconcilable differences and where the statute relieves the plaintiff of the duty, the testimony of the ~~P~~plaintiff must be substantially corroborated.

RULE 8.04

IRRECONCILABLE DIFFERENCES DIVORCE

(A) Unless excused by the court, ~~in~~ all irreconcilable differences divorce actions ~~(no fault)~~ in which there are no contested issues to be addressed by the court, the attorney or party is ~~required to~~ must appear before the ~~C~~court with ~~the file to request approval of the Agreement and to obtain the signature of the Chancellor to the Judgment for Divorcee-~~

Irreconcilable Differences MEC-stamped copies of the appropriate pleadings to request approval of the judgment and agreement.

(B) The attorney must be prepared to answer all inquiries that may be raised by the Court.

RULE 8.05

FINANCIAL STATEMENT REQUIRED

(A) Unless excused by Order of the Court for good cause shown, or unless waived by either or both parties and allowed by the court, each party in every domestic case involving economic issues and/or property division shall provide the opposite party or counsel, if known, the following disclosures, such statement to be substantially in the form of Form 1 in Part 12 of these rules:

(a) A detailed written statement of actual income and expenses and all marital and nonmarital assets and liabilities, such statement to be on the forms attached hereto as Exhibit "A";

(2) Copies of the preceding year's federal and state income tax returns, in full form as filed, or copies of W-2s if the return has not yet been filed; and,

(3) A general statement of the providing party describing employment history and earnings from the inception of the marriage or from the date of divorce, whichever is applicable; or, For all other proceedings, for the five years preceding the date of filing the Petition.

(b) In the alternative, by agreement of the parties, or on motion and by order of the Court, or on the Court's own motion, a more detailed statement on the form attached hereto as Exhibit "B" the required financial disclosures may be made substantially in the form of Form 2 in Part 12 of these rules.

(C) The party providing the required written statement shall immediately file a Certificate of Compliance with the Chancery Clerk for filing in the court file.

(D) A party filing a document containing personal identifiers and/or sensitive information and data may;

(1) file an unredacted document under seal; this which document shall be retained by the court as part of the record; or,

(2) file a reference list under seal. The reference list shall contain the complete personal data identifiers and/or the complete sensitive information and data required by this Rule.

(E) The disclosures shall be ~~made~~ provided by the plaintiff not later than the time that the defendant's Answer is due, ~~and by the defendant at the time that the defendant's Answer is due, to appear in court for temporary relief, or the date defendant's answer (if required) is due, whichever is earlier.~~

(F) The defendant's disclosures shall be provided at the time that the defendant is summoned to appear, or defendant's Answer is due, but not later than 45 days from the date of the filing of the commencing pleading.

(G) The Court may extend or shorten the required time for disclosure upon written motion of one of the parties ~~and upon good cause shown.~~

(H) ~~The disclosures shall include any and all assets and liabilities, whether marital or non-marital.~~ A party is under a duty to supplement prior disclosures if that party knows that the disclosure, though correct when made, no longer accurately reflects any and all actual income and expenses and assets and liabilities, as required by this Rule.

(I) When offered in a trial or a conference, the party offering the disclosure statement shall provide a copy of the disclosure statement to the Court, the witness, and opposing counsel.

(J) This rule shall not preclude any litigant from exercising the right of discovery, but duplicate effort shall be avoided.

(K) The failure to observe this rule, without just cause, shall constitute contempt of Court for which the Court shall impose appropriate sanctions and penalties.

[Amended effective July 1, 1996; amended effective January 8, 2009, to provide procedures for filing documents containing sensitive personal information; amended effective July 1, 2011 to incorporate an optional long form financial statement; amended effective July 1, 2012 to provide a duty to supplement disclosures.]

RULE 8.06

CHANGE OF ADDRESS OF CHILDREN

(aA) In all domestic cases involving custody or visitation of minors and even though no order for custody or visitation may have been entered, each party shall keep the other

informed of his/her full address, including state, city, street, house number, and telephone number, if available, unless excused in writing by the Court.

(bB) Within five days of a party subject to this rule changing his/ or her address, he/ or she shall, so long as the child or children remain minors, notify in writing the Clerk of the Court which has entered the order providing for custody and visitation, of his/ or her full new address, and shall furnish the other party a copy of such notice, proof of which shall be by certificate of service. The notice shall include the Court file number. The Clerk shall docket and file such notice in the cause.

(eC) In the event of a threat, disaster, or other emergency, such as a hurricane, which causes an emergency evacuation, any party who has custody of a minor child (physical custody or while exercising visitation) has a duty to notify the other parent of the location and well being of the minor(s) as soon as reasonably possible.

(dD) Every order respecting custody or visitation should contain a provision incorporating the terms and requirements of sub-paragraphs (aA), (bB), and (eC) above.

(eE) The purpose of this rule is to prevent a parent from concealing from others the address and whereabouts of children. Willful failure to comply with this rule may be treated as a contempt. Failure to file with the Clerk the notice required by this rule shall create a rebuttable presumption that written notice was not given to the other party.

[Adopted effective February 18, 1991; amended effective July 17, 2008 to provide notification of parent in case of emergency evacuation.]

PART NINE
DUTIES OF THE CLERK
~~9.00 RULES CONCERNING DUTIES~~
~~OF THE CLERK~~

RULE 9.01

COSTS OF COURT

Court cost deposits to pay the fees due the Chancery Clerk, as presented in M.C.A. § 25-7-9, shall be made with the filing of any complaint or petition. The clerk may, pursuant to M.R.C.P. 3(b), require an additional deposit. as follows:

(1) — ~~No fault divorce: a deposit of \$30.00.~~

- ~~(2) — Complaints other than ex parte matters: a deposit of \$75.00.~~
- ~~(3) — All ex parte matters: a deposit of \$25.00.~~
- ~~(4) — Upon filing a counterclaim or crossclaim by a Cross Plaintiff: a deposit of \$25.00.~~
- ~~(5) — The Clerk may, pursuant to M.R.C.P. 3(b), require an additional deposit.~~

[Amended effective June 24, 1992.]

RULE 9.02

ALL PAPERS MUST BE KEPT IN PROPER FILES

The Clerk shall place and keep all papers pertaining to each action in a separate file ~~and all papers pertaining to the same case shall be kept in the same file.~~ The Clerk shall place and keep the files containing the papers in a filing case in the Clerk's office, or vault, in numerical order. In addition, files may be maintained electronically ~~or on microfilm or microfiche provided a "reader" is available in the Clerk's office~~ as long as access to the files is available in the clerk's office.

~~RULE 9.03 [DELETED]~~

RULE 9.04~~3~~

ORIGINAL WILLS AND BONDS; HOW KEPT

The Clerk shall keep all original ~~W~~ills, ~~all~~ bonds, ~~and~~ receipts from banks, and all disputed documents filed ~~with him~~ safely and securely locked in a safe or vault in his the clerk's office. ~~He shall not permit the same to~~ These items shall not be taken from his the custody of the clerk for any purpose, except on an order of the ~~C~~hancellor ~~entered on the minutes.~~

~~RULE 9.05 [DELETED]~~

PART TEN
ABORTION
~~10.00 ABORTION~~

RULE 10.01

WAIVER OF CONSENT TO ABORTION

(A) Any request by a minor to the Chancery Court or the Chancellor in vacation for waiver of consent to an abortion shall be by petition, filed with the Clerk of said Court by the minor or by a next friend. The petition shall be made under oath and shall include all of the following:

- (1) A statement that the complainant is pregnant;
- (2) A statement that the complainant is unmarried, under eighteen years of age, and unemancipated;
- (3) A statement that the complainant wishes to have an abortion without the notification of her parents, or legal guardian;
- (4) An allegation of one or more of the following:
 - (a) That the complainant is sufficiently mature and well informed to intelligently decide whether to have an abortion without the notification of her parents, or legal guardian;
 - (b) That one or both of her parents, or her legal guardian was engaged in a pattern of physical, sexual, or emotional abuse against her, or that the notification of her parents, or legal guardian otherwise is not in her best interest;
 - (c) That performance of the abortion would be in the best interest of the minor.
- (5) A statement as to whether the complainant has retained an attorney, the name, address, and telephone number of her attorney. A minor may represent herself or be represented by counsel. The Court shall advise each minor petitioner of her right to court-appointed counsel, and shall appoint counsel to represent her if the minor so requests, and if the minor appears not to be represented.

(B) If the minor chooses to represent herself such pleadings, documents, or evidence which she may file with the Clerk shall be liberally construed by the Court so as to do substantial justice. No fee shall be required by the Clerk for filing any papers or pleadings.

(C) Upon the filing of any petition under this section, the Clerk shall immediately notify the Court or the Chancellor in vacation that such petition has been filed. The Court, or the Chancellor in vacation shall immediately exercise all due diligence in granting a setting within the time required by law. If a Chancellor in the District is not available, the Clerk shall immediately refer the petition to another Chancellor, Circuit Judge, County Judge, or a special master in Chancery to hear the petition as provided by law.

(D) If the Court cannot hear the matter or the Court fails to make findings of fact and conclusions of law within 72 hours of the time of the filing of the petition, the Clerk shall immediately issue or cause to issue a statement under seal of the Court, that the Court has not ruled within 72 hours of the time of the filing of the petition and that the minor may proceed as if the consent requirement of Miss. Code Ann. 41-41-53 has been waived.

(E) All proceedings, files, documents, and records reasonably connected with proceedings herein shall be kept strictly confidential and anonymous. Reference to said minor's identity shall be made by use of her initials only. Docket entries and decrees or orders spread upon the minutes of the Court shall in no way refer to the name of the minor, but shall be by reference to initials only.

(F) The Court or the Chancellor in vacation shall conduct closed hearings regarding any such petition filed, and the Clerk, Reporter, and other officers of the Court shall take such steps as are reasonably necessary to maintain the confidentiality and anonymity of both litigants and documents.

(G) If the Court or Chancellor in vacation shall rule against the petition or petitioner, or not grant a waiver of necessity for parental consent, a confidential, expedited appeal may be had by the minor pursuant to Mississippi Rule of Appellate Procedure 48.

(H) If no appeal is taken during the appropriate period, but in no event later than seven (7) days following the filing of the disposition of said petition, all records except the Court's docket shall be securely sealed and deposited under lock and key in the Clerk's office and shall remain sealed and not available for inspection without further order of the Court.

[Adopted effective February 18, 1991; amended March 22, 2001.]

~~11.00 CONFLICTING RULES~~

RULE 11.01 PRIORITY

~~If there be any conflict between these Rules and Mississippi Rules of Civil Procedure, Rules of Evidence, Mississippi Constitution and any applicable Mississippi statutes, the latter shall be followed.~~

~~[Former Rules 10.00 and 10.01 renumbered 11.00 and 11.01, respectively, effective February 18, 1991.]~~

* * *

EXHIBIT B

UNIFORM CHANCERY COURT RULES

Table of Rules

PART ONE
GENERAL RULES

1.00 Designation of Rule Name and Proper Citation

1.01 Court Decorum

1.02 Officers Must Be Present in Court

1.03 Firearms Prohibited on the Witness Stand and in Courtroom

1.04 Sheriff Must Keep Courtroom Clean, Comfortable, and Secure

1.05 Clerk Must Make Papers and Dockets Available

1.06 Assignment of Cases

1.07 Prohibition Against Presentation to Other Chancellor of Matter When Relief is Denied

1.08 Withdrawal of Counsel

1.09 Notification of Relevant Pending Cases and Reassignment

1.10 Discovery Deadlines and Practice

1.11 Motions for Recusal

1.12 Electronic Media Coverage

1.13 Sanctions

1.14 Applicability

PART TWO
PLEADINGS AND MOTIONS

2.01 Pleadings and Motions Must Be Filed Before Being Presented

2.02 Blanks Must Be Filled In

2.03 Amendments During Trial

**PART THREE
RULES CONCERNING TRIALS**

- 3.01 Vacation Business—Rules of Precedence**
- 3.02 Avoiding Summoning of Redundant Witnesses**
- 3.03 Examination of Witnesses**
- 3.04 Rulings on Objections to Testimony**
- 3.05 Copy of Exhibits**
- 3.06 Only One Attorney for Each Party May Examine Witness**
- 3.07 Agreements of Counsel**
- 3.08 Earwiggling the Chancellor Prohibited**
- 3.09 Argument of Counsel**
- 3.10 Notification of Settlement or Possible Continuance**

**PART FOUR
OPINIONS**

- 4.01 Findings by the Court**
- 4.02 Opinion a Part of Record**
- 4.03 No Interruption While Rendering Opinion**

**PART FIVE
JUDGMENTS AND ORDERS**

- 5.01 Contents and Form**
- 5.02 Consent Judgments and Orders**
- 5.03 Submission to Opposing Party and Court**
- 5.04 Presentation of Court File**
- 5.05 Delivery to the Clerk**

**PART SIX
FIDUCIARY MATTERS AND FIDUCIARIES**

- 6.01 Applicability**
- 6.02 Attorney Must Be Retained Unless Excused**

- 6.03 Fiduciaries and Attorney Must Be Diligent**
- 6.04 Statement Appended to Annual Accounts**
- 6.05 What Vouchers Must Show**
- 6.06 Disbursements and Receipts; Annual and Final Accounts**
- 6.07 Lost Vouchers—How Substituted**
- 6.08 Claims Arising After Death of Decedent**
- 6.09 Allowance for Support of Ward**
- 6.10 Petitions for Authority to Make Loans or Investments**
- 6.11 Petitions for Authority to Compromise Claims for Wrongful Death or Injury**
- 6.12 Petitions for Commissions**
- 6.13 Petitions for Allowance of Attorney’s Fees**
- 6.14 Sworn Filings**
- 6.15 Copy of Will Filed With Original**
- 6.16 Failure to File Accountings**

**PART SEVEN
[VACATION MATTERS] [OMITTED]**

**PART EIGHT
DIVORCE AND OTHER DOMESTIC MATTERS**

- 8.01 Applicability**
- 8.02 Removal of Disability**
- 8.03 Corroboration**
- 8.04 Irreconcilable Differences Divorce**
- 8.05 Financial Statement Required**
- 8.06 Change of Address of Children**

**PART NINE
DUTIES OF THE CLERK**

- 9.01 Costs of Court**

9.02 All Papers Must Be Kept in Proper Files

9.03 Original Wills and Bonds; How Kept

**PART TEN
ABORTION**

10.01 Waiver of Consent to Abortion

Administrative orders

UNIFORM CHANCERY COURT RULES
Adopted Effective February 1, 1989
Revised and Amended Effective ____

PART ONE
GENERAL RULES

RULE 1.00

DESIGNATION OF RULE NAME AND PROPER CITATION

These rules are the Uniform Chancery Court Rules and may be cited as UCCR.

RULE 1.01

COURT DECORUM

The chancellor shall ensure that all proceedings in the chancery court, whether in term time or in vacation, shall be conducted with due formality and in an orderly and dignified manner, observing the following:

- a. The court shall be opened formally and conducted with dignity and decorum at all times.
- b. No drinks, food, gum, or smoking shall be permitted except as allowed by the court.
- c. Counsel, parties, and witnesses must be respectful to the court and to each other. Bickering or wrangling and disrespectful behavior between counsel, or between counsel and witness, will not be tolerated.
- d. Applause or demonstration or approval or disapproval, and the use of profane or indecent language are prohibited.
- e. Counsel shall not approach the witness without leave of court.
- f. In examining witnesses, in reading from a brief or opinion, and in all presentations to the court, counsel shall stand unless specifically excused from doing so by the court.

- g. Counsel shall in formal hearings address the court in the historic manner of “Your Honor” and/or “May it please the Court.” The dignity and the respect of the court shall be preserved at all times.
- h. All attorneys, bailiffs, clerks, witnesses, and other personnel shall be prompt and timely in attendance, and shall be fully prepared to proceed at the appointed time.
- i. Use of cell phones and recording of proceedings in the courtroom and chambers are prohibited except as allowed by the court.
- j. Each officer of the court is responsible for the promotion of respect for the court.

RULE 1.02

OFFICERS MUST BE PRESENT IN COURT

When the court is in session the sheriff and clerk, in person or by competent deputies, must be present in the courtroom to perform such duties as may be required of them by law or the direction of the chancellor unless excused by the chancellor. The court reporter shall be present, as the chancellor may direct, to perform the duties of court reporter.

RULE 1.03

FIREARMS PROHIBITED ON THE WITNESS STAND AND IN COURTROOM

No person other than law enforcement officers shall take or carry firearms or other weapons into the courtroom. When law enforcement officers take the stand as litigants or witnesses, such officers shall remove their firearms and place same in the possession of the bailiff until the witness or litigant has left the witness stand.

RULE 1.04

SHERIFF MUST KEEP COURTROOM CLEAN, COMFORTABLE, AND SECURE

The sheriff must see that the courtroom, library, court chambers, witness rooms, and restrooms are kept secure, clean, and in comfortable condition.

RULE 1.05

CLERK MUST MAKE PAPERS AND DOCKETS AVAILABLE

The clerk shall, while court is in session, provide the court with a device to access the internet and the Mississippi Electronic Court System (MEC).

RULE 1.06

ASSIGNMENT OF CASES

(A) In multi-chancellor 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.

(B) If an attorney or party shall attempt to manipulate or defeat the purpose of this rule, the case shall be reassigned to the chancellor who would have otherwise received the assignment.

(C) If the chancellor 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 chancellor to whom it was incorrectly assigned.

(D) Sanctions, including costs and attorney's fees, may be imposed by that chancellor 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.

(E) 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.

(F) In districts where motion days are set in advance with chancellors specifically assigned, preliminary procedural matters may be submitted to the chancellor assigned such duties, notwithstanding the fact that the case has been assigned to another chancellor.

(G) 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.

[Adopted effective May 29, 2003.]

RULE 1.07

PROHIBITION AGAINST PRESENTATION TO OTHER CHANCELLOR OF
MATTER WHEN RELIEF IS DENIED

When any matter has been presented to one of the chancellors and the relief denied, the attorney shall not present the same matter to another chancellor.

RULE 1.08

WITHDRAWAL OF COUNSEL

(A) When an attorney makes an appearance for any party in an action, the attorney will not be allowed to withdraw as counsel for the party except upon: (1) written motion; (2) reasonable notice to the client and opposing counsel; and (3) order of the court.

(B) Reasonable notice to the client within the meaning of this rule requires either that:

- (1) the client has agreed to and signed off on the order allowing withdrawal;
- (2) the client has agreed to and joined in the motion for withdrawal; or
- (3) the client has been timely served with an M.R.C.P. Rule 81 summons for the date and time of the hearing.

RULE 1.09

NOTIFICATION OF RELEVANT PENDING CASES AND REASSIGNMENT

(A) When counsel in a cause is aware of a case pending in this court or another court of this or any other state or federal jurisdiction that likely may affect the subject matter or jurisdiction of the cause pending in the chancery court, such counsel shall immediately notify the chancery court by written notice docketed for such other cause.

(B) When a case has been filed and assigned to a chancellor, any subsequent filing involving the same subject matter shall be assigned to that same chancellor. When a chancellor becomes aware that there is a prior proceeding involving the same subject matter, the chancellor shall direct that the clerk reassign the later-filed case to the chancellor in the earlier proceeding.

RULE 1.10

DISCOVERY DEADLINES AND PRACTICE

(A) All discovery must be completed within ninety days from service of an answer by the applicable defendant. If the pleading is one to which no answer is required, either party desiring discovery may timely move the court for an order scheduling discovery to extend or shorten the time for discovery, according to the issues involved. If no such motion is filed, then discovery shall be completed ninety days from completion of service of process on all defendants.

(B) Additional discovery time may be allowed with leave of court upon written motion setting forth good cause for the extension. Absent special circumstances the court will not allow testimony at trial of an expert witness who was not designated as an expert witness to all attorneys of record at least sixty days before trial.

(C) When responding to discovery requests, interrogatories, requests for production, and requests for admission, the responding party shall, as part of the responses, set forth immediately preceding the response the question or request to which such response is given. Responses shall not be deemed to have been served without compliance with this subdivision.

(D) No motion to compel shall be heard unless the moving party shall incorporate in the motion a certificate that movant has conferred in good faith with the opposing attorney in an effort to resolve the dispute and has been unable to do so. Motions to compel shall quote verbatim each contested request, the specific objection to the request, the grounds for the objection, and the reasons supporting the motion.

RULE 1.11

MOTIONS FOR RECUSAL

(A) Any party may move for the recusal of a chancellor if it appears that the chancellor's impartiality might be questioned by a reasonable person knowing all the circumstances, or for other grounds provided in the Code of Judicial Conduct or otherwise as provided by law.

(B) A motion seeking recusal shall be filed with an affidavit of the party or the party's attorney setting forth the factual basis underlying the asserted grounds for recusal and declaring that the motion is filed in good faith and that the affiant truly believes the facts underlying the grounds stated to be true.

(C) Such motion shall, in the first instance, be served on the chancellor who is the subject of the motion within 30 days following notification to the parties of the name of the chancellor assigned to the case; or, if it is based upon facts which could not reasonably have been known to the filing party within such time, it shall be served within 30 days after the filing party could reasonably discover the facts underlying the grounds asserted.

(D) The subject chancellor shall consider and rule on the motion within 30 days of service of the motion, with hearing if necessary. If a hearing is held, it shall be on the record in open court.

(E) The denial of a motion to recuse is subject to review by the Supreme Court on motion of the party filing the motion as provided in M.R.A.P. 48B.

[Adopted April 4, 2002.]

RULE 1.12

ELECTRONIC MEDIA COVERAGE

Electronic media coverage of judicial proceedings by means of cameras, television, and other electronic devices is governed by the Rules for Electronic and Photographic Coverage of Judicial Proceedings.

[Adopted effective April 17, 2003 for proceedings conducted from and after July 1, 2003.]

Rule 1.13

SANCTIONS

Any person who violates the provisions of these rules may be subject to sanctions, contempt proceedings, or other disciplinary actions imposed or initiated by the court.

Rule 1.14

APPLICABILITY

These rules shall apply to self-represented litigants.

**PART TWO
PLEADINGS AND MOTIONS**

**RULE 2.01 PLEADINGS AND MOTIONS MUST BE FILED BEFORE BEING
PRESENTED**

All pleadings, motions, accounts, and other papers in any action shall be filed with the clerk of the proper court before being presented to the chancellor. If to do so would inflict undue hardship on the attorney, or in emergency matters, the papers may be presented to and marked "Filed" by the chancellor as provided in M.R.C.P. 5(e). Thereafter, the attorney shall file the papers with the clerk.

RULE 2.02

BLANKS MUST BE FILLED IN

All blanks contained in any pleading, motion, paper, order, or judgment must be filled in before being filed with the clerk or presented to the court.

RULE 2.03

AMENDMENTS DURING TRIAL

When a matter has been set on the trial docket and one party obtains leave to amend the pleadings, or to file an answer and counterclaim, and the opposite party is not prepared to proceed upon the issues raised in the pleadings, the court may grant the opposing party's motion for a continuance, and the court may award expenses caused by the delay, unless good cause be shown for the delay.

PART THREE
RULES CONCERNING TRIALS

RULE 3.01

VACATION BUSINESS RULES OF PRECEDENCE

(A) Where the chancellor has, by order or custom, set apart time for hearing vacation actions, all vacation matters presented at such time and place shall have precedence over all the business of any term of court that may be then in session and not finally adjourned.

(B) At all other times during any term of court, the business of the term shall have precedence over all vacation matters presented to the chancellor.

RULE 3.02

AVOIDING SUMMONING OF REDUNDANT WITNESSES

(A) The practice of summoning numerous witnesses to prove the same fact or set of facts often serves merely to increase the costs and consume the time of the court.

(B) In such cases the chancellor may tax the per diem and mileage of all such unnecessary witnesses against the party causing them to be summoned whether they be called to testify or not.

(C) In all cases the mileage and per diem of all witnesses who are not called to testify shall be taxed against the party causing them to be summoned, unless good cause to the contrary be shown.

RULE 3.03

EXAMINATION OF WITNESSES

(A) The examination of witnesses shall be limited to the direct examination, the cross-examination, and the redirect examination concerning matters brought out on cross-examination.

(B) Counsel for either party may be permitted, on request, to inquire about new matters pertinent to the issues which may have been inadvertently omitted. Opposing counsel may also inquire concerning the same matter.

(C) In all cases the examination must be conducted in an orderly and decorous manner without interruption from opposing counsel except for the purpose of interposing objections.

RULE 3.04

RULINGS ON OBJECTIONS TO TESTIMONY

(A) All objections to testimony must be made to the chancellor, not to opposing counsel.

(B) The objection must be specific rather than general.

(C) If requested by the chancellor, counsel offering the testimony must state the purpose for which it is offered, and counsel objecting thereto must state the reasons for the objection.

(D) If the chancellor shall reserve his ruling, counsel interposing the objection shall make a note thereof and renew their objection at the conclusion of the testimony; otherwise, the objection shall be deemed waived.

RULE 3.05

COPY OF EXHIBITS

(A) Unless excused by the court prior to trial, it shall be the duty of an attorney to distribute copies of any exhibits to the court and opposing counsel when offered.

(B) If a party is to make a substitution of a copy for any exhibit introduced into evidence, the copy shall be presented at the time the original is presented unless it could not be reasonably anticipated that the exhibit was to be offered.

RULE 3.06

ONLY ONE ATTORNEY FOR EACH PARTY MAY EXAMINE WITNESS

Only one attorney for each party to the action may examine a witness, interpose objections, or respond to objections except by permission of the chancellor.

RULE 3.07

AGREEMENTS OF COUNSEL

(A) Agreements of counsel made orally in the presence of the court must be recorded by the court reporter or incorporated into an agreed order entered by the court in order to be binding on the parties.

(B) All other agreements should be reduced to writing and filed among the papers in the case.

RULE 3.08

EARWIGGING THE CHANCELLOR PROHIBITED

(A) Except in the orderly progress of the trial, and in the arguments or briefs connected therewith, no person shall undertake to discuss or communicate in writing with the chancellor, or in the presence or hearing of the chancellor, the law or the facts or alleged facts of any litigated action then pending in the court or likely to be instituted therein.

(B) No attempt to influence the chancellor's decision shall be made in any manner except as allowed in Paragraph (A) above.

(C) No person shall send any communication to the chancellor concerning procedural matters and matters unrelated to the merits of the case without delivering or mailing a copy of that communication to the opposing party. The chancellor shall file in the court file all such written communications received.

(D) Any person who shall violate this rule, knowing that such conduct is prohibited, shall be guilty of a contempt.

RULE 3.09

ARGUMENT OF COUNSEL

(A) The chancellor may dispense with argument in any action.

(B) The chancellor may require counsel to argue or brief the law and facts in any action, and shall not be bound to decide the same until counsel's duty has been performed satisfactorily.

(C) In all cases counsel must be prepared to argue the case at the conclusion of the taking of the testimony. The chancellor may specify the points of law or fact on which argument is desired and regulate the order and limit the length of oral arguments. In all cases where briefs are requested by the chancellor, copies thereof must be delivered to opposing counsel. Any negligent or willful failure on the part of counsel to fully argue or brief any question when requested by the chancellor will be considered a grave discourtesy.

RULE 3.10

NOTIFICATION OF SETTLEMENT OR POSSIBLE CONTINUANCE

(A) When a case has been set for trial on a day certain (placed on trial docket) and the parties have settled or agreed to settle the case before the trial date, the plaintiffs' attorney shall immediately upon such agreement being reached so notify the court.

(B) Where parties agree before the day set for trial to continue their case, then plaintiffs' attorney shall likewise be obligated to immediately notify the court that the parties desire to mutually seek a continuance.

PART FOUR OPINIONS

RULE 4.01

FINDINGS BY THE COURT

Any request for findings of fact by the court pursuant to MRCP 52 must be made in writing and filed before the court begins rendering its bench opinion, judgment, order, or ruling, and before the court issues its written opinion, judgment, order, or ruling.

RULE 4.02

OPINION A PART OF RECORD

The chancellor shall not be bound to render a formal opinion in deciding any action except as required by the preceding rule. The chancellor may render an opinion either orally or in writing. If the chancellor renders an oral opinion, it shall be taken down by the court reporter who shall, when directed by the court, transcribe the same and submit it to the chancellor for correction and approval. In either event the opinion so rendered shall be filed among the papers and become a part of the record in the cause without any order or direction to that effect.

RULE 4.03

NO INTERRUPTION WHILE RENDERING OPINION

No interruptions shall be allowed during the time that the chancellor is rendering an oral opinion, judgment, order, or ruling. After the chancellor has concluded, counsel for either party may make such suggestions or request such further findings of law or fact as may be deemed proper. The right to make suggestions or requests shall not be construed as the right to reargue the case or any part thereof. If the chancellor desires reargument in whole or in part, the chancellor will request it.

PART FIVE
JUDGMENTS AND ORDERS

RULE 5.01

CONTENTS AND FORM

- (A) Every judgment shall state the facts showing that the court has proper jurisdiction and venue.
- (B) Where multiple forms of relief are granted, each shall be stated in a separately numbered paragraph.
- (C) Judgments and orders should be drawn so as to be unambiguous in their terms and conditions.
- (D) In all litigated cases, the court shall in the judgment tax all costs in its discretion.

RULE 5.02

CONSENT JUDGMENTS AND ORDERS

All consent or agreed judgments and orders must be approved by all counsel for all parties affected by the judgment, or if a party is self-represented, by the party, before being presented to the chancellor. The court may in its discretion, require the parties to.

RULE 5.03

SUBMISSION TO OPPOSING PARTY AND COURT

- (A) An attorney who is directed to prepare a judgment or order must submit the same to the opposing attorney or party for approval as to form, unless excused by the court.
- (B) If no such approval has been made, counsel may present the same to the court showing proof that the judgment or order was submitted to counsel or party opposite.
- (C) Whether approved or not, the judgment or order must be presented to the chancellor within 10 calendar days after being directed to prepare it, or within such time as directed by the court.

RULE 5.04

PRESENTATION OF COURT FILE

An attorney presenting a judgment or order must include in the judgment or order an itemization of the MEC-numbered documents affected by the judgment or order.

RULE 5.05

DELIVERY TO THE CLERK

Any attorney or self-represented person obtaining a judgment or order from the chancellor shall promptly deliver the same to the clerk so that it may be recorded. Failure to promptly deliver the judgment or order may, in the court's discretion, constitute contempt.

**PART SIX
FIDUCIARY MATTERS AND FIDUCIARIES**

RULE 6.01

APPLICABILITY

This Part shall apply to all fiduciary matters, including estates, administrations, guardianships, and trusts.

RULE 6.02

ATTORNEY MUST BE RETAINED UNLESS EXCUSED

(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 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.

RULE 6.03

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 6.04

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

(C) 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 shall be attached.

(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 6.05

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 the Mississippi Guardianship and Conservatorship Act, Miss. Code Ann. (1972) §§ 93-20-101, *et seq.*, (S.B. 2828, 2018, Section 423).

(B) Every 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 during the sanity of a person later deemed of unsound mind shall show that the claim was properly probated, allowed, and registered.

(D) This rule is modified as to banks or trust companies which are subject to the supervision of the Department of Bank Supervision of the State of Mississippi, or The Comptroller of the Currency of the United States to the extent they are covered by Miss. Code Ann. (1972) § 91-7-277.

RULES 6.06

DISBURSEMENTS AND RECEIPTS; ANNUAL AND FINAL ACCOUNTS

Each disbursement shown on an annual or final account shall include the voucher number, the date of the disbursement, the name of the payee, the purpose of the disbursement, and the date of any court order authorizing such disbursement. Each receipt shown on such accounts shall include the date of the receipt, the name of the payor, and on what account payment is made.

RULE 6.07

LOST VOUCHERS-HOW SUBSTITUTED

In case any voucher is lost, the fiduciary may procure and present for allowance a duplicate or a receipt from the person or corporation to whom the money was paid or the property was delivered, which shall show on its face that it is a duplicate of the original voucher so lost. The chancellor may, if the proof be sufficient, allow the same as though the original had been produced.

RULE 6.08

CLAIMS ARISING AFTER DEATH OF DECEDENT

Claims arising after the death of a decedent, such as funeral bills, expenditures for monuments, attorney's fees, and the like must be approved by the chancellor before payment. Otherwise, payment will be at the risk of disapproval by the chancellor.

RULE 6.09

ALLOWANCE FOR SUPPORT OF WARD

(A) Every petition for an allowance for the support of a ward shall show the amount of the ward's current estate, the estimated amount of the ward's monthly or yearly income, and the amount of the previous allowance.

(B) Where the ward is a minor, any request of a conservator or guardian to expend funds of the ward for necessities which are the responsibility of the parent shall not be considered unless the guardian, under oath, justifies the reason for such proposed expenditures.

RULE 6.10

PETITIONS FOR AUTHORITY TO MAKE LOANS OR INVESTMENTS

Every petition for authority to loan or invest the funds of a ward shall show the amount to be loaned or invested, the kind and description of the security offered or investment proposed, and the value thereof. In the case of a loan, to whom it is made, the time for which it is to be made, and the rate of interest it is to bear is required along with the affidavits of two or more credible persons setting forth the value of the security offered, must be attached to the petition or witnesses produced before the chancellor.

RULE 6.11

PETITIONS FOR AUTHORITY TO COMPROMISE CLAIMS FOR WRONGFUL DEATH OR INJURY

(A) Every petition for authority to compromise and settle a claim for wrongful death or injury shall set forth the facts in relation thereto and the reason for such compromise and settlement and the amount thereof.

(B) The material witnesses concerning the injury or death and the damages resulting therefrom shall be produced before the chancellor for examination. Where counsel representing the petition has investigated the matter and advised settlement, counsel shall appear and give testimony touching the result of the investigation.

(C) In “future payment” or “structured settlement” cases, a certified copy of any insurance policy or other security guaranteeing payment shall be made a part of the court file within ninety (90) days from the date of the entry of the judgment or decree authorizing the settlement, unless good cause is shown.

RULE 6.12

PETITIONS FOR COMMISSIONS

(A) Every petition by a fiduciary for the allowance of commissions, or for compensation for extra services and expenses, shall show the total amount of the estate, the total amount disbursed, the balance on hand, the nature and extent of the service rendered and expense incurred, and the total amount previously allowed on the account.

(B) Fees for fiduciaries and attorneys shall not be based on the value of any real property.

RULE 6.13

PETITIONS FOR ALLOWANCE OF ATTORNEY’S FEES

(A) Every petition by a fiduciary or attorney for the allowance of attorney’s fees for services rendered shall set forth the same facts as required in Rule 6.12, when touching compensation, and if so, the nature and effect thereof.

(B) If the petition be for the allowance of fees for recovering damages for wrongful death or injury, or other claim due the estate, the petition shall show the total amount recovered, the nature and extent of the service rendered and expense incurred by the attorney, and the amount, if any, offered in compromise before the attorney was employed in the matter.

(C) In such cases, the amount allowed as attorney’s fees will be fixed by the chancellor at such sum as will be reasonable compensation for the service rendered and expense incurred without being bound by any contract made with any unauthorized persons.

(D) If the parties make an agreement for a contingent fee, the contract or agreement of the fiduciary with the attorney must be approved by the chancellor. Fees on structured settlements shall be based on the “present cash value” of the claim.

RULE 6.14

SWORN FILINGS

All pleadings, accounts, inventories, and reports filed by a fiduciary shall be personally signed and sworn to by the fiduciary. If required by the chancellor, the fiduciary must produce proof touching the truth of the sworn facts therein stated.

RULE 6.15

COPY OF WILL FILED WITH ORIGINAL

Every petition to probate a will must have a copy of the will attached as an exhibit in the petition.

RULE 6.16

FAILURE TO FILE ACCOUNTINGS

If an attorney or fiduciary fails to file accountings or other matters in fiduciary cases, including estates, guardianships, conservatorships, and trusts, after being so directed in writing by the court, the court may consider such misconduct as contempt.

PART SEVEN
[VACATION MATTERS] [OMITTED]

PART EIGHT
DIVORCE AND OTHER DOMESTIC MATTERS

RULE 8.01

APPLICABILITY

This Part shall apply to all actions involving divorce, separate maintenance, paternity, contested adoption, child custody or support, modification, minors' business, contempt and other enforcement, and all domestic matters of every kind and nature.

RULE 8.02

REMOVAL OF DISABILITY

In all cases for removal of disability of a resident minor, the minor must be produced before the chancellor for observation and examination unless specially excused from so doing. In all such cases, oral proof or affidavits must be produced.

RULE 8.03

CORROBORATION

In all divorce cases, except on the sole ground of irreconcilable differences and where the statute relieves the plaintiff of the duty, the testimony of the plaintiff must be substantially corroborated.

RULE 8.04

IRRECONCILABLE DIFFERENCES DIVORCE

(A) Unless excused by the court, in all irreconcilable differences divorce actions in which there are no contested issues to be addressed by the court, the attorney or party must appear before the court with MEC-stamped copies of the appropriate pleadings to request approval of the judgment and agreement.

(B) The attorney must be prepared to answer all inquiries that may be raised by the court.

RULE 8.05

FINANCIAL STATEMENT REQUIRED

(A) Unless excused by order of the court, or unless waived by either or both parties and allowed by the court, each party in every domestic case involving economic issues and/or property division shall provide the opposite party or counsel, if known, the following disclosures, such statement to be substantially in the form of Form 1 in Part 12 of these rules:

(1) A detailed written statement of actual income and expenses and all marital and nonmarital assets and liabilities;

(2) Copies of the preceding year's federal and state income tax returns, in full form as filed, or copies of W-2s if the return has not yet been filed; and

(3) A general statement of the providing party describing employment history and earnings from the inception of the marriage or from the date of divorce. For all other proceedings, for the five years preceding the date of filing the Petition.

(B) In the alternative, by agreement of the parties, or on motion and by order of the court, or on the court's own motion, the required financial disclosures may be made substantially in the form of Form 2 in Part 12 of these rules.

(C) The party providing the required written statement shall immediately file a Certificate of Compliance with the chancery clerk for filing in the court file.

(D) A party filing a document containing personal identifiers and/or sensitive information and data may:

(1) file an unredacted document under seal, which document shall be retained by the court as part of the record; or,

(2) file a reference list under seal. The reference list shall contain the complete personal data identifiers and/or the complete sensitive information and data required by this Rule.

(E) The disclosures shall be provided by the plaintiff not later than the time that the defendant is to appear in court for temporary relief, or the date defendant's answer (if required) is due, whichever is earlier.

(F) The defendant's disclosures shall be provided at the time that the defendant is summoned to appear, or defendant's Answer is due, but not later than 45 days from the date of the filing of the commencing pleading.

(G) The court may extend or shorten the required time for disclosure upon written motion of one of the parties.

(H) A party is under a duty to supplement prior disclosures if that party knows that the disclosure, though correct when made, no longer accurately reflects any and all actual income and expenses and assets and liabilities, as required by this Rule.

(I) When offered in a trial or a conference, the party offering the disclosure statement shall provide a copy of the disclosure statement to the court, the witness, and opposing counsel.

(J) This rule shall not preclude any litigant from exercising the right of discovery, but duplicate effort shall be avoided.

(K) The failure to observe this rule, without just cause, shall constitute contempt of court for which the court shall impose appropriate sanctions and penalties.

[Amended effective July 1, 1996; amended effective January 8, 2009, to provide procedures for filing documents containing sensitive personal information; amended effective July 1, 2011 to incorporate an optional long form financial statement; amended effective July 1, 2012 to provide a duty to supplement disclosures.]

RULE 8.06

CHANGE OF ADDRESS OF CHILDREN

(A) In all domestic cases involving custody or visitation of minors and even though no order for custody or visitation may have been entered, each party shall keep the other informed of his/her full address, including state, city, street, house number, and telephone number, if available, unless excused in writing by the court.

(B) Within five days of a party subject to this rule changing his or her address, he or she shall, so long as the child or children remain minors, notify in writing the clerk of the court which has entered the order providing for custody and visitation, of his or her full new address, and shall furnish the other party a copy of such notice, proof of which shall be by certificate of service. The notice shall include the court file number. The clerk shall docket and file such notice in the cause.

(C) In the event of a threat, disaster, or other emergency, such as a hurricane, which causes an emergency evacuation, any party who has custody of a minor child (physical custody or while exercising visitation) has a duty to notify the other parent of the location and well being of the minor(s) as soon as reasonably possible.

(D) Every order respecting custody or visitation should contain a provision incorporating the terms and requirements of sub-paragraphs (A), (B), and (C) above.

(E) The purpose of this rule is to prevent a parent from concealing from others the address and whereabouts of children. Willful failure to comply with this rule may be treated as a contempt. Failure to file with the clerk the notice required by this rule shall create a rebuttable presumption that written notice was not given to the other party.

[Adopted effective February 18, 1991; amended effective July 17, 2008 to provide notification of parent in case of emergency evacuation.]

PART NINE
DUTIES OF THE CLERK

RULE 9.01

COSTS OF COURT

Court cost deposits to pay the fees due the chancery clerk, as presented in M.C.A. § 25-7-9, shall be made with the filing of any complaint or petition. The clerk may, pursuant to M.R.C.P. 3(b), require an additional deposit.

[Amended effective June 24, 1992.]

RULE 9.02

ALL PAPERS MUST BE KEPT IN PROPER FILES

The clerk shall place and keep all papers pertaining to each action in a separate file. The clerk shall place and keep the files containing the papers in a filing case in the clerk's office, or vault, in numerical order. In addition, files may be maintained electronically as long as access to the files is available in the clerk's office.

RULE 9.03

ORIGINAL WILLS AND BONDS; HOW KEPT

The clerk shall keep all original wills, bonds, receipts from banks, and all disputed documents filed safely and securely locked in a safe or vault in the clerk's office. These items shall not be taken from the custody of the clerk for any purpose, except on an order of the chancellor.

PART TEN
ABORTION

RULE 10.01

WAIVER OF CONSENT TO ABORTION

(A) Any request by a minor to the chancery court or the chancellor in vacation for waiver of consent to an abortion shall be by petition, filed with the clerk of said court by the minor or by a next friend. The petition shall be made under oath and shall include all of the following:

- (1) A statement that the complainant is pregnant;
- (2) A statement that the complainant is unmarried, under eighteen years of age, and unemancipated;
- (3) A statement that the complainant wishes to have an abortion without the notification of her parents or legal guardian;
- (4) An allegation of one or more of the following:
 - (a) That the complainant is sufficiently mature and well informed to intelligently decide whether to have an abortion without the notification of her parents or legal guardian;
 - (b) That one or both of her parents or her legal guardian was engaged in a pattern of physical, sexual, or emotional abuse against her, or that the notification of her parents or legal guardian otherwise is not in her best interest;
 - (c) That performance of the abortion would be in the best interest of the minor.
- (5) A statement as to whether the complainant has retained an attorney, the name, address, and telephone number of her attorney. A minor may represent herself or be represented by counsel. The court shall advise each minor petitioner of her right to court-appointed counsel, and shall appoint counsel to represent her if the minor so requests, and if the minor appears not to be represented.

(B) If the minor chooses to represent herself such pleadings, documents, or evidence which she may file with the clerk shall be liberally construed by the court so as to do substantial justice. No fee shall be required by the clerk for filing any papers or pleadings.

(C) Upon the filing of any petition under this section, the clerk shall immediately notify the court or the chancellor in vacation that such petition has been filed. The court, or the chancellor in vacation shall immediately exercise all due diligence in granting a setting within the time required by law. If a chancellor in the district is not available, the clerk shall immediately refer the petition to another chancellor, circuit judge, county judge, or a special master in chancery to hear the petition as provided by law.

(D) If the court cannot hear the matter or the court fails to make findings of fact and conclusions of law within 72 hours of the time of the filing of the petition, the clerk shall immediately issue or cause to issue a statement under seal of the court, that the court has not ruled within 72 hours of the time of the filing of the petition and that the minor may proceed as if the consent requirement of Miss. Code Ann. 41-41-53 has been waived.

(E) All proceedings, files, documents, and records reasonably connected with proceedings herein shall be kept strictly confidential and anonymous. Reference to said minor's identity shall be made by use of her initials only. Docket entries and decrees or orders spread upon the minutes of the court shall in no way refer to the name of the minor, but shall be by reference to initials only.

(F) The court or the chancellor in vacation shall conduct closed hearings regarding any such petition filed, and the clerk, reporter, and other officers of the court shall take such steps as are reasonably necessary to maintain the confidentiality and anonymity of both litigants and documents.

(G) If the court or chancellor in vacation shall rule against the petition or petitioner, or not grant a waiver of necessity for parental consent, a confidential, expedited appeal may be had by the minor pursuant to Mississippi Rule of Appellate Procedure 48.

(H) If no appeal is taken during the appropriate period, but in no event later than seven (7) days following the filing of the disposition of said petition, all records except the court's docket shall be securely sealed and deposited under lock and key in the clerk's office and shall remain sealed and not available for inspection without further order of the court.

[Adopted effective February 18, 1991; amended March 22, 2001.]

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