

Serial: **99634**

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99027-SCT

RE: MISSISSIPPI RULES OF APPELLATE PROCEDURE

ORDER

This matter has come before the Court, en banc, on Petition to Amend Rule 15, Mississippi Rules of Appellate Procedure, filed by The Mississippi Bar, supported by a separate filing of the Judicial Advisory Study Committee. Having considered the petition, and having considered comments filed pursuant to notice published by the Court, the Court finds that the petition should be granted and that, with changes as set forth in Exhibit "A" hereto, M.R.A.P. 15 should be amended.

IT IS THEREFORE ORDERED that the Petition to Amend Rule 15, Mississippi Rules of Appellate Procedure filed by The Mississippi Bar is granted, to the extent set forth herein, and that Rule 15 is hereby amended as set forth in Exhibit "A" hereto.

IT IS FURTHER ORDERED that the Clerk of the Court shall spread this Order upon the minutes of the Court and shall forward a true certified copy hereof to West Publishing Company for publication in the *Southern Reporter (Mississippi Edition)* and in the *Mississippi Rules of Court*.

SO ORDERED, this the 11th day of October, 2002.

/s/ William L. Waller, Jr.

WILLIAM L. WALLER, JR., JUSTICE,

FOR THE COURT

McRAE, P.J., NOT PARTICIPATING

EXHIBIT "A" TO ORDER

MISSISSIPPI RULES OF APPELLATE PROCEDURE

(Rule 15 and its Comment are deleted from the Mississippi Rules of Appellate Procedure and are replaced

by the following text.)

RULE 15. MANDAMUS TO REQUIRE TRIAL COURT DECISION

(a) When a trial judge in a civil case takes under advisement a motion or request for relief which would be dispositive of any substantive issues and has held such motion or request under advisement for sixty (60) days, the plaintiffs and the defendants shall each within fourteen (14) days thereafter submit a proposed order or judgment to the trial judge and shall forward to the Administrative Office of Courts, the trial court clerk and the opposing parties true copies thereof with a statement setting forth the style and number of the case, the names and addresses of the judge and of all parties and the date on which such motion or request was taken under advisement. On receipt of such proposed orders and notices, the Administrative Office of Courts shall calendar them and notify the trial judge and the trial court clerk of the filing. At any time thereafter that an order or judgment is entered on the motion or request for relief, the plaintiffs and the defendants shall, in writing, promptly notify the Administrative Office of Courts and the opposing parties of the date of entry of the decision; copies of such notification shall be sent to the judge and the trial court clerk. If no written notice of a decision is received by the Administrative Office of Courts within six(6) months from the date the case was taken under advisement, the Administrative Office of Courts shall confirm with the trial court clerk that no order or judgment has been entered and notify the Supreme Court. The Administrative Office of Courts will forward copies of its notification to the trial judge and parties and shall advise the judge and counsel that they are to respond to the notice within a specified period. The Supreme Court shall treat such notification as the filing of an application for a writ of mandamus by all the parties to the action and shall proceed accordingly. The notice of the Administrative Office of Courts of the time within which to respond shall satisfy the requirements of M.R.A.P. 21(d).

(b) The trial judge, not later than thirty (30) days prior to the expiration of the six (6) months from the date the case was taken under advisement, for just cause shown, may apply in writing to the Supreme Court for additional time beyond said six (6) months in which to enter a decision. Concurrently, the judge shall provide a copy of such application to each of the parties.

[Amended effective October 17, 2002.]

Comment

This rule recognizes the importance of prompt disposition of matters submitted to the courts for decision and is in accord with M.R.C.P. 1 in its dictate that the rules be construed to secure just, speedy and inexpensive determination of actions, and with Section 3A(5) of the Code of Judicial Conduct which requires that judges promptly dispose of the business of the courts.

In its former version, Rule 15 applied where a judge failed to render a decision "on a motion or request for relief which would be dispositive of all the claims or the rights and liabilities of all the parties." As revised, the rule is now applicable to instances wherein no decision has issued on motions or requests for relief "which would be dispositive of any substantive issues."

The rule requires the Administrative Office of Courts to invite the trial judge and parties to respond to its notification of a matter having been held under advisement and to set a specified time during which such responses shall be filed with the Supreme Court. This satisfies the requirement of M.R.A.P. 21(d) requiring an opportunity for the judge and parties to respond to a petition for writ of mandamus.

The notification to the Administrative Office of Courts of matters taken under advisement is mandatory and the parties are not at liberty to disregard the duty. This rule provides a mechanism to facilitate disposition of matters as promptly as fair consideration of the issues allows. The judge may and is expected to seek additional time where just cause is found for further deliberation.

[Amended effective October 17, 2002.]