

**LOCAL RULES
FOR
ELEVENTH CHANCERY COURT DISTRICT OF MISSISSIPPI**

RULE 1. TERMS OF COURT

As established by prior order of the Court, the terms of Court for the Chancery Courts of each county in the Eleventh Chancery Court District shall commence on the first business day of each calendar month and terminate on the last business day of said month.

RULE 2. DOCKET SETTINGS

Attorneys must contact the Court Administrator assigned to each respective Chancellor to schedule any matters that are to be brought before the Court. Contact information for the Court Administrators may be found at:
www.madison-co.com/court-systems/chancery-court/contact-us.php.

RULE 3. ASSIGNMENT OF RELATED CASES

In an effort to promote judicial economy, limit the opportunity for “judge-shopping,” and establish a uniform policy for handling related causes of action, the following policies are adopted.

- (a) **Guardianships and Minor Settlements.** When a need arises to open guardianships and/or minor settlements for siblings, step-siblings, and/or half-siblings and the basis for such filings has arisen from the same causation, each case shall be assigned to the Chancellor to whom the first case is assigned. If any minor’s settlement arises out of an estate, the minor settlement(s) shall be assigned to the Chancellor to whom the estate matter is assigned. If the minor’s settlement is opened for the purpose of receiving an inheritance from two (2) or more estates, then the minor’s settlement action will remain with the Chancellor to whom it was assigned upon filing.

- (b) **Reciprocal Causes of Action.** When one party initiates a cause of action against another party and the defendant from the first action later files a reciprocal cause of action against the plaintiff from the first action and both actions arise from the same set of facts, the two (2) actions shall be consolidated into the smaller cause number with the Chancellor regardless of to whom the later filed action was assigned.
- (c) **Dismissed Causes of Action.** If a party initiates a cause of action which is voluntarily dismissed or dismissed on a Clerk's motion for want of prosecution and later re-files a new cause of action based upon the same or substantially similar causation as the previously dismissed filing, then the new cause of action shall be assigned to the Chancellor to whom the initial cause of action had been assigned.
- (d) **Like Cases.** Causes of action that involve substantially similar facts and parties may be consolidated together into one case, with the newest filed case/s consolidated into the first case filed.

RULE 4. EX PARTE MATTERS

- (a) Notwithstanding the provisions of Rule 3 above, any Chancellor in the Eleventh Chancery Court District may sign *Ex Parte* Orders for matters filed in any of the district's four counties based upon the following schedule:
 - (1) **Judge Robert G. Clark, III** - Judge Clark will hear *Ex Parte* matters by appointment by contacting his Court Administrator.
 - (2) **Judge Cynthia L. Brewer** - Judge Brewer will hear *Ex Parte* matters in Madison County from 8:30-9:30 a.m. on Mondays, Tuesdays, and Wednesdays, and by appointment on Fridays. She will hear *Ex Parte* matters in Leake County by appointment on Thursdays. Contact her Court Administrator to schedule an *Ex Parte* hearing on her calendar.

- (3) **Judge James C. Walker** - Judge Walker will hear *Ex Parte* matters by appointment every day during morning hours. Generally, Judge Walker sits in Leake County twice a month, Holmes County twice a month, and Yazoo County once a month. All other days, he sits in Madison County. Contact his Court Administrator to schedule an *Ex Parte* hearing on his calendar.
- (b) Ex Parte matters may also be heard at any other time by the Chancellors as they may allow, provided such matters are scheduled in advance with the respective Court Administrator.

RULE 5. TRIAL AND HEARING DATES

- (a) Trial and Hearing Dates on Judge Clark's calendar may be obtained from his Court Administrator in Lexington at 662-834-1285.
- (b) Trial and Hearing Dates on Judge Brewer's calendar may be obtained from her Court Administrator in Canton at 601-855-5512.
- (c) Trial and Hearing Dates on Judge Walker's calendar may be obtained from his Court Administrator in Canton at 601-855-5707.

RULE 6. CHANCERY CLERKS AND THEIR AUTHORITY

- (a) **Rule 81 Matters.** Pursuant to Court Order and Rule 81(d)(5) of the Mississippi Rules of Civil Procedure, all Chancery Clerks in the Eleventh Chancery District are authorized to set Rule 81 actions or matters for original hearings and to continue the same for hearing on a later date. Court Administrators in the District are Deputy Chancery Clerks and, therefore, are authorized to set such matters pursuant to Rule 81(d)(5). All continuance orders must be signed on the original hearing date.
- (b) **Acts of the Clerk Permitted Under Miss. Code Ann. §9-5-141.**

- (1) In Madison County, the Chancery Clerk is hereby authorized to perform those acts set forth in Miss. Code Ann. §9-5-141, which include:
 - (i) admitting wills to probate in common form, taking proof thereof, and granting letters testamentary;
 - (ii) appointing executors/trixes and administrators/trixes with the will annexed and *de bonis non* of intestate estates, issuing letters of administration thereto;
 - (iii) appointing guardians for minors and conservators for persons of unsound mind and issuing letters of guardianship or conservatorship thereto;
 - (iv) determining and adjudicating issues involving the collection and preservation of assets of testate and intestate estates, guardianships, and conservatorships.
- (2) The powers specified herein above include the power to require that bond be posted in such amount as the Clerk may deem to be sufficient, unless in the case of testate estates, such requirement is waived in the testator's will.
- (3) Proceedings before the Clerk shall conform to the provisions of Miss. Code Ann. §9-5-145, and, where applicable, to the Uniform Chancery Court Rules.
- (4) All such acts, judgments, orders, or decrees entered by the Clerk shall be presented to the Chancellor to whom the case is assigned at the conclusion of each monthly term of court, and, at that time, each such act, judgment, order, or decree shall be reviewed by – and either approved or disapproved by – the assigned Chancellor as set forth in Miss. Code Ann. §9-5-147. All such acts, judgments, orders, or decrees are, therefore, subject to modification or rescission until finally approved.

- (5) Until further order of the Court, the acts authorized to be performed herein shall be performed only by the Clerk himself and not by one of his deputy clerks.
- (6) The Clerk may perform these acts at any time whether a Chancellor is present in the courthouse or not and regardless of case assignment.
- (7) Nothing herein shall prevent attorneys from presenting such matters to the assigned Chancellor directly, and it is preferred that attorneys do so when a Chancellor is available and present in the Courthouse.
- (8) The Clerk is at all times free to decline to perform such acts if, in his determination, the matter warrants consideration by the assigned Chancellor or he is otherwise uncomfortable hearing the matter.
- (9) The Clerk shall not hear such matters brought by self-represented litigants in light of Rule 6.01 of the Uniform Chancery Court Rules and he shall not hear such matters wherein one or more of the parties seeks to name him as a fiduciary.
- (10) In Leake County, the Chancery Clerk is authorized, pursuant to Miss. Code Ann. § 9-5-141, to sign an order admitting a will to probate if:
 - (i) a Chancellor is not present in the courthouse;
 - (ii) the original will is presented;
 - (iii) the will specifically appoints the executor named in the petition;
 - (iv) the will specifically waives bond in favor of the named executor; and
 - (v) the Clerk is comfortable under the circumstances.

Rule 6(b) is not applicable in Holmes and Yazoo Counties.

RULE 7. PREPARATION AND SUBMISSION OF JUDGMENTS

- (a) Adherence to Rule 5.04 of the Uniform Chancery Court Rules is required. As provided for therein, all judgments must be presented to the assigned Chancellor within ten (10) calendar days after being directed to draw the same.
- (b) Before every trial, hearing, or status conference, attorneys shall have in their possession a computer disk, jump drive, or any other electronic format containing a proposed judgment.

RULE 8. STAFF ATTORNEYS

The Chancellors highly encourage all attorneys to utilize their staff attorneys. Judge Clark's staff attorney may be reached at 662-834-1285. Judge Brewer's staff attorney may be reached at 601-855-5513. Judge Walker's staff attorney may be reached at 601-855-5746.

RULE 9. MISSISSIPPI ELECTRONIC COURT SYSTEM

By prior Orders of this district, the Mississippi Electronic Court System (MEC) has been adopted and approved for use in Madison, Leake, Holmes and Yazoo Counties. The Administrative Procedures for the MEC, as approved by the Mississippi Supreme Court in Cause No. 2008-AD-00001-SCT by Order dated December 11, 2008, have likewise been adopted. Pleadings and practice in all matters shall conform to said Procedures and any subsequent editions thereof. Said Procedures are available on the Mississippi AOC website and are incorporated herein by reference.

RULE 10. SEPARATE CAUSES OF ACTION IN FIDUCIARY AND ADOPTION MATTERS

A single cause of action under Titles 91 and 93 of the Mississippi Code may not encompass more than one ward, decedent, or individual to be adopted. Rather, separate causes of action shall be maintained for each such ward, decedent, or individual to be adopted.

**RULE 11. SUBPOENAS SOUGHT TO BE ISSUED
BY SELF-REPRESENTED LITIGANTS**

The Clerks of Court in this District may, prior to issuing subpoenas submitted by self-represented litigants under Rule 45 of the Mississippi Rules of Civil Procedure, present such subpoenas to the assigned Chancellor for review to insure compliance with said Rule 45.

RULE 12. DISCOVERY

- (a) All discovery must be completed within ninety (90) days from service of an answer by the applicable defendant. However, additional discovery time may be granted by the Court upon a showing of good cause.
- (b) Any motion to compel filed by a party must be preceded by a good faith letter or communication sent to opposing counsel or self-represented litigant that seeks to resolve the discovery dispute. A certificate evidencing that such letter or communication was sent must be filed prior to the Court hearing the motion.
- (c) Expert witnesses must be designated at least sixty (60) days prior to the trial date.

RULE 13. FINANCIAL DECLARATIONS

All irreconcilable differences divorces wherein the parties have minor children require the presentation of a financial declaration pursuant to Uniform Chancery Court Rule 8.05, unless excused by Order of the Court.

RULE 14. COMMITMENTS; DOMESTIC PROTECTION ORDERS

Due to the urgency of alcohol and drug commitments and domestic protection orders, the Clerk of the Court shall assign said cases to the most readily available Chancellor.

RULE 15. RECUSALS

In cases in which an attorney who routinely practices in the Eleventh Chancery Court District is a party, the Chancellors in this District should consider recusing himself or herself to avoid all impropriety or appearance of impropriety.

RULE 16. FAMILY MASTERS

Matters to be heard by Family Masters duly appointed pursuant to Miss. Code Ann. §9-5-255 shall be by referral of the Chancellors of this district in compliance with Miss. Code Ann. § 9-5-255.

RULE 17. SETTLEMENT OF CLAIM ON WARD'S BEHALF

In settlements of a claim on a ward's behalf, the Eleventh Chancery Court District requires the establishment of a guardianship for settlements consisting of money or property valued at more than \$10,000.00. The settlement amount refers to the gross amount and not the amount due the ward after payment of legal fees and expenses.

RULE 18. APPOINTMENT OF VALUATION EXPERT

- (a) In all domestic cases wherein equitable division of marital property is at issue, the Court must, prior to making the equitable division, determine the fair market value of all marital assets. The parties are encouraged to negotiate a reasonable agreement as to the value of each separate item of marital property, if possible. An agreement, signed by both parties and their counsels, setting forth the agreed value of any or all marital assets should be filed no later than the deadline for designation of experts. In the event that the parties are unable to agree on the fair market value of any or all marital assets by that deadline, counsel for Plaintiff should notify the Court by letter or other

communication, with copy to all counsels of record. Such communication should be forwarded to the Court no later than 5:00 p.m. on the date of the deadline for designation of experts.

- (b) In the event the Court elects to appoint experts to value any or all marital property, an Order Appointing M.R.E. 706 Experts shall be entered. The Order shall provide that the compensation for such experts shall be paid by the parties in such proportion and at such time as the Court directs, and thereafter charged in like manner as other costs. The parties will be required to deposit with the Court sufficient funds to cover the anticipated costs thereof.
- (c) Alternatively, in order to expedite the process of securing an expert pursuant to M.R.E. 706, the parties may agree to the appointment of an expert by the Court by the execution of an Agreed Order For Court Appointed Experts. The Court will thereafter select the name of the expert and the amount to be deposited by each party to be inserted in the Order.
- (d) Nothing contained herein shall limit the right of either party to retain an expert of their own.

RULE 19. SELF-REPRESENTED LITIGANTS

All self-represented litigants must provide the Court with a contact telephone number, email address, and a current mailing address.