

*****JULY 2017*****
UPDATES
TO THE
HANDBOOK
FOR THE
MISSISSIPPI
CHANCERY COURT
CLERKS

Published by:
Mississippi Judicial College

Instructions:

Please discard current inside title page with 2016 and substitute new inside title page with 2017.

Please discard current Board of Governor's page and substitute new Board of Governor's page.

Please discard current pages 1-15 & 1-16 and substitute new pages 1-15 & 1-16.

Added citation to the Mississippi Rules of Criminal Procedure.

Please discard current pages 2-29 & 2-30 and substitute new pages 2-29 & 2-30.

Added language from 2017 Senate Bill 2673 concerning clerk's reporting duties to the Guardian ad Litem Transparency and Oversight Panel.

Please discard current pages 3-7 & 3-8 and substitute new pages 3-7 & 3-8.
§§ 37-26-3 and 37-26-9 were amended.

Please discard current pages 6-23 to 6-36 and substitute new pages 6-23 to 6-36.
Changed citations to the Uniform Civil Rules of Circuit and County Court.

Please discard current pages 17-9 to 17-12 and substitute new pages 17-9 to 17-12.
§§ 93-21-25 and 93-21-31 were amended.

Please discard current pages 18-7 & 18-8 and substitute new pages 18-7 & 18-8.
§ 43-21-261 was amended.

Please discard current pages 19-15 to 19-18 and substitute new pages 19-15 to 19-18.
Changed citations to the Uniform Civil Rules of Circuit and County Court.

Please discard current pages 21-7 to 21-14 and substitute new pages 21-7 to 21-14.
Mississippi Supreme Court web site was reorganized and added reference to Mississippi Rules of Criminal Procedure.

Please discard current pages 28-1 to 28-4 and substitute new pages 28-1 to 28-4.
§ 31-7-103 was amended.

Handbook for Mississippi Chancery Court Clerks

2017



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Randy G. Pierce

ADDRESS

Mississippi Judicial College

University of Mississippi

P.O. Box 1848

University, Mississippi 38677

TELEPHONE AND FACSIMILE

Telephone: (662) 915-5955

Facsimile: (662) 915-7845

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JUSTICE COURT JURISDICTION

CIVIL

Actions with the amount in controversy up to \$500.00
“or such higher amount as may be prescribed by law”

Miss. Const. art. VI, § 171

Actions with the amount in controversy up to \$3,500.00

§ 9-11-9

Payment of court costs is jurisdictional

§ 9-11-10

CRIMINAL

Concurrent with the circuit court over all crimes
where the punishment prescribed is not more than
a fine & imprisonment in the county jail

Miss. Const. art. VI, § 171 & § 99-33-1

Criminal cases remanded by a circuit court grand jury

§§ 99-33-1 & 99-33-13

Preliminary hearings & initial appearances
for criminal offenses committed within the county

MRCrP 5 & 6

MUNICIPAL COURT JURISDICTION

CRIMINAL

Actions for violations of the municipal ordinances
& state misdemeanor laws made offenses against the municipality
§ 21-23-7

Preliminary hearings & initial appearances
for criminal offenses committed within the municipality
§ 21-23-7

Criminal cases remanded by a circuit court grand jury
§ 21-23-7

Protection from Domestic Abuse Act
§ 21-23-7

Uniform Chancery Court Rule 5.06 states:

As soon as a Judgment has been signed by the Chancellor, it shall be promptly delivered to the Clerk of the proper Court for record 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 contempt.

Uniform Chancery Court Rule 7.02 states:

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.

Uniform Chancery Court Rule 8.06 states in part:

(b) Within five days of a party subject to this rule changing his/her address, he/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/her full new address and shall furnish the other party a copy of such notice. The notice shall include the Court file number. The Clerk shall docket and file such notice in the cause. . . .

Uniform Chancery Court Rule 9.02 states:

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.

Uniform Chancery Court Rule 9.04 states:

The Clerk shall keep all original Wills, all bonds and receipts from banks and all disputed documents filed with him safely and securely locked in a safe or vault in his office. He shall not permit the same to be taken from his custody for any purpose, except on an order of the Chancellor entered on the minutes.

Uniform Chancery Court Rule 10.01 states in part:

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. . . . No fee shall be required by the Clerk for filing any papers or pleadings. 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. . . . 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. 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. 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. 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. . . . 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.

Guardian ad Litem Transparency and Oversight Panel

2017 Senate Bill 2673 provides:

- (1) In a chancery case in which a guardian ad litem is appointed by the court, it is the duty of the chancery clerk to prepare and forward to the Administrative Office of Courts the information described [below] not later than the last day of the month following the entry of an order approving any payment to the guardian ad litem.
- (2) The clerk shall prepare and forward the following information when filed in a contested case where the guardian ad litem fees exceed One Thousand Dollars (\$1,000.00):
 - (a) A copy of any invoice for guardian ad litem fees;
 - (b) A copy of any order directing payment of guardian ad litem fees; and
 - (c) A copy of any petition seeking recovery of guardian ad litem fees, as well as any orders concerning payment of guardian ad litem fees, including, but not limited to, orders of contempt.
- (3) If an order previously reported under subsection (1) of this section is amended by order of the court, the clerk shall forward the subsequent court order not later than the last day of the month following the entry of the amended order.
- (4) The duty of a clerk to prepare and forward information under this section is not affected by:
 - (a) Any subsequent appeal of the court order;
 - (b) Any subsequent modification of the court order; or
 - (c) The expiration of the court order.
- (5) This section does not apply to youth court matters.

Assessments & Fees in Civil Cases

Court Education Cost Assessment

§ 37-26-3 Court education and training costs; civil matters:

(1) In addition to any other fees or costs now or as may hereafter be provided by law, there is hereby charged in all civil cases in the chancery, circuit, county, justice and municipal courts of this state a court education and training cost in the amount of Two Dollars (\$2.00), except in justice court cases where the amount sued for is less than Fifteen Dollars (\$15.00). Such cost shall be collected by the clerk or judicial officer from the party bringing the civil action at the time of filing and taxed as costs.

(2) From and after July 1, 2017, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

(3) From and after July 1, 2017, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

Court Constituents Cost Assessment

§ 37-26-9 Collection of costs; depositing funds; use of monies:

(1) It shall be the duty of the clerk of any court to promptly collect the costs imposed pursuant to the provisions of Section 37-26-3. In all cases the clerk shall monthly deposit all such costs so collected with the State Treasurer either directly or by other appropriate procedures. All such deposits shall be clearly marked for the State Court Education Fund and the State Prosecutor Education Fund. Upon receipt of such deposits, the State Treasurer shall credit seventy-five percent (75%) of any amounts so deposited to the State Court Education Fund created pursuant to subsection (2) of this section, and shall credit the remaining twenty-five percent (25%) of any amounts so deposited to the State Prosecutor Education Fund created pursuant to subsection (3) of this section.

(2) Such assessments as are collected under Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "State Court Education Fund." Monies deposited in such fund shall be expended by the Board of Trustees of State Institutions of Higher Learning as authorized and appropriated by the Legislature to defray the cost of providing: (i) education and training for the courts of Mississippi and related personnel; (ii) technical assistance for the courts of Mississippi and related personnel; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of the courts of Mississippi and

related personnel.

(3) Such assessments as are collected under Section 99-19-73 shall be deposited in a special fund hereby created in the State Treasury and designated the "State Prosecutor Education Fund." Monies deposited in such fund shall be expended by the Attorney General of the State of Mississippi as authorized and appropriated by the Legislature to defray the cost of providing: (i) education and training for district attorneys, county prosecuting attorneys and municipal prosecuting attorneys; (ii) technical assistance for district attorneys, county prosecuting attorneys and municipal prosecuting attorneys; and (iii) current and accurate information for the Mississippi Legislature pertaining to the needs of district attorneys, county prosecuting attorneys and municipal prosecuting attorneys.

(4) A supplemental fund is hereby created in the State Treasury and designated the State Court Constituents Fund. Monies deposited in such fund shall be for the education and training of judges and related court personnel other than those specified in Section 37-26-1(b). In addition to any other fees or costs now or as may hereafter be provided by law, there is hereby charged in all civil cases in the chancery, circuit, county, justice and municipal courts of this state a supplemental court education and training cost in the amount of Fifty Cents (50¢), except in justice court cases where the amount sued for is less than Fifteen Dollars (\$15.00); and in all criminal cases in the circuit, county, justice and municipal courts of this state, except in cases where the fine is less than Ten Dollars (\$10.00). Such costs shall be charged and collected as provided by Sections 37-26-3 and 37-26-5. After the transfer to the State Prosecutor Education Fund of twenty-five percent (25%) of the money provided for in subsection (1) of this section, there shall then be transferred into the State Court Education Fund the money on deposit in the State Court Constituents Fund.

(5) A special fund is created in the State Treasury and designated the "State Court Security Systems Fund." Monies deposited in such fund shall be expended for general courtroom security as well as the maintenance and operation of security surveillance and detection devices for the courtrooms of each court of the State of Mississippi specified in Section 37-26-1(2). The Administrative Office of Courts shall conduct a study to assess and determine the security needs of the courts and is authorized to expend monies in the fund for the purposes of the fund as authorized and appropriated by the Legislature.

(6) From and after July 1, 2017, the expenses of the State Court Education Fund, the State Prosecutors Education Fund, the State Court Constituents Fund and the State Court Security Systems Fund shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

(7) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

THE PETIT JURY & JURY VERDICTS

Right to a Trial by Jury

Mississippi Constitution Art. III, § 31 provides:

The right to trial by jury shall remain inviolate, but the legislature may, by enactment, provide that in all civil suits tried in the circuit and chancery court, nine (9) or more jurors may agree on the verdict and return it as the verdict of the jury.

Section 31 of the Mississippi Constitution provides that the right to trial by jury shall remain inviolate. This Court has interpreted that constitutional provision to apply to all cases where the right to trial by jury existed at common law. *Isaac v. McMorris*, 461 So. 2d 714, 715 (Miss. 1984) (citations omitted).

Section 31 of the Constitution of the State of Mississippi guarantees a jury trial only in those cases where a jury was necessary according to the principles of common law. *Walters v. Blackledge*, 71 So. 2d 433, 444 (Miss. 1954) (citations omitted).

Mississippi Rule of Civil Procedure 38, Jury Trial of Right, states:

- (a) The right of the trial by jury as declared by the Constitution or any statute of the State of Mississippi shall be preserved to the parties inviolate.

- (b) Parties to an action may waive their rights to a jury trial by filing with the court a specific, written stipulation that the right has been waived and requesting that the action be tried by the court. The court may in its discretion, require that the action be tried by a jury notwithstanding the stipulation of waiver.

The Petit Jury

Number of Jurors

Mississippi Rule of Civil Procedure 48, Juries and Jury Verdicts, provides:

(a) **Circuit and Chancery Courts.** Jurors in circuit and chancery court actions shall consist of twelve (12) persons, plus alternates as provided by Rule 47(d). . . .

Impaneling the Venire

§ 13-5-65 Impaneling of petit juries:

After the drawing of the grand jury, the remaining jurors in attendance shall be impaneled into three (3) petit juries for the first week of court if there be a sufficient number left, and, if not, the court may direct a sufficient number for that purpose to be drawn and summoned. If there be more than enough jurors for the three (3) juries, or for two (2) juries if the court shall direct only two (2) to be impaneled, the excess may be discharged, or they may be retained, in the discretion of the court, to serve as talesmen. If so retained, they shall have the privilege of members of the regular panel, of exemption from service.

Uniform Civil Rule of Circuit and County Court 3.03 Number of Petit Jurors Summoned states:

The court may direct the clerk of court concerning the number of petit jurors needed to be summoned for jury duty. The circuit and county court may employ the same jury venire in the selection of petit juries. . . .

§ 13-5-30 Summoning of jurors where there is shortage of petit jurors drawn from jury box:

If there is an unanticipated shortage of available petit jurors drawn from a jury box, the court may require the sheriff to summon a sufficient number of petit jurors selected at random by the clerk from the jury box in a manner prescribed by the court.

The judge could have directed the [circuit] clerk to draw more names from the jury wheel. . . . A judge should not hesitate in enlarging the jury panel when legitimate questions for cause, for whatever reason, arise. *Scott v. Ball*, 595 So. 2d 848, 850 (Miss. 1992).

Juror Examination - Voir Dire

The purpose of voir dire is to select a fair and impartial jury. *Puckett v. State*, 737 So. 2d 322, 332 (Miss. 1999).

The judge has an absolute duty, however, to see that the jury selected to try any case is fair, impartial and competent. *Scott v. Ball*, 595 So. 2d 848, 850 (Miss. 1992) (citations omitted).

Uniform Civil Rule of Circuit and County Court 3.05 Voir Dire provides:

In the voir dire examination of jurors, the attorney will question the entire venire only on matters not inquired into by the court. Individual jurors may be examined only when proper to inquire as to answers given or for other good cause allowed by the court. No hypothetical questions requiring any juror to pledge a particular verdict will be asked. Attorneys will not offer an opinion on the law. The court may set a reasonable time limit for voir dire.

Mississippi Rule of Civil Procedure 47(a) Jurors states:

Any person called as a juror for the trial of any cause shall be examined under oath or upon affirmation as to his qualifications. The court may permit the parties or their attorneys to conduct the examination of the prospective jurors or may itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by further inquiry.

§ 13-5-69 Examination of jurors by attorneys or litigants:

Except in cases in which the examination of jurors is governed by rules promulgated by the Mississippi Supreme Court, the parties or their attorneys in all jury trials shall have the right to question jurors who are being impaneled with reference to challenges for cause, and for peremptory challenges, and it shall not be necessary to propound the questions through the presiding judge, but they may be asked by the attorneys or by litigants not represented by attorneys.

Jury Selection Process

Uniform Civil Rule of Circuit and County Court 4.04 Jury Selection Process states:

A. Peremptory jury challenges shall be exercised as follows:

1. The court shall consider all challenges for cause before the parties are required to exercise peremptory challenges.
2. Next, the plaintiff shall tender to the defendant a full panel of accepted jurors having considered the jury in the order in which they appear, having exercised any peremptory challenges desired.
3. Next, the defendant shall go down the juror list accepted by the plaintiff and exercise any peremptory challenge(s) to that panel.
4. Once the defendant exercises peremptory challenges to the panel tendered, the plaintiff shall then be required to again tender to the defendant a full panel of accepted jurors.
5. The above procedure shall be repeated until a full panel of jurors has been accepted by both sides.
6. Once the jury panel is selected, alternate jurors shall be selected following the procedure set forth above for selecting the jury panel.

B. Constitutional challenges to the use of peremptory challenges shall be made at the time each panel is tendered.

Jury Challenges

Challenges for Cause

Uniform Civil Rules of Circuit and County Court 4.04, Jury Selection Process, states:

The court shall consider all challenges for cause before the parties are required to exercise peremptory challenges.

The judge has wide discretion in determining whether to excuse any prospective juror, including one challenged for cause. ***Scott v. Ball*, 595 So. 2d 848, 849 (Miss. 1992).**

To the extent that any juror, because of his relationship to one of the parties, his occupation, his past experience, or whatever, would normally lean in favor of one of the parties, or be biased against the other, or one's claim or the other's defense in the lawsuit, to this extent, of course, his ability to be fair and impartial is impaired. ***Scott v. Ball*, 595 So. 2d 848, 850 (Miss. 1992).**

When a prospective juror assures the court that, despite the circumstance that raises some question as to his qualification, this will not affect his verdict, this promise is entitled to considerable deference. *Scott v. Ball*, 595 So. 2d 848, 850 (Miss. 1992).

When a rational challenge is made by a party to a prospective juror, and other jurors against whom no challenge is made are available, the judge should ordinarily excuse the challenged juror. *Scott v. Ball*, 595 So. 2d 848, 850 (Miss. 1992).

In our recent decision, *Hudson v. Taleff*, 546 So. 2d 359 (Miss. 1989), we added a factor which the judge should consider in reaching his decision whether or not to excuse a prospective juror when a rational reason to do so has been brought to his attention. *Hudson* involved a suit against a physician in which a number of the jury panel or members of their family had been patients of his. Because that suit was in a county in which the circuit court could have, without hardship or any significant inconvenience, summoned additional jurors for the venire, we reversed. Our implicit, if not explicit, holding in *Hudson* is that the judge's discretion in determining a juror's qualification where a reasonable challenge has been made is considerably narrowed where, without great inconvenience, other prospective jurors may be readily summoned. When a rational challenge is made by a party to a prospective juror, and other jurors against whom no challenge is made are available, the judge should ordinarily excuse the challenged juror. *Scott v. Ball*, 595 So. 2d 848, 850 (Miss. 1992); see *Hudson v. Taleff*, 546 So. 2d 359, 360-63 (Miss. 1989).

We have consistently held that the trial court may not be put in error for refusal to excuse jurors challenged for cause when the complaining party chooses not to exhaust his peremptory challenges. *Scott v. Ball*, 595 So. 2d 848, 851 (Miss. 1992).

Peremptory Challenges

Mississippi Rule of Civil Procedure 47(c), Jurors, provides:

In actions tried before a twelve (12) person jury, each side may exercise four (4) peremptory challenges; in actions tried before a six (6) person jury, each side may exercise two (2) peremptory challenges. Where one or both sides are composed of multiple parties, the court may allow challenges to be exercised separately or jointly, and may allow additional challenges; provided, however, in all actions the number of challenges allowed for each side shall be identical. Parties may challenge any juror for cause.

Impaneling Alternate Jurors

Mississippi Rule of Civil Procedure 47(d) Jurors states:

The trial judge may, in his discretion, direct that one (1) or two (2) jurors in addition to the regular panel be called and empaneled to sit as alternate jurors. Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges for cause, shall take the same oath and shall have the same functions, powers, facilities, and privileges as the regular jurors. Each party shall be allowed 1 peremptory challenge to alternate jurors in addition to those provided by subdivision (c) of this rule. The additional peremptory challenges provided for herein may be used against an alternate juror only, and other peremptory challenges, provided by subdivision (c) of this rule, may not be used against an alternate juror.

§ 13-5-67 *Impaneling of alternate jurors:*

Except in cases in which jury selection and selection of alternate jurors is governed by rules promulgated by the Supreme Court, whenever, in the opinion of a circuit judge presiding in a case in which a jury is to be used, the trial is likely to be a protracted one, such circuit judge, in his discretion, may direct that one (1) or two (2) jurors in addition to the regular panel be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges for cause, shall take the same oath and shall have the same functions, powers, facilities and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged at the time the jury retires to consider its verdict. In capital cases the defendant and the state shall each be allowed two (2) peremptory challenges to alternate jurors in addition to those otherwise provided by law. In all other cases each party shall be allowed one (1) peremptory challenge to alternate jurors in addition to those otherwise provided by law. In any criminal case all peremptory challenges by the state shall be made before the alternate juror is presented to the defendant. The additional peremptory challenges provided for herein may be used against an alternate juror only, and other peremptory challenges allowed by law may not be used against an alternate juror.

Oaths for Petit Jurors

§ 13-5-71 Oath of petit jurors:

Petit jurors shall be sworn in the following form:

You, and each of you, do solemnly swear (or affirm) that you will well and truly try all issues and execute all writs of inquiry that may be submitted to you, or left to your decision by the court, during the present term, and true verdicts give according to the evidence. So help you God.

The oath shall authorize the jury to try all issues and execute all writs of inquiry which may be submitted to it during that term of the court. Talesmen, if any be summoned or retained, shall in like manner be sworn to try all issues and execute all writs of inquiry which may be submitted to them during the day for which they are summoned or the time for which they are retained.

Instructing the Jury

Mississippi Rule of Civil Procedure 51, Instructions to Jury, states:

(a) Procedural Instructions. At the commencement of and during the course of a trial, the court may orally give the jury cautionary and other instructions of law relating to trial procedure, the duty and function of the jury, and may acquaint the jury generally with the nature of the case. . . .

(c) Instructions to Be Written. Except as allowed by Rule 51(a), all instructions shall be in writing.

(d) When Read; Available to Counsel and Jurors. Instructions shall be read by the court to the jury at the close of all the evidence and prior to oral argument; they shall be available to counsel for use during argument. Instructions shall be carried by the jury into the jury room when it retires to consider its verdict.

Uniform Civil Rule of Circuit and County Court 3.07 Jury Instructions in pertinent part states:

The judge may instruct the jury. . . . All instructions will be read by the court in whatever order the court chooses, will be available for the attorneys during their argument, and will be carried by the jury into the jury room when they retire to consider their verdict.

Petit Jury Authority & Powers

Jurors May Take Notes During a Trial

Uniform Circuit and County Court Rule 3.14 Note Taking by Jurors states:

1. Note Taking Permitted in the Discretion of the Court - The court may, in its discretion, permit jurors to take written notes concerning testimony and other evidence. If the court permits jurors to take written notes, jurors shall have access to their notes during deliberations. Immediately after the jury has rendered its verdict, all notes shall be collected by the bailiff or clerk and destroyed.
2. Instructions - The court shall instruct the jury as to whether note taking will be permitted. If the court permits jurors to take written notes, the trial judge shall give both a preliminary instruction and an instruction at the close of all the evidence on the appropriate use of juror notes. These instructions shall be given in the following manner.

(a) Preliminary Instruction - Note Taking Forbidden:

You may not take notes during the course of the trial. There are several reasons for this. It is difficult to take notes and, at the same time, pay attention to what a witness is saying. Further, in a group the size of yours, certain persons will take better notes than others will, and there is a risk that jurors who do not take good notes will depend on jurors who do. The jury system depends upon all jurors paying close attention and arriving at a decision. I believe that the jury system works better when the jurors do not take notes. You will notice that we do have an official court reporter making a record of the trial; however, we will not have typewritten transcripts of this record available for your use in reaching a decision in this case.

(b) Preliminary Instruction - Note Taking Permitted:

If you would like to do so, you may take notes during the course of the trial. On the other hand, you are not required to take notes if you prefer not to do so. Each of you should make your own decision about this. If you decide to take notes, be careful not to get so involved in note taking that you become distracted from the ongoing proceedings. Notes are only a memory aid and a juror's notes may be used only as an aid to refresh that particular juror's memory and assist that juror in recalling the actual testimony. Each of you must rely on your own independent recollection of the proceedings. Whether you take notes or not, each of you must form and express your own opinion as to the facts of this case. An individual juror's notes may be used by that juror only and may not be shown to or shared with other jurors. You will notice that we

do have an official court reporter making a record of the trial; however, we will not have typewritten transcripts of this record available for your use in reaching a decision in this case.

(c) Use of Notes During Deliberations - Jury Instruction #

Members of the Jury, shortly after you were selected I informed you that you could take notes and I instructed you as to the appropriate use of any notes that you might take. Most importantly, an individual juror's notes may be used by that juror only and may not be shown to or shared with other jurors. Notes are only a memory aid and a juror's notes may be used only as an aid to refresh that particular juror's memory and assist that juror in recalling the actual testimony. Each of you must rely on your own independent recollection of the proceedings. Whether you took notes or not, each of you must form and express your own opinion as to the facts of this case. Be aware that during the course of your deliberations there might be the temptation to allow notes to cause certain portions of the evidence to receive undue emphasis and receive attention out of proportion to the entire evidence. But a juror's memory or impression is entitled to no greater weight just because he or she took notes, and you should not be influenced by the notes of other jurors. Thus, during your deliberations, do not assume simply because something appears in your notes that it necessarily took place in court.

The court allows juror note taking at the discretion of the trial judge subject to some restrictions. However, a significant danger of prejudice exists if jurors are allowed to use in deliberations notes taken during trial. Juror notes may give undue weight to that portion of the evidence covered by a juror's notes at the expense of evidence on which no notes were taken. The notes should not be read or used by any juror other than the juror who took the notes. We therefore hold that juror notes are permissible, but should not be allowed to be taken by that juror into the jury room during deliberations. *Wharton v. State*, 734 So. 2d 985, 991 (Miss. 1998) (citations omitted).

Evidence Available to the Jury

Uniform Civil Rule of Circuit and County Court 3.10 Jury Deliberations and Verdict states:

The court shall permit the jury, upon retiring for deliberation, to take to the jury room the instructions and exhibits and writings which have been received in evidence, except depositions. . . .

Jury Deliberations

Uniform Civil Rule of Circuit and County Court 3.10 Jury Deliberations and Verdict states:

The court may direct the jury to select one (1) of its members to preside over the deliberations and to write out and return any verdict agreed upon, and admonish the jurors that, until they are discharged as jurors in the cause, they may communicate upon subjects connected with the trial only while the jury is convened in the jury room for the purpose of reaching a verdict.

The jurors shall be kept together for deliberations as the court reasonably directs. The court shall permit the jury, upon retiring for deliberation, to take to the jury room the instructions and exhibits and writings which have been received in evidence, except depositions. . . .

When the jurors have agreed upon a verdict they shall be conducted into the courtroom by the officer having them in charge. The court shall ask the foreman or the jury panel if an agreement has been reached on a verdict. If the foreman or the jury panel answers in the affirmative, the judge shall call upon the foreman or any member of the panel to deliver the verdict in writing to the clerk or the court. The court may then examine the verdict and correct it as to matters of form. The clerk or the court shall then read the verdict in open court in the presence of the jury. . . . If neither party nor the court desires to poll the jury, the verdict shall be ordered filed and entered of record and the jurors discharged from the cause, unless a bifurcated hearing is necessary. If the court, on its own motion, or on motion of either party, polls the jury, each juror shall be asked by the court if the verdict rendered is that juror's verdict. In a criminal case where the verdict is unanimous and in a civil case where the required number of jurors have voted in the affirmative for the verdict, the court shall order the verdict filed and entered of record and discharge the jury unless a bifurcated hearing is necessary. . . .

Jury Verdicts

Uniform Civil Rule of Circuit and County Court 3.10 Jury Deliberations and Verdict states in pertinent part:

When the jurors have agreed upon a verdict they shall be conducted into the courtroom by the officer having them in charge.

The court shall ask the foreman or the jury panel if an agreement has been reached on a verdict. If the foreman or the jury panel answers in the affirmative, the judge shall call upon the foreman or any member of the panel to deliver the verdict in writing to the clerk or the court.

The court may then examine the verdict and correct it as to matters of form. The clerk or the court shall then read the verdict in open court in the presence of the jury.

Mississippi Rule of Civil Procedure 48 Juries and Jury Verdicts addresses the number of votes required to return a verdict in a civil trial:

(a) Circuit and Chancery Courts. Jurors in circuit and chancery court actions shall consist of twelve (12) persons A verdict or finding of nine (9) or more of the jurors shall be taken as the verdict or finding of the jury.

§ 13-5-93 Nine jurors may return a verdict in civil cases:

In the trial of all civil suits in the circuit or chancery courts of this state, nine (9) or more jurors may agree on the verdict and return it into court as the verdict of the jury. Either party may request an instruction in writing to this effect and it shall thereupon be the duty of the trial judge to instruct the jury in writing that if nine (9) or more jurors agree on the verdict that they may return the same into open court as the verdict of the jury.

Types of Civil Verdicts

Mississippi Rule of Civil Procedure 49 General Verdicts and Special Verdicts provides:

(a) General Verdicts. Except as otherwise provided in this rule, jury determination shall be by general verdict. The remaining provisions of this rule should not be applied in simple cases where the general verdict will serve the ends of justice.

(b) Special Verdict. The court may require a jury to return only a special verdict

in the form of a special written finding upon each issue of fact. In that event the court may submit to the jury written questions susceptible of categorical or other brief answer or may submit written forms of the several special findings which might properly be made under the pleadings and evidence; or it may use such other method of submitting the issues and requiring written findings thereon as it deems most appropriate. The court shall give to the jury such explanation and instruction concerning the matter thus submitted as may be necessary to enable the jury to make its findings upon each issue. If in so doing the court omits any issue of fact raised by the pleadings or by the evidence, each party waives his right to a trial by jury of the issue so omitted unless before the jury retires he demands its submission to the jury. As to an issue omitted without such demand the court may make a finding; or if it fails to do so, it shall be deemed to have made a finding in accord with the judgment on the special verdict.

(c) General Verdict Accompanied by Answers to Interrogatories. The court, in its discretion, may submit to the jury, together with instructions for a general verdict, written interrogatories upon one or more issues of fact the decision of which is necessary to a verdict. The court shall give such explanation or instruction as may be necessary to enable the jury both to make answers and to render a general verdict. When the general verdict and the answers are harmonious, the appropriate judgment upon the verdict and answers shall be entered. When the answers are consistent with each other but one or more is inconsistent with the general verdict, judgment may be entered consistent with the answers, notwithstanding the general verdict, or the court may return the jury for further consideration of its answers and verdict or may order a new trial. When the answers are inconsistent with each other and one or more is likewise inconsistent with the general verdict, judgment shall not be entered, but the court shall return the jury for further consideration of its answers and verdict or shall order a new trial.

(d) Court to Provide Attorneys With Questions. In no event shall the procedures of subdivisions (b) or (c) of this rule be utilized unless the court, within a reasonable time before final arguments are made to the jury, provides the attorneys for all parties a copy of the written questions to be submitted to the jury.

Form of the Verdict

Uniform Civil Rule of Circuit and County Court 3.10 Jury Deliberations and Verdict states in pertinent part:

If a verdict is so defective that the court cannot determine from it the intent of the jury, the court shall, with proper instructions, direct the jurors to reconsider the verdict. No verdict shall be accepted until it clearly reflects the intent of the jury. If the jury persists in rendering defective verdicts the court shall declare a mistrial.

§ 11-7-157 Form of verdict:

No special form of verdict is required, and where there has been a substantial compliance with the requirements of the law in rendering a verdict, a judgment shall not be arrested or reversed for mere want of form therein.

The basic test with reference to whether or not a verdict is sufficient as to form is whether or not it is an intelligent answer to the issues submitted to the jury and expressed so that the intent of the jury can be understood by the court. This well-established rule of law has long been recognized by this Court. *Sentinel Industrial Contracting Corp. v. Kimmins Industrial Service Corp.*, 743 So. 2d 954, 968 (Miss. 1999) (citations omitted).

Polling The Jury

Uniform Civil Rule of Circuit and County Court 3.10 Jury Deliberations and Verdict states in pertinent part:

The court shall inquire if either party desires to poll the jury, or the court may on its own motion poll the jury. If neither party nor the court desires to poll the jury, the verdict shall be ordered filed and entered of record and the jurors discharged from the cause.

If the court, on its own motion, or on motion of either party, polls the jury, each juror shall be asked by the court if the verdict rendered is that juror's verdict.

Where the required number of jurors have voted in the affirmative for the verdict, the court shall order the verdict filed and entered of record and discharge the jury. If less than the required number cannot agree the court may:

- 1) return the jury for further deliberations or
- 2) declare a mistrial.

No motion to poll the jury shall be entertained after the verdict is ordered to be filed and entered of record or the jury is discharged.

Dismissing The Jury

Uniform Civil Rule of Circuit and County Court 3.10 Jury Deliberations and Verdict states in pertinent part:

[I]t is appropriate for the court to thank jurors at the conclusion of a trial for their public service. . . .

§ 93-21-17 Other relief; duration; amendment; title:

(1) The granting of any relief authorized under this chapter shall not preclude any other relief provided by law.

(2) The court may amend its order or agreement at any time upon subsequent petition filed by either party. Protective orders issued under the provisions of this chapter may only be amended by approval of the court.

(3) No order or agreement under this chapter shall in any manner affect title to any real property.

Violation of Protective Order

§ 93-21-21 Violation of order or agreement:

(1) Upon a knowing violation of (a) a protection order or court-approved consent agreement issued pursuant to this chapter, (b) a similar order issued by a foreign court of competent jurisdiction for the purpose of protecting a person from domestic abuse, or (c) a bond condition imposed pursuant to Section 99-5-37, the person violating the order or condition commits a misdemeanor punishable by imprisonment in the county jail for not more than six (6) months or a fine of not more than One Thousand Dollars (\$1,000.00), or both.

(2) Alternatively, upon a knowing violation of a protection order or court-approved consent agreement issued pursuant to this chapter or a bond condition issued pursuant to Section 99-5-37, the issuing court may hold the person violating the order or bond condition in contempt, the contempt to be punishable as otherwise provided by applicable law. A person shall not be both convicted of a misdemeanor and held in contempt for the same violation of an order or bond condition.

(3) When investigating allegations of a violation under subsection (1) of this section, law enforcement officers shall utilize the uniform offense report prescribed for this purpose by the Office of the Attorney General in consultation with the sheriff's and police chief's associations. However, failure of law enforcement to utilize the uniform offense report shall not be a defense to a crime charged under subsection (1) of this section.

(4) In any conviction for a violation of a domestic abuse protection order as described in subsection (1) of this section, the court shall enter the disposition of the matter into the corresponding uniform offense report.

(5) Nothing in this section shall be construed to interfere with the court's authority, if any, to address bond condition violations in a more restrictive manner.

Mississippi Protective Order Registry

§ 93-21-25 Mississippi Protective Order Registry:

(1) In order to provide a statewide registry for protection orders and to aid law enforcement, prosecutors and courts in handling such matters, the Attorney General is authorized to create and administer a Mississippi Protection Order Registry. The Attorney General's office shall implement policies and procedures governing access to the registry by authorized users, which shall include provisions addressing the confidentiality of any information which may tend to reveal the location or identity of a victim of domestic abuse.

(2) All orders issued pursuant to Sections 93-21-1 through 93-21-29, 97-3-7(11), 97-3-65(6) or 97-3-101(5) will be maintained in the Mississippi Protection Order Registry. It shall be the duty of the clerk of the issuing court to enter all civil and criminal domestic abuse protection orders, including any modifications, amendments or dismissals of such orders, into the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays. A separate copy of any order shall be provided to the sheriff's department TAC officers of the county of the issuing court. The copy may be provided in electronic format. Each qualifying protection order submitted to the Mississippi Protection Order Registry shall be automatically transmitted to the National Criminal Information Center Protection Order File. Failure of the clerk to enter the order into the registry or to provide a copy of the order to law enforcement shall have no effect on the validity or enforcement of an otherwise valid protection order.

Any information regarding the registration of a domestic violence protection order, the filing of a petition for a domestic violence protection order, or the issuance of a domestic violence protection order which is maintained in the Mississippi Protection Order Registry which would tend to reveal the identity or location of the protected person(s) shall not constitute a public record and shall be exempt from disclosure pursuant to the Mississippi Public Records Act of 1983. This information may be disclosed to appropriate law enforcement, prosecutors or courts for protection order enforcement purposes.

Domestic Violence Training Fund

§ 93-21-31 Domestic Violence Training Fund:

(1) There is hereby created in the State Treasury a special fund designated as the Domestic Violence Training Fund. The fund shall be administered by the Attorney General. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund. Monies appropriated to the fund shall be used by the Attorney General for the general administration and expenses of the Domestic Violence Division which provides training to law enforcement, prosecutors, judges, court clerks and other professionals in the field of domestic violence awareness, prevention and enforcement.

(2) The clerks of the various courts shall remit the proceeds generated by this act to the Department of Finance and Administration as is done generally for other fees collected by the clerks. . . .

(4) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

Foreign Protection Orders

§ 93-21-16 Protective orders from other jurisdictions; validity and enforcement:

(1) A protective order from another jurisdiction issued to protect the applicant from abuse as defined in Section 93-21-3, or a protection order as defined in Section 93-22-3, issued by a tribunal of another state shall be accorded full faith and credit by the courts of this state and enforced in this state as provided for in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(2) For purposes of enforcement by Mississippi law enforcement officers, a protective order from another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, is presumed to be valid if it meets the requirements of Section 93-22-7.

(3) For purposes of judicial enforcement of a protective order issued in another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, an order is presumed valid if it meets the requirements of Section 93-22-5(4). It is an affirmative defense in any action seeking enforcement of a protective order issued in another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, that any criteria for the validity of the order is absent.

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

Filing the Foreign Protection Order

§ 93-22-9 Registration of order:

(1) It is not required that any foreign protection order be registered in Mississippi; however, any individual may register a foreign protection order in this state on behalf of the individual or any protected person. To register a foreign protection order, an individual shall present a certified copy of the order to the chancery clerk's office of any county in this state.

(2) Upon presentation of a protection order, the chancery clerk shall enter the order into the Mississippi Domestic Abuse Protection Order Registry as provided in Section 93-21-25.

(3) At the time of registration, an individual registering a foreign protection order shall file an affidavit by the protected individual that, to the best of the individual's knowledge, the order is in effect at the time of the registration.

(4) The failure to register a foreign protection order pursuant to the provisions of this section shall have no effect on the validity or enforceability of the order by Mississippi law enforcement or courts.

Court Enforcement of the Foreign Protection Order

§ 93-22-5 Judicial enforcement of order:

(1) A tribunal of this state shall enforce the terms of a valid foreign protection order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. A tribunal of this state shall enforce a valid foreign protection order issued by a tribunal, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. A tribunal of this state may not enforce an order issued by a tribunal that does not recognize the standing of a protected individual to seek enforcement of the order. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

(2) A tribunal of this state shall enforce the provisions of a valid foreign protection order which governs custody and visitation. The custody and visitation provisions of the order must have been issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

pertaining to the central registry or any section of this code. If an employee is determined to have willfully and maliciously performed such a violation, said employee shall not be exempt from civil liability in this regard.

(4) The Mississippi State Department of Health may release the findings of investigations into allegations of abuse within licensed day care centers made under the provisions of Section 43-21-353(8) to any parent of a child who is enrolled in the day care center at the time of the alleged abuse or at the time the request for information is made. The findings of any such investigation may also be released to parents who are considering placing children in the day care center. No information concerning those investigations may contain the names or identifying information of individual children. The Department of Health shall not be held civilly liable for the release of information on any findings, recommendations or actions taken pursuant to investigations of abuse that have been conducted under Section 43-21-353(8).

Disclosure of Records

§ 43-21-261 Disclosure of records:

(1) Except as otherwise provided in this section, records involving children shall not be disclosed, other than to necessary staff of the youth court or a Court-Appointed Special Advocate volunteer that may be assigned in an abuse and neglect case, except pursuant to an order of the youth court specifying the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of the disclosure. Such court orders for disclosure shall be limited to those instances in which the youth court concludes, in its discretion, that disclosure is required for the best interests of the child, the public safety or the functioning of the youth court and then only to the following persons:

(a) The judge of another youth court or member of another youth court staff;

(b) The court of the parties in a child custody or adoption cause in another court;

(c) A judge of any other court or members of another court staff;

(d) Representatives of a public or private agency providing supervision or having custody of the child under order of the youth court;

(e) Any person engaged in a bona fide research purpose, provided that no information identifying the subject of the records shall be made available

to the researcher unless it is absolutely essential to the research purpose and the judge gives prior written approval, and the child, through his or her representative, gives permission to release the information;

(f) The Mississippi Department of Employment Security, or its duly authorized representatives, for the purpose of a child's enrollment into the Job Corps Training Program as authorized by Title IV of the Comprehensive Employment Training Act of 1973 (29 USCS Section 923 et seq.). However, no records, reports, investigations or information derived therefrom pertaining to child abuse or neglect shall be disclosed;

(g) To any person pursuant to a finding by a judge of the youth court of compelling circumstances affecting the health, safety or well-being of a child and that such disclosure is in the best interests of the child or an adult who was formerly the subject of a youth court delinquency proceeding.

Law enforcement agencies may disclose information to the public concerning the taking of a child into custody for the commission of a delinquent act without the necessity of an order from the youth court. The information released shall not identify the child or his address unless the information involves a child convicted as an adult.

Section 43-21-261 sets forth certain provisions that govern the disclosure of youth court records. It provides in part:

(1) Except as otherwise provided in this section, records involving children shall not be disclosed, other than to necessary staff of the youth court, except pursuant to an order of the youth court specifying the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of the disclosure. Such court orders for disclosure shall be limited to those instances in which the youth court concludes, in its discretion, that disclosure is required for the best interests of the child, the public safety or the functioning of the youth court and then only to the following persons. . . .

The above quoted provisions provide that records containing the names of the parties involved in youth court proceedings are not to be disclosed except upon the order of the court following a finding by the court that such disclosure is in the best interest of the child. It further provides that such disclosures may be made only to certain specified persons. **Judges Authority, Op. Att'y Gen. 2002-0739 (Dec. 20, 2002).**

(2) Any records involving children which are disclosed under an order of the youth court or pursuant to the terms of this section and the contents thereof shall

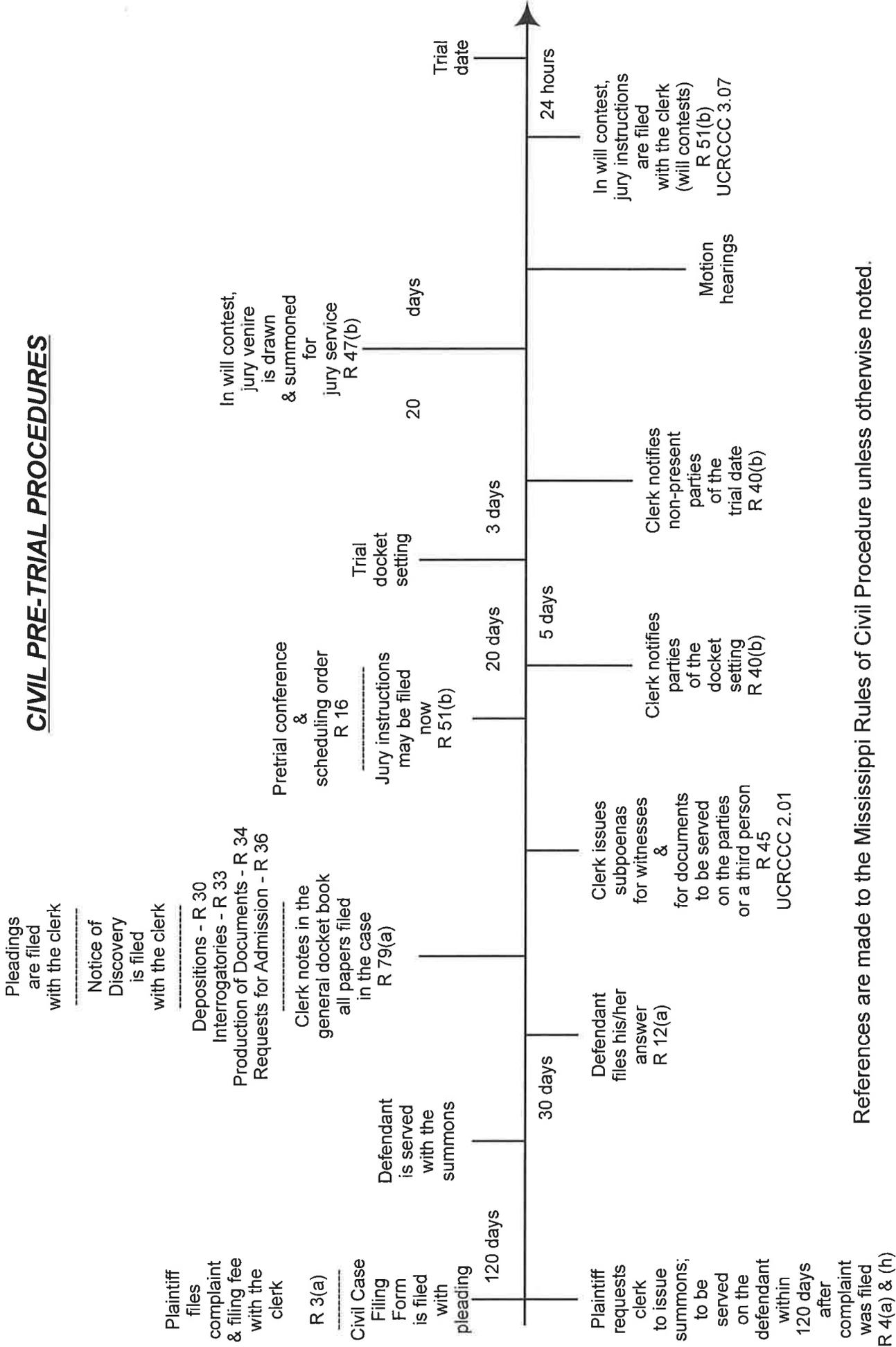
Mississippi Rules of Civil Procedure. Under these circumstances, it is our opinion that the county would bear the cost of the sheriff's fee authorized by Section 25-7-19. for service of process. **Re: Payment for Service of Process - Paupers, Opinion No. 2005-0234 (Miss. A. G. May 27, 2005).**

Mississippi Rule of Civil Procedure 3 Commencement of Action states in part:

(c) Proceeding In Forma Pauperis. If a pauper's affidavit is filed in the action the costs deposit and security for costs may be waived. The court may, however, on the motion of any party, on the motion of the clerk of the court, or on its own initiative, examine the affiant as to the facts and circumstances of his pauperism.

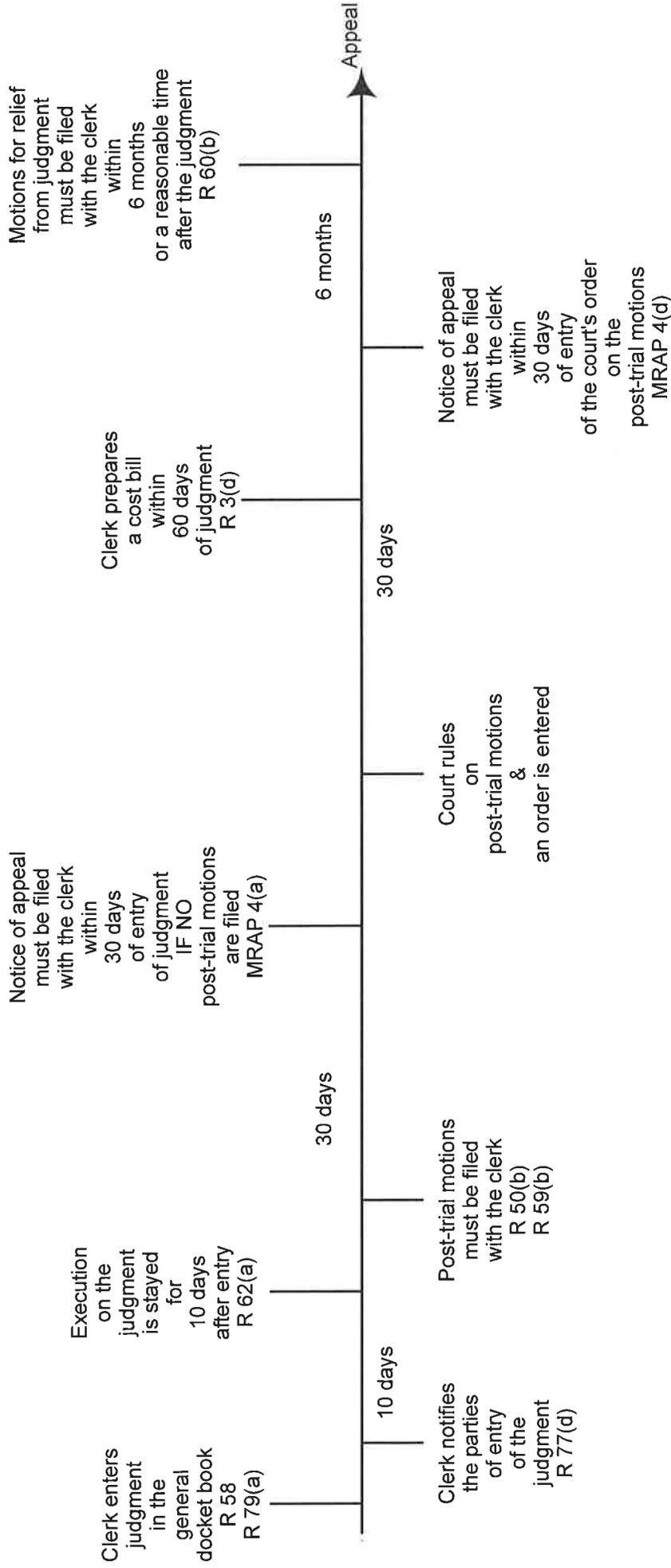
Rule 3(c) accords with Miss. Code Ann. § 11-53-17 (1972) in allowing indigents to sue without depositing security for costs; however, the indigent affiant may be examined as to his financial condition and the court may, if the allegation of indigency is false, dismiss the action. *Cmt.*

CIVIL PRE-TRIAL PROCEDURES



References are made to the Mississippi Rules of Civil Procedure unless otherwise noted.

CIVIL POST-TRIAL PROCEDURES



References are made to the Mississippi Rules of Civil Procedure unless otherwise noted.

How to Get a Court Decision or a Hand Down List

The Mississippi Supreme Court's web site contains the decisions that are handed down by both the Mississippi Supreme Court and the Mississippi Court of Appeals every week. Access to the decisions and hand down lists is free.

How to get a hand down list:

- Go to the web site <http://www.courts.ms.gov>
- To find a Mississippi Supreme Court Hand Down List:
 - Click on "Hand Down Lists" and select the court and year, ex. "2014 SCT"
AND
Select a hand down list date, ex. "12-04-2014"
 - Click "Submit"
 - Click on a decision's case number (in blue) to see the decision
 - Click on the print icon to print a copy of the decision

To search by a party's last name and year of decision:

Ex. To find the Mississippi Court of Appeals case of *Adams v. State of Mississippi*, which was handed down in 2015:

- Go to the web site <http://www.courts.ms.gov>
- Under "Opinions" select the year, ex. "2015"
AND the first letter of the party's last name, ex. "A" for Adams
- Click "Submit"
- All decisions matching that criteria will be pulled up on the screen
- Scroll to find the decision for which you are searching
- Click on the decision
- Click on the print icon to print a copy of the decision

How to Find the Mississippi Rules of Court

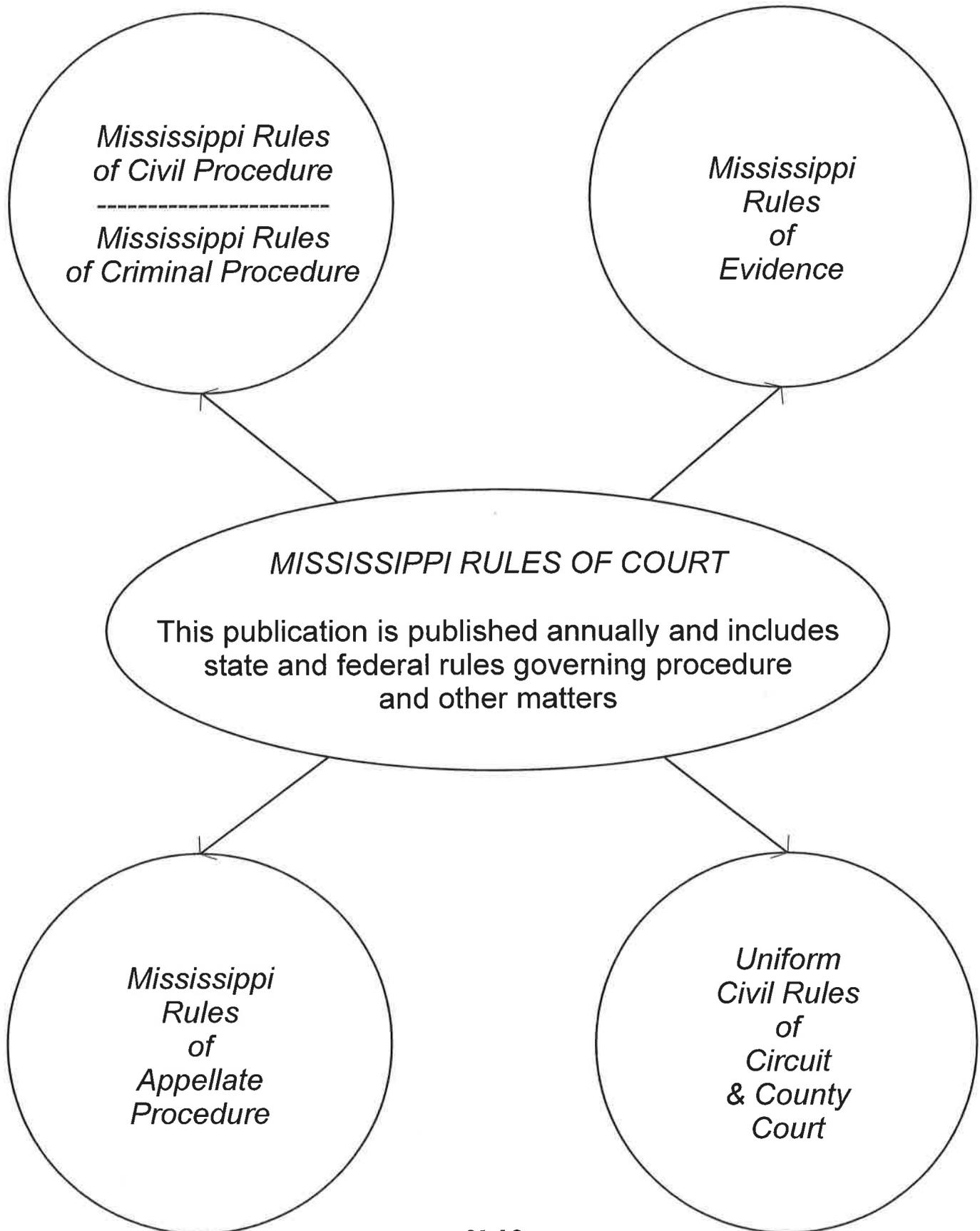
The Mississippi Supreme Court has links to all of the Mississippi Rules of Court available on its web site:

- Go to the web site <http://www.courts.ms.gov>
- Click on “Research” tab
- Select “Rules”

Uniform Rules of Circuit and County Court Practice
Mississippi Rules of Civil Procedure
Uniform Chancery Court Rules
Mississippi Rules of Evidence
Mississippi Rules of Appellate Procedure
Appellate E-Filing Administrative Procedures
Uniform Rules of Procedure for Justice Court
Mississippi Rules of Professional Conduct
Rules of Discipline for the Mississippi State Bar
Mississippi Rules and Regulations for Mandatory Continuing
Legal Education
Rules Governing Admission to the Mississippi Bar
Code of Judicial Conduct
Rules of the Mississippi Commission on Judicial Performance
Rules and Regulations for Mandatory Continuing Judicial
Education
Rules and Regulations Governing Certified Court Reporters
Court Annexed Mediation Rules for Civil Litigation
Rules and Regulations for Certification and Continuing Education
for Mississippi Court Administrators
Rules for Electronic and Photographic Coverage of Judicial
Proceedings
Uniform Rules of Youth Court Practice
Rules of the Mississippi Lawyers and Judges Assistance Program

- Click on the particular set of rules you are researching, and it will open into the rules, found in numerical order, in a “PDF” document.

MISSISSIPPI RULES OF COURT



How to Find an Attorney General Advisory Opinion

- Go to the web site <http://www.ago.state.ms.us>
- Scroll down and click on “Opinions Search”
- A new window will open

To look for an opinion on a particular statute:

- In the “Search Terms” box, type the citation to the statute (ex. 9-7-123)
- The “Natural Language” circle will be clicked by default
- Click “Search”
- Then review your results
- Click on the number of the opinion to view the opinion

To look for an opinion on a particular subject using “Natural Language”:

- In the “Search Terms” box, type “void tax sale” (without quotes)
- The “Natural Language” circle will be clicked by default
- Click “Search”
- Then review your results
- Click on the number of the opinion to view the opinion

To look for an opinion on a particular subject using “Terms & Connectors”:

- In the “Search Terms” box, type “void /3 tax /3 sale” (without quotes)
- Click the “Terms & Connectors” circle
- Click “Search”
- Then review your results
- Click on the number of the opinion to view the opinion

How to Find Domestic Violence Forms

- Go to the web site <http://www.ago.state.ms.us>
- Click on “Victims”
- Click on “Domestic Violence”
- Scroll down for Domestic Violence Forms
- Click on a particular form
- Click on Download PDF
- Click the print icon to print the form

HELPFUL WEB SITES FOR JUDGES & COURT PERSONNEL

Title	Web Site	What is Available
Mississippi Supreme Court	http://www.courts.ms.gov	Supreme Court decisions Court of Appeals decisions Rules of Court Docket information News Contact information
Administrative Office of Courts	http://www.courts.ms.gov/aoc/aoc.html	Forms Contact information
Mississippi Judicial College	http://mjc.olemiss.edu	Conference dates Training information Contact information Links to forms & other resources
Mississippi Secretary of State	http://www.sos.ms.gov	Mississippi Code of 1972 Election information Contact information
Mississippi Attorney General	http://www.ago.state.ms.us	Official advisory opinions Forms Contact information
Mississippi Office of the State Auditor	http://www.osa.state.ms.us	Forms Reports to download Contact information
Mississippi Legislature	http://www.legislature.ms.gov	Legislative bill status Contact information
Mississippi Department of Archives and History	http://www.mdah.state.ms.us	Records management information
Mississippi Department of Human Services	http://www.mdhs.state.ms.us	Public services information
State of Mississippi (official web site)	http://www.mississippi.gov	Links to state government

OTHER WAYS TO CONDUCT RESEARCH ON THE INTERNET

WHAT	WEB SITE	COSTS	WHAT YOU CAN FIND
Google	www.google.com	No	Can search for names, publications, web sites Maps Legal & non-legal resources
LexisNexis	www.lexisnexis.com	Yes Subscription required	State & federal cases & statutes Newspapers Publications Legal & non-legal resources
Thomson West	www.westlaw.com	Yes Subscription required	State & federal cases & statutes Newspapers Publications Legal resources

CHAPTER 28

PURCHASING, RECEIVING & INVENTORY CONTROL CLERKS

Purchasing Clerk

§ 31-7-101 Establishment of department of purchasing; administration; personnel:

From and after the first Monday of January 1989, the supervisors of each county in the state shall establish a central purchase system. The central purchase system shall be administered by a county department of purchasing headed by a purchase clerk who, unless the chancery clerk is appointed by the board of supervisors as purchase clerk as hereinafter authorized, shall be appointed by the county administrator, with the approval of the board of supervisors, in any county required to operate under a countywide system of road administration, or who shall be appointed by the board of supervisors in any other county.

The purchase clerk shall not be a member of the board of supervisors.

The purchase clerk shall be the director of the department of purchasing. No person shall serve as the purchase clerk who, within one (1) year after his appointment, does not receive certification from the State Auditor as having successfully completed the professional education program offered for purchase clerks pursuant to Section 19-3-77.

The department of purchasing shall purchase all equipment, heavy equipment, machinery, supplies, commodities, materials and services used by any office or department of the county except for those offices or departments whose expenditures are not required by law to be approved by the board of supervisors.

The purchase clerk may, subject to the approval of the entity which appointed him, hire personnel necessary to operate the department of purchasing efficiently. Unless the chancery clerk is appointed by the board of supervisors as receiving clerk as hereinafter authorized, the county administrator, with the approval of the board of supervisors, in any county required to operate under the countywide system of road administration, or the board of supervisors in any other county, shall appoint a receiving clerk, who shall not be a member of the board of supervisors.

Assistant receiving clerks, when necessary, may be appointed by the receiving clerk subject to the approval of the entity which appointed him. No person shall serve as the receiving clerk who, within one (1) year after his appointment, does not receive certification from the State Auditor as having successfully completed the professional education program offered for receiving clerks pursuant to

Section 19-3-77. The receiving clerk and his assistants shall be solely responsible for accepting the delivery of all equipment, heavy equipment, machinery, supplies, commodities, materials and services purchased by the county.

The purchase clerk shall disapprove any purchase requisitions which, in his opinion, are not in compliance with the purchasing laws of the state.

The board of supervisors may designate the chancery clerk, with his consent, to serve as the purchase clerk or assistant purchase clerk or as the receiving clerk or assistant receiving clerk; however a chancery clerk designated as purchase clerk or assistant purchase clerk may not also serve as receiving clerk or assistant receiving clerk, and a chancery clerk designated as receiving clerk or assistant receiving clerk may not serve as purchase clerk or assistant purchase clerk.

Neither the purchase clerk nor any assistant purchase clerks shall serve as the receiving clerk or as an assistant receiving clerk.

When the chancery clerk serves as county administrator and purchase clerk or assistant purchase clerk, the receiving clerk and any assistant receiving clerks shall be appointed by and serve at the will and pleasure of the board of supervisors.

§ 31-7-103 Compliance with audit department requirements; small purchases:

The purchase clerk shall be responsible as hereinafter provided for the purchase and acquisition of all equipment, heavy equipment, machinery, supplies, commodities, materials and services to be acquired for the county from successful bidders or other vendors, as authorized by law.

The central purchase system shall comply with the requirements prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113, and the purchase clerk shall be responsible for the maintenance of such system.

No requisition to purchase, purchase order or receiving report shall be required for the purchase of any item or services with an acquisition cost of not more than One Thousand Five Hundred Dollars (\$1,500.00) in the aggregate; however, the invoice for every such purchase shall be signed by the department head or his or her designee, or a receipt signed by the person making the purchase shall be attached to the invoice and forwarded to the purchase clerk. No claim based on any such purchase shall be approved except after compliance with the provisions of this section.

§ 31-7-119 Board of supervisors; restrictions:

(1) Except as provided in subsection (2) of this section, neither the board of supervisors nor any member thereof shall individually purchase, order or receive any equipment, heavy equipment, machinery, supplies, commodities, materials or services for the use or benefit of the county.

(2) In any county in which the board of supervisors is not required to operate on a countywide system of road administration, the prohibition as provided in subsection (1) of this section shall not apply

(a) to purchases of not more than One Thousand Five Hundred Dollars (\$1,500.00) in the aggregate; or

(b) to the purchase of parts or repair services in emergency situations, which purchases are exempt from bid requirements pursuant to Section 31-7-13(m)(ii) and (iii), Mississippi Code of 1972.

Any supervisor who purchases any item or services in accordance with this subsection (2) shall sign the invoice or receipt and forward it to the purchase clerk in the manner provided by Section 31-7-103.

No claim based on any such purchase shall be approved unless the purchase was made in compliance with the provisions of this subsection.

Receiving Clerk

§ 31-7-101 Establishment of department of purchasing; administration; personnel:

The board of supervisors may designate the chancery clerk, with his consent, to serve as the purchase clerk or assistant purchase clerk or as the receiving clerk or assistant receiving clerk; however a chancery clerk designated as purchase clerk or assistant purchase clerk may not also serve as receiving clerk or assistant receiving clerk, and a chancery clerk designated as receiving clerk or assistant receiving clerk may not serve as purchase clerk or assistant purchase clerk. Neither the purchase clerk nor any assistant purchase clerks shall serve as the receiving clerk or as an assistant receiving clerk.

When the chancery clerk serves as county administrator and purchase clerk or assistant purchase clerk, the receiving clerk and any assistant receiving clerks shall be appointed by and serve at the will and pleasure of the board of supervisors.

§ 31-7-109 Receipting system:

The receiving clerk or his assistants shall, upon proper delivery of equipment, heavy equipment, machinery, supplies, commodities, materials or services, acknowledge receipt of goods in compliance with a receipting system prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113, and the receiving clerk shall be responsible for the maintenance of such system.

Inventory Control Clerk

§ 31-7-107 Inventory control system:

In addition to the required central purchase system, from and after the first Monday in January 1989, each county shall establish and maintain an inventory control system pursuant to requirements prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113; provided, however, that not more than a sixty (60) day inventory of supplies, commodities and materials shall be kept on hand unless otherwise approved by the board of supervisors.

The inventory control clerk shall be employed or designated in the same manner and by the same entity which employs or designates the purchase clerk.

The inventory control clerk shall be responsible for the maintenance of such system and such other personnel as may be required for the efficient operation of the inventory control system and shall not be a member of the board of supervisors.

No person shall serve as the inventory control clerk who, within one (1) year after his appointment, does not receive certification from the State Auditor as having successfully completed the professional education program offered for inventory control clerks pursuant to Section 19-3-77.

The opening entries of such system shall be compiled by the inventory control clerk from a physical inventory which the board of supervisors shall cause to be made of all property of the county by April 1, 1989, and such beginning inventory shall be recorded in the minutes of the board of supervisors.

The clerk of the board of supervisors shall deliver to the inventory control clerk a certified copy of such inventory within seven (7) days after the acceptance of the beginning inventory by the board of supervisors.