

**IN THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

RE: CIVIL MATTERS PENDING BEFORE JUDGE GIBBS

GUIDELINES FOR CIVIL CASES

The Court respectfully requests that attorneys practicing before the Court follow the following guidelines in connection with civil cases pending on Judge Gibbs' docket. Please copy all counsel of record and Judge Gibbs' staff --- Court Administrator(s): Annette Qualls (annette.qualls@co.hinds.ms.us) and Elisa Wilson (Elisa.Wilson@co.hinds.ms.us), on all email communications with the Court.

AGREED SCHEDULING ORDER

The parties should submit to the Court Administrator, via email, a proposed scheduling order within sixty (60) days after the defendant(s) files an Answer to the Complaint.

PRE-TRIAL AND TRIAL SETTINGS

Sixty (60) days after the defendant or the last of the defendant(s) has responded to the complaint, the plaintiff shall initiate the filing of an Agreed Scheduling Order. Any party who fails, without just cause, to agree to a scheduling order may be subject to sanctions by the Court. Counsel for plaintiff should refer to the Court's website (<https://www.hindscountymiss.com/courts/circuit-court-judges>) for a sample of an acceptable agreed scheduling order.

The scheduling order shall include deadlines for: (a) completion of discovery; (b) filing of motions for joinder of additional parties or amendments of the pleadings; (c) designation of Plaintiff's expert witness; (d) designation of Defendant's expert witnesses; (e) deadline filing of all pre-trial motions; (f) mediation deadline; (g) submission of pre-trial order; (h) deadline for *in limine* motions; and (i) *Daubert* motions, if any (motions challenging the qualifications of expert witnesses).

The agreed scheduling order should also state that the deadlines shall not be extended by agreement of the parties but only by order of the Court upon a showing of good cause.

MEDIATION/SETTLEMENT CONFERENCE

Pursuant to the Mississippi Court Annexed Mediation Rules for Civil Litigation and Rule 3 of the Local Rules of the Seventh Circuit District, the Court will require the parties to complete a private mediation in good faith, thirty (30) days after the discovery deadline. A letter from the mediator should be filed with the Court stating the results of the mediation.

SCHEDULING A CASE FOR TRIAL

The Plaintiff can contact the Court Administrator for trial dates. The Court Administrator can tentatively place cases on the docket. **NOTE:** private mediation shall be completed at least sixty (60) days prior to the trial, with results reported to the Court. Failure to submit a copy of the filed Notice of Trial Setting within ten (10) days will result in the case being removed from the trial docket. Each trial date will have three available settings. Contact the court administrator to confirm whether the date is available. Upon confirmation of trial date from the court administrator, the parties should forward a copy of the agreed order to the Court. The Court does not “hold” trial dates. Trial settings are scheduled as they are received. For purposes of judicial economy and the effective control of the Court’s docket, the Court may place actions upon and/or rearrange the trial calendar as the Court deems appropriate.

Failure to appear for trial without notice of a Settlement or without securing an order for continuance, is sanctionable by the Court. Continuances will be granted ONLY upon showing of just cause.

Parties shall notify the Court immediately when a case settles, so as to avoid unnecessary jury costs for the county and taxpayers. Notification should be by email.

NOTICE OF HEARING

The parties should include in their Notice of Hearing the title of the motion(s) and docket number(s) of the matter(s) set for hearing. Please note that the Court reviews all motions and supporting documents prior to the hearing. Therefore, the Court will not entertain lengthy

arguments (on the record). The Court reserves the right to resolve motions on the papers (pleadings).

MOTIONS

All Rule 12 motions to dismiss and Rule 56 motions for summary judgement must be supported by a separate memorandum or brief. With respect to all other motions, it is not necessary for the party seeking relief to file a memorandum or brief with the motion, as long as all necessary facts and law are contained in the motion. Respondent **SHALL** file a response to any motion within ten (10) days after service of the motion. The movant **MAY** file a reply in support of any motion within five (5) days after service of the response. Movants for summary judgement shall also file an itemization of facts relied upon and not generally disputed. The respondent shall file a pleading indicating either agreement with each statement of fact or state the specific reason(s) for disagreement with each statement of fact.

If any party wishes to request a hearing on a civil motion, the party shall contact the Court Administrator and request a hearing date, after opposite party responds. Once a hearing date is approved by the Court, the moving party shall file a notice of hearing and provide to the Court a hard copy of the complete briefing(s) in connection with the motion(s), along with attachments, if any, in a three-ring binder. If the motion seeks dismissal of the complaint or summary judgement, the moving party shall also provide to the Court a hard copy of the operative complaint and answer.

If the parties do not wish to request a hearing on a civil motion, upon completion of the briefing, the movant shall send a hard copy of the briefing to the Court with a cover letter requesting that the Court resolve the motion on the papers (pleadings).

NON-DISCOVERY MOTIONS

Scheduling Non-Discovery Motions

Contact the court administrator by phone or email for an available date. The attorney setting the motion must have confirmed the date and time for said hearing with all interested parties prior to filing the Notice of Hearing. After a hearing date has been confirmed with the court administrator and after all interested parties have been notified, the attorney setting the motion shall file a Notice of Hearing. Thereafter, the attorney setting the motion shall email a copy of the notice of hearing to the court administrator. At the time the motion is set, the attorney(s) shall advise the court administrator whether there will be any testimony at the hearing, or if there is need for Zoom. Attorneys needing video equipment may want to visit the courtroom to test the equipment before the date of the trial. You must contact the court administrator to set an appointment.

Please be advised that matters are not considered “set for hearing” unless and until the Court has: (1) received the Notice of Hearing; (2) added the matter to the Court’s calendar, and (3) received physical copies of the motion(s) and attachments, if any, in a three-ring binder.

Scheduling Expedited Motions

Any request for an expedited hearing must be in writing (letter or email) to the Court. Once the request for an expedited hearing has been granted, the requesting party must give notice to all parties of the date and time of the same. Please be advised that matters are not considered “set for hearing” unless and until the Court has: (1) received the notice of hearing; (2) added the matter to the Court’s calendar, and (3)) received physical copies of the motion(s) and attachments, if any, in a three-ring binder.

Expedited matters may be held via teleconference or videoconference. If a teleconference or videoconference is granted by the Court, it must be scheduled by the requesting party. All parties must utilize the same manner when the Court conducts the hearing, whether in person, telephonically, or by video conference. In other words, the Court will not meet with one party in person while conferring with other parties via teleconference or videoconference.

DISCOVERY MOTIONS

The Court would like to minimize briefing and expedite rulings in connection with discovery disputes. If the parties are unable to resolve a discovery dispute through good-faith negotiations, a telephonic/video conference hearing can be scheduled. Prior to the telephonic discovery hearing, the parties may submit to the Court, via email, a summary of the discovery issue(s) in dispute, attaching a copy of the discovery request(s) in dispute and the disputed response(s). The Court strongly encourages parties to resolve disputes before seeking a telephonic/video hearing. Improper objections to legitimate discovery requests may lead to

sanctions being imposed. Good faith efforts must be made to settle discovery disputes. Non-prevailing parties in motion to compel may be subject to assessment of expenses and/or attorney fees.

Scheduling Discovery-Related Motions

The attorney(s) bringing the motion shall be responsible for confirming the date and time for said hearing with all the attorneys involved prior to setting the motion to be heard. The attorney(s) bringing the motion shall be responsible for contacting the court administrator (annette.qualls@co.hinds.us.ms) or (Elisa.Wilson@co.hinds.us.ms) and setting the same for hearing. At the time the motion is set, the attorney(s) shall advise the court administrator whether there will be any testimony at the hearing. Once a hearing date is approved by the Court, the party requesting the hearing shall file a Notice of Hearing and shall email a copy of the same to the court administrator. The parties should submit physical copies of the complete briefing regarding the matter set for hearing, including the motion and attached exhibits, memorandums, briefs, responses, and replies, if any.

If the parties do not wish to request a hearing on a motion, upon completion of the briefing, the movant shall send a hard copy of the briefing to the Court with a cover letter requesting that the Court resolve the motion based on the parties' briefs and or papers.

SUMMARY JUDGMENT AND/OR MOTION TO DISMISS

The Mississippi Supreme Court has favored the trial of the issue(s) before a jury, as opposed to a grant of Summary Judgment. The court respects this position of the Court. Decisions regarding Summary Judgment motions or other motions treated as Summary Judgment motions may be made by the Court, WITHOUT A HEARING. Non-prevailing parties in Motions for Dismissal and/or Summary Judgment may be assessed cost and/or attorney fees in accordance with Rule 56(h) M.R.C.P.

Dispositive Motions

Except for good cause shown, any potentially dispositive motion must be filed on or before the dispositive motion deadline found within the scheduling order and subsequently noticed for hearing within a five-day period thereafter. Generally, a court reporter will be present for motion hearings or other pre-trial matters. All Rule 12 motions to dismiss and Rule 56 motions for summary judgment must be supported by separate memorandums or briefs.

With respect to requests for relief, it is necessary for the party seeking relief to file a separate motion. Respondent should file a response to any motion within ten (10) days after service of the motion. The movant **MAY** file a rebuttal in support of any response

within five (5) days after service of the rebuttal. Movants for summary judgment shall file as a separate pleading in support of their motion an itemization of facts relied upon and not generally disputed. Respondent shall file a pleading indicating either agreement with each statement of fact or state the specific reason(s) for disagreement with each statement of fact.

If the motion seeks dismissal of the complaint or summary judgment, the party requesting the hearing shall also provide to the Court a hard copy of the operative complaint and answer. Please take note that the Court reviews all motions and supporting documents prior to a hearing. Thus, the Court will not entertain lengthy arguments.

Prevailing Party Required to Memorialize the Court's Ruling and Submit Proposed Order:

The prevailing party on any motion set for hearing is required to memorialize the Court's ruling and to present a proposed order for the same no later than ten (10) days following any hearing set before the Court, unless otherwise authorized by the Court. The proposed order should be circulated to counsel opposite before it is submitted. Be advised that the Court makes detailed rulings and the same should be reflected in the Court's order. The Court frowns upon the submission of form and/or generic orders.

If counsel opposite disagrees with or contests the prevailing parties proposed order, then the contesting party may submit a separate proposed order within the ten (10)-day period. The contesting party should advise the Court that the prevailing party's submission is contested. Once both orders have been received, the Court will review and determine which order appropriately memorializes the Court's ruling.

Proposed orders should be submitted in both Word and PDF format. The Court may issue a show cause order if the prevailing party fails to (1) present an order within the time allotted or (2) without request and secure from the Court a writing granting an extension of time to make submission.

In Limine Motions

Except for good cause shown, evidentiary *in limine* motions must be heard by the Court at a minimum one week prior to the scheduled trial date.

Cancelling Motions Set for Hearing

The court administrator should be notified of any cancellation of motions set for hearing, as soon as they are aware, but no later than 5:00 p.m. on the day prior to the date the motion is set. If the parties agree to cancel a hearing, then the parties shall file a notice of cancellation on the day the parties agreed to cancel the same. The parties should also forward a copy of the notice to the court administrator. Failure to abide by the procedure set forth to cancel a motion may result in sanctions.

PROPOSED AGREED ORDERS

If the parties are seeking relief through a proposed agreed order, please provide to the Court, via email the proposed order, with signatures from both parties' Counsel. Proposed orders should be submitted in both Word and PDF format.

PRESENTATION OF ORDERS

Any and all orders may be emailed, mailed, or hand delivered and must be accompanied by a cover letter. Orders unaccompanied by a cover letter that are dropped off at the courthouse or mailed to the circuit clerk's office will not be signed by the court. Further, all Agreed Orders must be signed by an attorney for each party.

AMENDMENTS

The court grants motions to AMEND freely. As such, agreements of the parties on this issue may be submitted as agreed orders without the necessity of hearing. Should a party refuse to agree to an amendment, the amending party may seek redress with the court.

Attorneys must comply with Rule 3.07 of the Uniform Circuit Court Rules regarding the filing of Jury instructions. Additionally, the attorneys must provide the Court a copy of the proposed instructions via email at least 24 hours prior to trial.

The Court shall be provided a copy of any depositions to be read to the jury or shown by video.

Prior to trial each party must provide the Court with a copy of all exhibits to be offered into evidence.

The court requires a Pre-trial order in every case. An agreed Pre-trial order is required and must be submitted at a minimum fourteen (14) days before the date of the trial.

EMERGENCY RELIEF

If a party is seeking emergency relief, please contact the Court by email to request a hearing and attach to the email a copy of the pleading or other paper seeking the emergency relief.

PRE-TRIAL ORDER

If case is going to trial, the parties shall submit to the Court a proposed pre-trial order (found on the Hinds County website). The Pre-trial Order should be submitted at a minimum fourteen (14) days prior to the date of the trial. Failure to submit an Agreed Pre-trial Order by the due date stated above shall subject the parties to sanctions.

JURY INSTRUCTIONS

Pursuant to URCCC 3.07, the parties shall provide the Court with a copy of proposed jury instructions at least twenty-four (24) hours prior to trial. Additionally, in the absence of good cause, the Court will entertain no more than six (6) substantive instructions per side at the conclusion of the evidence.

Pursuant to URCCC 3.07:

At least twenty-four (24) hours prior to trial, each of the attorneys must number and file the attorney's jury instructions with the clerk, serving all other attorneys with copies of the instructions. Except for good cause shown, the court will not entertain a request for additional instruction or instructions, which have not been pre-filed. At the conclusion of testimony, the attorneys must select no more than six (6) jury instructions on the substantive law of the case from the instructions pre-filed and present them to the judge. The Court, for good cause shown, may allow more than six (6) instructions on the substantive law of the case to be presented. The attorneys must dictate into the record their specific objections to the requested instruction stating the grounds for each objection. Instructions will not be given after closing argument has begun except in extreme cases of injustice and in such cases, the adverse parties shall have an opportunity to submit other instructions.

The parties should submit to the Court a copy of the instructions, in Word format. A Word version of the jury instructions is required in the event modifications become necessary during the jury instruction conference.

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AGREED SCHEDULING ORDER – CIVIL

THIS MATTER is before the Court on the parties' *ore tenus* joint motion for entry of a scheduling order. The Court sets the following schedule:

1. Motions for joinder of parties or amendments to the pleadings shall be filed on or before _____.
2. Plaintiff(s) shall designate its experts, if any, on or before _____.
3. Defendant(s) shall designate its experts, if any, on or before _____.
4. All discovery shall be completed on or before _____.
5. The Parties shall complete a private mediation, at least sixty (60) days prior to trial or thirty (30) days notice of trial setting due within ten (10) days with results reported to the Court.
6. Tentative trial date _____.
7. All motions, with the exception of *in limine* motions, shall be filed fourteen (14) days after the discovery deadline. All response briefs shall be filed ten (10) days thereafter, and all reply briefs shall be filed five (5) days after the response brief.
8. All *in limine* motions shall be filed forty-five (45) days prior to the trial setting.
9. A trial date shall be set by a separate order.
10. At least fourteen (14) days prior to the trial, the parties shall submit to the Court a proposed pre-trial order (template found on the Hinds County website), as well as proposed jury instructions. A pre-trial conference will be set, if the Court deems necessary.

SO ORDERED this the _____ day of _____, 20_____.

DEBRA HENDRICKS GIBBS
CIRCUIT JUDGE