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**RE: CIRCUIT COURT RULES AND POLICIES APPLICABLE TO CIVIL PROCEEDINGS BEFORE THE HONORABLE ADRIENNE H. WOOTEN**

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The Court respectfully requests that the parties follow and abide by the Court's rules and policies in connection with civil cases pending on Judge Wooten's docket.

When corresponding with the Court, please copy all counsel of record and Judge Wooten's staff – Court Administrator ([tbarnes@co.hinds.ms.us](mailto:tbarnes@co.hinds.ms.us)) and Law Clerk ([WootensLawClerk@co.hinds.ms.us](mailto:WootensLawClerk@co.hinds.ms.us)) – on all email communications with the Court.

### **SCHEDULING**

#### **1. Agreed Scheduling Orders**

Pursuant to Rule 26 of the Mississippi Rules of Civil Procedure, all cases are required to have an agreed scheduling Order submitted to the Court within sixty (60) days after the last defendant files an answer. 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) pre-trial conference date; (h) submission of a pre-trial order; (i) deadline for in limine motions; and (g) *Daubert* motions, if any.

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. Plaintiff shall initiate the filing of an agreed scheduling order. Any party who fails, without just cause, to agree to a scheduling order shall be subject to sanctions by the Court. Counsel for plaintiff should refer to the Court's website for a sample of an acceptable agreed scheduling order.

#### **2. Scheduling a Case for Trial**

Sixty (60) days after the first defendant files an answer, the parties should contact the Court to obtain a trial date. When the parties submit their scheduling order to the Court, a trial date must be included in the same. Open trial dates may be found on the Court's website (<http://www.hindscountymississippi.com/court-systems/circuit-court-judges/district-1>) or by calling (601-968-6679), emailing ([tbarnes@co.hinds.ms.us](mailto:tbarnes@co.hinds.ms.us)) the court administrator. Each trial date will have ten available trial settings. Once the parties have agreed upon a trial date, contact the court administrator to confirm whether that date is available and to obtain a trial setting. Upon confirmation from the court administrator, the parties should

forward a copy of the agreed order to the Court. The Court does not “hold” trial dates, and schedules trials in trial settings as the orders are received. For purposes of judicial economy and the effective control of the Court’s docket, please be advised that the Court may place actions upon and/or rearrange the trial calendar as the Court deems appropriate.

### **3. Notice of Hearing**

For the benefit of the Court, 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.

### **4. Scheduling Non-Discovery Motions**

The Court hears non-discovery motions during the Court’s term, or at other times if circumstances require it. Open dates may be found on the Court’s website (<http://www.hindscountymys.com/court-systems/circuit-court-judges/district-1>) or by contacting the court administrator by phone (601-968-6679) or email ([tbarnes@co.hinds.ms.us](mailto:tbarnes@co.hinds.ms.us)). 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 of the same, the attorney setting the motion shall file a notice of hearing. Thereafter, the attorney setting the motion shall mail, fax, or 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 and if the parties request a court reporter. Please be advised that matters are not consider “set for hearing” unless and until the Court has (1) received the notice of hearing, (2) added the matter to the Court’s online calendar, and (3) received physical copies of the motion.

### **5. Scheduling Expedited Motions**

The Court is aware that certain motions are of a more urgent or expedited nature and harm may occur absent prompt action by the Court. Any request for an expedited hearing must be in writing (letter, email, or fax) 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 online calendar, and (3) received physical copies of the motion.

Expedited matters may be held via teleconference or videoconference. If a teleconference or videoconference is granted, 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.

## 6. Scheduling Discovery-Related Motions

The Court will hear discovery-related motions (including, but not limited to motions to compel discovery, motions to quash, motions for protective orders, motions for leave to amend a complaint and/or any motions relating to sanctions or attorney's fees related to the foregoing) during the Court's term, or at other times if circumstances require it. 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 (601-968-6679 or [tbarnes@co.hinds.ms.us](mailto:tbarnes@co.hinds.ms.us)) 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 and if the parties request a court reporter. Once a hearing date is approved by the Court, the party requesting the hearing shall file a notice of hearing and shall mail, fax, or 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.

## 7. 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 on the same. Thus, the Court will not entertain lengthy arguments.

## **8. 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. 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) request and secure from the Court a writing granting an extension of time to make submission.

## **9. *In Limine* Motions**

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

## **10. Cancelling Motions Set for Hearing**

The court administrator should be notified of any cancellation of motions set for hearing 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.

## **11. Telephonic Motions**

Where motions involve out-of-town attorney(s), this Court may, as a courtesy to the out-of-town attorney(s) and if requested, hear the motion via teleconference or videoconferencing with all parties participating by telephone or videoconference. Local attorney(s) in this case should notify the out-of-town attorney(s) of the Court's policy a few days prior to the hearing of the motion. Thereafter, if the hearing shall proceed via conference call or video conferencing, the parties should promptly notify the court administrator. On the hearing date, the attorneys shall be responsible for initiating any telephonic conference call and getting the participating attorney(s) on the call. The parties should advise the court administrator of the number to call. If the parties proceed with

video conferencing, the court administrator shall provide a secure link for the same. Any party may request a court reporter, but the requesting party must notify the court administrator of the request at least 48 hours prior to the conference call or video conference.

## **12. Required Information on Motions**

All motions, pleadings, briefs, or other submissions to the Court shall bear the name, address, office telephone and facsimile numbers, and email address of attorney(s) making such submissions.

## **13. Responsive Pleadings Vital**

Timely responsive written pleadings/briefs are extremely helpful to the Court, and absent the same, the respondent risks the Court considering the subject motions confessed. If a responsive pleading/brief is untimely filed, the Court may exercise its discretion to strike the pleading or may continue the hearing to a later date.

## **14. Submission of Orders**

Pursuant to Rule 1.11 of the Uniform Civil Rules of Circuit and County Court (“UCRCCC”), all orders and judgments shall be submitted directly to the Court, and not the Circuit Clerk. All orders and judgments presented to the Court must be signed by the attorney(s) submitting the same for the Court’s approval. All orders must be provided to all attorney(s) of record in the time and in the manner they were submitted to the Court. If Agreed Orders are submitted, then the same should be signed by all parties prior to submission or submit sufficient proof of agreement (e.g. faxed or mailed correspondence acquiescing to the order or an email thread demonstrating consent and agreement). Orders that have not been agreed to should be submitted to the Court by regular mail with counsel opposite being copied on the same. The parties should also email a copy of the same.

## **15. Hard Copy and Electronic Submissions of Pleadings Required**

All briefs, memoranda, findings of fact and conclusions of law, and opinions/orders requested by the Court should be submitted in printed and electronic form (Microsoft Word preferred). All copies of such submissions should be submitted to the Court and opposing counsel simultaneously and using the same delivery method. For instance, do not hand-deliver the Court’s copy and send opposing counsel’s copy by regular mail.

## **16. Prior Approval of Additional Motions Set for Hearing**

Once a motion is set in a case and noticed by the appropriate attorney, no other motion may be noticed by any attorney in the case without the prior approval of the Court. The Court shall only proceed on those matters that have been properly noticed and set for hearing.

**17. Exhibits to Motions**

Exhibits attached to motions should be clearly referenced in the motion itself. Deposition excerpts, rather than entire depositions, are preferred – specifically, quoting the referenced portion of the attached document excerpt within the motion/brief. Highlighting significant portions of attached documents is acceptable so long as the same courtesy is afforded the opposing party.

**18. Good Faith Efforts**

All motions to compel discovery should comply with Rule 37 of the Mississippi Rules of Civil Procedure and Rule 4.03(c) of the UCRCCC. A party or attorney in a case who fails to act in good faith to resolve discovery disputes, may be subject to appropriate sanctions.

**DISCOVERY**

**19. Timely Filing of Written Discovery**

Interrogatories and request for production should be served sufficiently before the expiration of discovery deadline so that responses are due well before the end of the discovery period.

**20. Timely Filing of Requests for Admissions**

Since one of the purposes of request for admissions is to narrow the issues, request for admissions may be filed within a reasonable time after expiration of the discovery period.

**21. Trial Depositions**

Evidentiary trial depositions must be taken before the discovery deadline and at a reasonable time before the trial.

**22. M.R.E. 615**

“The Rule” may be invoked at depositions pursuant to M.R.E. 615. Please note, however, expert witnesses are not subject to M.R.E. 615.

**23. Depositions of Experts**

Generally, depositions of expert witnesses will be allowed as a matter of course.

**24. Review of Documents Relied on by Experts**

When deposing an expert witness, the adverse party is entitled to review only documents relied upon by the expert in formulating the expert’s opinion, unless good cause is established for the necessity of the review of additional documents.

## **25. Designations of Experts**

The designation of an expert witness should be pursuant to and comport with M.R.C.P. Rule 26(b)(4).

## **26. Timely Identification of Trial Witnesses**

In the absence of good cause, trial witnesses must be identified at least 30 days before the trial in response to an interrogatory requesting the identity of the trial witness.

## **27. Identification of Privileged Documents Required**

Where the discovering party requests items or documents deemed privileged by the responding party, the responding party shall show a factual basis adequate to support a good faith belief by a reasonable person that an in camera review is necessary. The responding party shall also provide to the discovering party a privilege log to resolve the issue without the Court's intervention. If the privilege issue still exists, the parties should contact the Court to set the matter for hearing.

## **28. Discovery disputes**

Good faith efforts must be made to settle discovery disputes without the Court's intervention. The non-prevailing parties in motions to compel will be subjected to the assessment of expenses and/or attorney's fees.

### **AMENDMENTS TO PLEADINGS**

## **29. Leave to Amend Shall Be Freely Given**

The Court freely grants motions to AMEND. 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.

### **MEDIATION REFERRALS**

## **30. Mediation before Trial Preferred**

Pursuant to the mandates of the Mississippi Supreme Court, cases may be referred to mediation upon the motion of a party or on the Court's own motion. Good faith efforts must be made to resolve the action through mediation. Mediation should occur no later than thirty (30) days prior to trial.

### **REFERRALS TO COUNTY COURT**

## **31. Referral to County Court**

Attorneys must file a motion requesting a referral to county court for trial. the motion must be specific and justify the reasons for the request. Agreement of the parties to have a case heard in county court does not require the Court to order the relief requested.

## **TRIAL PRACTICE**

### **32. Pre-Trial Conference and Order**

Pursuant to M.R.C.P. 16, the Attorneys for the parties shall be required to attend a pre-trial conference generally scheduled by the Court two or three weeks before trial. A pre-trial order should be submitted to the Court no later than five (5) days prior to any pre-trial conference.

### **33. Objections During Trial**

All objections to testimony must be made to the Court and not to the opposing attorney. The objection must be specific and not general. The attorneys will not be permitted to argue between themselves. After an objection is raised, counsel for the parties shall immediately approach the bench to provide the basis of the objection. The parties should refrain from making a record of the objection within the hearing of the jury.

### **34. Trial Depositions**

If the parties intend to use depositions during trial, then the parties shall provide to the Court a copy of said depositions to be read to the jury or shown to the jury by way of video.

### **35. Jury Instructions**

Pursuant to URCCC 3.07, the parties shall provide the Court with a copy of proposed jury instructions at least 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 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 jury instructions on the substantive law of the case from the instructions prefiled and present them to the judge. The court, for good cause shown, may allow more than six instructions on the substantive law of the case to be presented. The attorneys must dictate into the record their specific objections to the

requested instructions 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 filed-stamped copy of the instructions as well as a copy of instructions in Word format. A Word version of the jury instructions is required in the event modifications become necessary during the jury instruction conference.

### **36. Failure to Appear for Trial**

The failure to appear at trial, without notice of a settlement or without securing a continuance order, is sanctionable by the Court. Continuances will **only** be granted upon a showing of just cause. The parties shall immediately notify the Court when a case settles so that the county and taxpayers avoid unnecessary jury costs. Notification may be effected in a writing to the Court by mail or email before 5 p.m. on the Friday before trial.