

Rules of Justice Court

Purpose:

- To bring uniformity and clarity
- To improve practices and procedures
- To simplify the structure of the rules

Rule 1

Scope of Rules

Rules 1 to 10 apply to all cases
(both civil and criminal).

MRCrP still govern criminal procedures.

Rules 11 to 27 only apply to civil cases.

Sanctions.

Rule 2

Courtroom Decorum and Security

Court may allow law enforcement or security to carry a firearm in the courtroom.

Judge may carry a firearm in the courtroom pursuant to § 97-37-7 or by applicable law.

All entering courtroom may be searched and removed if engaging in disruptive behavior.

Rule 3

Use of Cameras, Recording, and Broadcasting Equipment

Attorney of record or litigant may record proceedings pursuant to § 9-13-32.

Otherwise, the use of recording devices is governed by Canon 3B(12).

Rule 4

Ex Parte Communications

The judge shall not allow any person:

- To discuss facts/law of case except as allowed by law
- To influence decision in any manner

Rule 5

Court Records and Docket

Clerk's duty to keep papers--same.

Docket--same.

Uniform case record--references § 9-11-11.

Signing bonds prohibited--same.

Rule 6

Correction of Clerical Errors

Specifies that *the judge* may correct clerical errors after notice to the parties and up until a certified copy of the record is transmitted for an appeal.

Rule 7

Recusal of Judges

Requires a written order of recusal.

Reassigning case--same, if reassignment is to another justice court judge of the county.

Reimbursement pursuant to § 25-3-41 and as otherwise allowed by law.

Rule 8

Appointment of Interpreter

Interpreters for the deaf and hearing impaired--same.

Foreign language interpreters--new rule, same practice
(Rules and policies of MS Supreme Court and AOC).

Interpreter's oath--new rule, same practice
(See MRE 604 and § 9-21-77).

Rule 9

Jury Trials

Jury trials in criminal cases governed by MRCP.

Jury trials in civil cases same as before, except:

- Jury instructions follow MRCP 51
- Only requires a verdict of 5 jurors
- More details on procedures

Seven prior rules condensed to one.

Rule 10

Conduct of Counsel and Parties

Structured for an easier read:

- Attendance
- Civility in proceedings
- Objections
- Jury panels
- Witnesses
- Opening statements / Closing arguments

Rule 11

Form of Action

There shall be one form of action known as “civil action.”

Rule 12

Commencement of Civil Action

- Consistent with § 11-9-105
- Copy of any account or other written instrument of claim should be attached to or filed with complaint
- Single complaint for multiple defendants

Sworn complaint necessary for: evictions, replevin, distress for rents, and unlawful entry and detainer.

Rule 13

Computation of Time

Identical to prior rule.

Rule 14

Service of Process

(a) Service of process defined.

Service of process for civil actions in justice court means serving a true copy of the summons and complaint upon the defendant in accordance with this rule.

Rule 14

Service of Process

Subheadings to rule:

- Service of process defined
- Issuance of summons and form
- Service by constable
- Manner of service upon an individual
- Manner of service upon all others
- Service by sheriff
- Service by process server (new)

Rule 14

Service of Process

More subheadings to rule:

- Service ... outside the state
- Service upon multiple defendants
- Validity of service
- Waiver
- Amendment
- Time limit for service
- Fees for service of process

§ 9-11-20 If process is to be served outside of the county:

“In any civil case in the justice court in which any process or writ is to be served outside of the county where issued, *the clerk of the justice court is hereby authorized and directed to forward, by United States mail, to the clerk of the justice court of the county where such writ or process is to be served*, that portion of any fees required by law to be collected for the service of such process or writ along with the process or writ to be served. The clerk of the justice court of the county where the process or writ is to be served shall, upon receipt thereof, deliver such process or writ to a constable of the county for the service thereof and shall report and pay over such fees to the chancery clerk of the county at the time and in the manner provided in subsection (1) of section 9-11-19 for the report and payment of fees, costs, fines and penalties charged and collected in the justice court.”

Rule 15

Pleadings and Motions Submitted to the Court

All pleadings and motions to be signed by party or attorney of record.

Information to be provided--same.

Size of paper.

Electronic filing and storage.

Rule 16

Counterclaims and Setoffs

Prior procedures unchanged.

Rule 17

Representation by Guardian Ad litem

Specifies that the judge may appoint a guardian ad litem to represent an infant or a vulnerable person as defined under § 43-47-5.

Rule 18

Substitution of Parties

Essentially unchanged from prior rule.

Rule 19

Withdrawal of Counsel

Requires:

- a showing of good cause
- notice served on the client and all parties

Permission to withdraw shall not be unreasonably denied.

Rule 20

Consolidation and Separation of Trial

Essentially the same as the prior rule, but
restructured for an easier read.

Rule 21

Subpoenas

To conform to MRCP 45.

Requests delivered to clerk in a reasonable time before the trial date.

Signed and dated.

Issued under seal of the justice court.

“To bring to the hearing specified books, papers, document or other objects . . . to be offered into evidence.”

Rule 22 Mistrial

Essentially unchanged from prior rule--that is, for misconduct resulting in “*substantial and irreparable prejudice*” to the plaintiff’s action.

Added to new rule: “But if there are two or more defendants, the judge shall not declare a mistrial as to any defendant who is not an offending party and who requests that the trial continue.”

Rule 23

Default Judgments and Dismissals

Important changes:

If plaintiff appears and defendant fails to appear, then judge may enter a default judgment if:

- (1) there is a factual basis to support claim; and
- (2) judgment not different in kind from or does not exceed the amount of that demanded in the complaint.

If plaintiff fails to appear and defendant appears, then judge may dismiss without prejudice.

If both fail to appear, then judge may dismiss without prejudice.

Rule 23

Default Judgment and Dismissals

Rule 23 also covers:

When plaintiff files a written motion for dismissal prior to any responsive pleading or trial.

Procedures and standards for setting aside a default judgment.

Rule 24

Post-Judgment Actions

Identical to prior rule.

Rule 25

Enforcement of Judgments

“Procedures to enforce a civil judgment shall be pursuant to the Mississippi Code *and any applicable rules and policies of the Mississippi Supreme Court and the Administrative Office of Courts.*”

Examining books, papers, and documents of judgment debtor--same.

Rule 26

Contempt of Court

“Procedures in civil actions for contempt of court shall conform to Rule 32 of the Mississippi Rules of Criminal Procedure.”

Rule 27

Civil Appeals From Justice Court

Clarifies procedures:

Ordinary civil appeals (URCCC 5.01, 5.04, 5.07, 5.08 and 5.09).

Unlawful entry and detainer (§ 11-51-83).

Temporary DAPO (§ 93-21-15.1).

Writ of certiorari (§ 11-51-93).