

HOW YOU CAN BE OF HELP TO US

AND

HOW CAN I BE OF HELP TO YOU?

1. Please file your returns on Summonses and Subpoenaes.
2. Prep your witnesses.
3. When a case is over, please get out. OR if you are new, file get an Order substituting you as counsel.
4. Proof your work.
5. Court personnel:  
  
Be nice.  
  
Emailing your Orders and Judgments to the Court Administrators.
6. Familiarize yourselves with the Uniform Chancery Court Rules as well as the local rules.
7. Exhibits..
8. Authentication of Documents
9. Divorces  
  
Joint legal custody  
  
UCCR 8.05
10. Estates  
  
Heirship affidavits and publication

Notice to Creditors and §91-7-145

11. Petitions for Modification and the magic language
12. Rule 65 MRCP
13. Miscellaneous.

## RETURNS

**MRCP 4(f) Return.** The person serving the process shall make proof of service thereof to the court promptly.

**MRCP 45© Service.**

...

(2) Proof of service shall be promptly made . . . .A copy of such proof of service shall be immediately served upon all parties in accordance with M.R.C.P. 5.

Rule 45 was amended effective Feb. 22, 2023.

EXHIBIT A

**RULE 45. SUBPOENA**

**(a) Form; Issuance.**

(1) Every subpoena shall:

- (A) state the name of the court from which it was issued;
- (B) state the title of the action;
- (C) ~~and shall~~ command each person to whom it is directed to attend and give testimony, or to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified;
- (D) set forth the text of subdivisions (d) and (e) of this rule; and
- (E) include a certificate of service.

A command to produce or to permit inspection may be joined with a command to appear at trial or hearing or at deposition, or may be issued separately. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) Subpoenas for attendance at a trial or hearing, for attendance at a deposition, and for production or inspection shall issue from the court in which the action is pending.

(3) In the case of discovery to be taken in foreign litigation, the subpoena shall be issued by a clerk of a court for the county in which the discovery is to be taken. The foreign subpoena shall be submitted to the clerk of court in the county in which discovery is sought to be conducted in this state. When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

The subpoena under subsection (3) must incorporate the terms used in the foreign subpoena and it must contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and any party not represented by counsel.

A subpoena issued by a clerk of court under subsection (3) must otherwise be issued and served in compliance with the rules of this state. An application to the court for a protective order or to enforce, quash or modify a subpoena issued by a clerk of court under subsection (3) must comply with the rules of this state and be submitted to the issuing court in the county in which discovery is to be conducted.

(4) The clerk shall issue a subpoena signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service. An attorney, as an officer of the court, may also issue and sign a subpoena in any action pending in a court of this State if the attorney is: (i) admitted to practice in this State or has been admitted *pro hac vice* in the pending action; and is (ii) counsel of record in the pending action. A subpoena issued by an attorney as the officer of the court shall include the attorney's name, address, email address and phone number and shall indicate whether the attorney represents the plaintiff, defendant or third-party defendant.

(5) Once a subpoena has been issued and filled out, a copy of such subpoena shall be immediately served upon each party in accordance with M.R.C.P. 5, even though the subpoena itself has not yet been served.

**(b) Place of Examination.** A resident of the State of Mississippi may be required to attend a deposition, production or inspection only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court. A non-resident of this state subpoenaed within this state may be required to attend only in the county wherein he is served, or at such other convenient place as is fixed by an order of the court.

**(c) Service.**

(1) A subpoena may be served by a sheriff, or by his deputy, or by any other person who is not a party and is not less than 18 years of age, and his return endorsed thereon shall be prima facie proof of service, or the person served may acknowledge service in writing on the subpoena. Service of the subpoena shall be executed upon the witness personally. Except when excused by the court upon a showing of indigence, the party causing the subpoena to issue shall tender to a non-party witness at the time of service the fee for one day's attendance plus mileage allowed by law. When the subpoena is issued on behalf of the State of Mississippi or an officer or agency thereof, fees and mileage need not be tendered in advance.

(2) Proof of service shall be promptly made by filing with the clerk of the court from which the subpoena was issued a statement, certified by the person who made the service, setting forth the date and manner of service, the county in which it was served, the names of the persons served, and the name, address and telephone number of the person making the

service. A copy of such proof of service shall be immediately served upon all parties in accordance with M.R.C.P. 5.

**(d) Protection of Persons Subject to Subpoenas.**

(1) In General.

(A) On timely motion, the court from which a subpoena was issued shall quash or modify the subpoena if it (i) fails to allow reasonable time for compliance; (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, (iii) designates an improper place for examination, or (iv) subjects a person to undue burden or expense.

(B) If a subpoena (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may order appearance or production only upon specified conditions.

(2) Subpoenas for Production or Inspection.

(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, electronically stored information, or tangible things, or to permit inspection of premises need not appear in person at the place of production or inspection unless commanded by the subpoena to appear for deposition, hearing or trial. Unless for good cause shown the court shortens the time, a subpoena for production or inspection shall allow not less than ten days for the person upon whom it is served to comply with the subpoena. A copy of all such subpoenas shall be served immediately upon each party in accordance with Rule 5. Absent order of the court, production or inspection shall not be made until the tenth day after the date of service of the subpoena on the recipient and this shall be conspicuously noted on the face of the subpoena. A subpoena commanding production or inspection will be subject to the provisions of Rule 26(d).

(B) The person to whom the subpoena is directed may, within ten days after the service thereof or on or before the time specified in the subpoena for compliance, if such time is less than ten days after service, serve upon the party serving the subpoena written objection to inspection or copying of any or all of the designated materials, or to inspection of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the material except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move at any time upon notice to the person served for an order to compel the production or inspection.

(C) The court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (I) quash or modify the subpoena if it is unreasonable or oppressive, or (ii) condition the denial of the motion upon the advance by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

**(e) Duties in Responding to Subpoena.**

**(1) Producing Documents or Electronically Stored Information.**

**(A) Documents.**

A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.**

If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.**

The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.**

The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery, motion for a protective order, or motion to quash, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(5). The court may specify conditions for the discovery, including those listed in Rule 26(b)(5).

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.**

When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

**(B) Information Produced.**

If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(f) Sanctions.** On motion of a party or of the person upon whom a subpoena for the production of books, papers, documents, electronically stored information, or tangible things is served and upon a showing that the subpoena power is being exercised in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the party or the person upon whom the subpoena is served, the court in which the action is pending shall order that the subpoena be quashed and may enter such further orders as justice may require to curb abuses of the powers granted under this rule. To this end, the court may impose an appropriate sanction.

**(g) Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of the court from which the subpoena issued.

[Amended effective March 13, 1991; July 1, 1997; July 1, 1998; amended effective July 1, 2009 to provide a procedure for foreign subpoenas. This provision shall take effect and be in force from and after July 1, 2009, and applies to requests for discovery in cases pending on July 1, 2009; amended effective July 1, 2013 to authorize a subpoena for electronically stored information; amended effective \_\_\_\_\_ to authorize attorneys to issue subpoenas, to require immediate service of the subpoena upon parties once it has been filled out, and to prohibit production and inspection until the tenth day after service of the subpoena on the recipient.]

### **Advisory Committee Historical Note**

Effective March 13, 1991, Rule 45(c) was amended to require the party causing a subpoena to issue to tender to a non-party witness the fee for one day's attendance plus



mileage allowed by law. Rule 45(e) was amended by deleting the provision for tendering the fee for one day's attendance plus the mileage allowed by law to certain witnesses when subpoenaed. Rule 45(d) was amended to provide that when a deposition is to be taken on foreign litigation the subpoena shall be issued by the clerk for the county in which the deposition is to be taken. 574-576 So. 2d XXIV-XXV (West Miss. Cas. 1991).

Effective July 1, 1997 a new Rule 45 was adopted.

Effective July 1, 2013, Rule 45 was amended to specifically authorize a subpoena to command the person to whom it is directed to produce and permit inspection and copying of electronically stored information. The same amendment also established a procedure to be used when privileged or trial-preparation material is inadvertently disclosed.

Effective \_\_\_\_\_ 20XX, Rule 45(a) was amended to permit an attorney admitted to practice in Mississippi, as an officer of the court, to issue subpoenas in a Mississippi case in which he or she is counsel of record. The amendment also authorizes attorneys who have been admitted *pro hac vice* and who are counsel of record in a Mississippi case to issue subpoenas. The amended rule requires that a copy of all subpoenas be served on all parties as soon as the subpoena form has been filled out even though the subpoena itself has not yet been served at that time. Once a subpoena has been served the serving party is required to promptly file a proof of service with the clerk and immediately serve a copy of the proof of service on all parties. Rule 45(d)(2)(A) was amended to prohibit production or inspection of documents until the tenth day after service of the subpoena on the subpoena recipient. This is meant to give persons other than the subpoena recipient an opportunity to move to quash or modify the subpoena. If the documents or objects are produced before the ten days has passed, the attorney receiving said documents should hold them under seal until the ten-day period has expired.

### **Advisory Committee Notes**

A "foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction. "Foreign jurisdiction" means a state other than this state. Litigants in a foreign jurisdiction who desire to obtain a subpoena to depose a Mississippi resident, to obtain records within Mississippi, or to inspect premises within Mississippi should follow the procedure established in Mississippi Code Annotated section 11-59-1 et. seq. See the exclusion in M.R.A.P. 46(b)(11)(i) for Admission of Foreign Attorneys Pro Hac Vice.

Rule 45(c)(1) regarding advance payment to non-parties of statutory witness fees and mileage is complementary to Mississippi Code Annotated §§25-7-47 through 25-7-59 (1972).

Rule 45(d)(2) is intended to ensure that there be no confusion as to whether a person not a party in control, custody, or possession of discoverable evidence may be compelled to

produce such evidence without being sworn as a witness and deposed. The force of a subpoena for production of documentary evidence generally reaches all documents under the control of the person ordered to produce, saving questions of privilege or unreasonableness.

Exhibit B

\_\_\_\_\_ Court of \_\_\_\_\_ County, Mississippi

\_\_\_\_\_  
Plaintiff(s)  
v.  
\_\_\_\_\_  
Defendant(s)

)  
)  
)  
)  
)

Case No. \_\_\_\_\_

**SUBPOENA TO PRODUCE MATERIALS OR TO PERMIT INSPECTION OF A PREMISES (CIVIL ACTION)**

To: \_\_\_\_\_  
*(Name of person or entity to whom this subpoena is directed)*

**Production: YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or things within your possession, custody or control, and to permit inspection and copying of the materials:

|        |                |
|--------|----------------|
| Place: | Date and Time: |
|--------|----------------|

**Inspection of Premises: YOU ARE COMMANDED** to permit entry onto the premises designated below at the time, date, and location set forth below, so that the requesting party may inspect the premises:

|        |                |
|--------|----------------|
| Place: | Date and Time: |
|--------|----------------|

**YOU SHALL NOT PRODUCE DOCUMENTS OR THINGS OR PERMIT INSPECTION UNTIL TEN DAYS AFTER YOU WERE SERVED WITH THIS SUBPOENA.**

The following provisions of M.R.C.P. 45 are attached - Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e), relating to your duty to respond to the subpoena.

Date: \_\_\_\_\_

CLERK OF COURT

OR

\_\_\_\_\_  
*Signature of Clerk*

\_\_\_\_\_  
*Attorney's Signature*

The name, email address, and telephone number of the attorney representing *(name of party)* \_\_\_\_\_ who issued or requested this subpoena are:

**Notice to the person who issues or requests this subpoena:**  
This subpoena must first be served upon each party pursuant to M.R.C.P. 5 before it is served on the person to whom it is directed. M.R.C.P. 45(a)(5)

**PROOF OF SERVICE**

*(This section shall be promptly filed with the court as required by M.R.C.P. 45(c)(2).)*

I received this subpoena for (name of individual and title, if any) \_\_\_\_\_  
\_\_\_\_\_ on (date) \_\_\_\_\_

I served the subpoena by delivering a copy on the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on (date) \_\_\_\_\_

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I declare under penalty of perjury under the laws of the State of Mississippi that the foregoing information contained in the Proof of Service is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's Signature*

\_\_\_\_\_  
*Printed Name and Title*

\_\_\_\_\_  
*Address of Server*

**Additional information regarding attempted services, etc.:**

## NOTICE TO PERSONS SUBJECTED TO SUBPOENAS

Mississippi Rule of Civil Procedure 45 (d) and (e)

### (d) Protection of Persons Subject to Subpoenas.

#### (1) In General

(A) On timely motion, the court from which a subpoena was issued shall quash or modify the subpoena if it (i) fails to allow reasonable time for compliance; (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, (iii) designates an improper place for examination, or (iv) subjects a person to undue burden or expense.

(B) If a subpoena (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may order appearance or production only upon specified conditions.

#### (2) Subpoenas for Production or Inspection.

(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, electronically stored information, or tangible things, or to permit inspection of premises need not appear in person at the place of production or inspection unless commanded by the subpoena to appear for deposition, hearing or trial. Unless for good cause shown the court shortens the time, a subpoena for production or inspection shall allow not less than ten days for the person upon whom it is served to comply with the subpoena. Absent order of the court, production or inspection shall not be made until the tenth day after the date of service of the subpoena on the recipient and this shall be conspicuously noted on the face of the subpoena. A subpoena commanding production or inspection will be subject to the provisions of Rule 26(d).

(B) The person to whom the subpoena is directed may, within ten days after the service thereof or on or before the time specified in the subpoena for compliance, if such time is less than ten days after service, serve upon the party serving the subpoena written objection to inspection or copying of any or all of the designated materials, or to inspection of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the material except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move at any time upon notice to the person served for an order to compel the production or inspection.

(C) The court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (i) quash or modify the subpoena if it is unreasonable or oppressive, or (ii) condition the denial of the motion upon the advance by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, electronically stored information, or tangible things.

### (e) Duties in Responding to Subpoenas.

#### (1) Producing Documents or Electronically Stored Information

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

#### (B) Form for Producing Electronically Stored Information Not Specified.

If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

#### (C) Electronically Stored Information Produced in Only One Form.

The person responding need not produce the same electronically stored information in more than one form.

#### (D) Inaccessible Electronically Stored Information.

The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery, motion for a protective order, or motion to quash, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(5). The court may specify conditions for the discovery, including those listed in Rule 26(b)(5).

#### (2) Claiming Privilege or Protection.

(A) Information Withheld. When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of this subpoena has been served on:

\_\_\_\_\_  
Name of Counsel or Unrepresented Party

\_\_\_\_\_  
Address

\_\_\_\_\_  
If serving counsel, name of represented party

\_\_\_\_\_  
Method of Service

So certified, this the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Signature  
Counsel for \_\_\_\_\_

Exhibit C

\_\_\_\_\_ Court of \_\_\_\_\_ County, Mississippi

\_\_\_\_\_  
Plaintiff(s)  
v.  
\_\_\_\_\_  
Defendant(s)

}  
}  
}  
}

Case No. \_\_\_\_\_

**DEPOSITION SUBPOENA (CIVIL ACTION)**

To: \_\_\_\_\_  
*(Name of person or entity to whom this subpoena is directed)*

**Testimony:** YOU ARE COMMANDED to appear at the place, date and time specified below to testify at a deposition. If you are an entity, you must designate one or more person to testify on the entity's behalf about the following matters:

The persons so designated shall testify as to matters known or reasonably available to the entity.

|        |                |
|--------|----------------|
| Place: | Date and Time: |
|--------|----------------|

The deposition will be recorded by this method: \_\_\_\_\_

**Production:** You must also bring with you the following books, papers, documents, electronically stored information or tangible things, and must permit inspection, copying, testing or sampling of the materials:

**YOU SHALL NOT PRODUCE DOCUMENTS OR THINGS OR PERMIT INSPECTION UNTIL TEN DAYS AFTER YOU WERE SERVED WITH THIS SUBPOENA.**

The following provisions of M.R.C.P. 45 are attached - Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e), relating to your duty to respond to the subpoena.

Date: \_\_\_\_\_  
CLERK OF COURT OR  
\_\_\_\_\_  
Signature of Clerk Attorney's Signature

The name, email address, and telephone number of the attorney representing (name of party) \_\_\_\_\_  
who issued or requested this subpoena are:

Notice to the person who issued or requested this subpoena:  
This subpoena must first be served upon each party pursuant to M.R.C.P. 5 before it is served on the person to whom it is directed. M.R.C.P. 45(a)(5)

**PROOF OF SERVICE**

*(This section shall be promptly filed with the court as required by M.R.C.P. 45(c)(2).)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy on the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_.

Unless the subpoena was issued on behalf of the State of Mississippi or an officer or agency thereof, or unless excused by the court upon a showing of indigence, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_.

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I declare under penalty of perjury under the laws of the State of Mississippi that the foregoing information contained in the Proof of Service is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's Signature*

\_\_\_\_\_  
*Printed Name and Title*

\_\_\_\_\_  
*Address of Server*

Additional information regarding attempted services, etc.:

## NOTICE TO PERSONS SUBJECTED TO SUBPOENAS

Mississippi Rule of Civil Procedure 45 (d) and (e)

### (d) Protection of Persons Subject to Subpoenas.

#### (1) In General

(A) On timely motion, the court from which a subpoena was issued shall quash or modify the subpoena if it (i) fails to allow reasonable time for compliance; (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, (iii) designates an improper place for examination, or (iv) subjects a person to undue burden or expense.

(B) If a subpoena (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may order appearance or production only upon specified conditions

#### (2) Subpoenas for Production or Inspection

(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, electronically stored information, or tangible things, or to permit inspection of premises need not appear in person at the place of production or inspection unless commanded by the subpoena to appear for deposition, hearing or trial. Unless for good cause shown the court shortens the time, a subpoena for production or inspection shall allow not less than ten days for the person upon whom it is served to comply with the subpoena. Absent order of the court, production or inspection shall not be made until the tenth day after the date of service of the subpoena on the recipient and this shall be conspicuously noted on the face of the subpoena. A subpoena commanding production or inspection will be subject to the provisions of Rule 26(d)

(B) The person to whom the subpoena is directed may, within ten days after the service thereof or on or before the time specified in the subpoena for compliance, if such time is less than ten days after service, serve upon the party serving the subpoena written objection to inspection or copying of any or all of the designated materials, or to inspection of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the material except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move at any time upon notice to the person served for an order to compel the production or inspection.

(C) The court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (i) quash or modify the subpoena if it is unreasonable or oppressive, or (ii) condition the denial of the motion upon the advance by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, electronically stored information, or tangible things.

### (e) Duties in Responding to Subpoena.

#### (1) Producing Documents or Electronically Stored Information.

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified.

If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form

The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information.

The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery, motion for a protective order, or motion to quash, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(3). The court may specify conditions for the discovery, including those listed in Rule 26(b)(5).

#### (2) Claiming Privilege or Protection.

(A) Information Withheld. When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified, and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of this subpoena has been served on:

\_\_\_\_\_  
Name of Counsel or Unrepresented Party

\_\_\_\_\_  
Address

\_\_\_\_\_  
If serving counsel, name of represented party

\_\_\_\_\_  
Method of Service

So certified, this the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature  
Counsel for \_\_\_\_\_



Exhibit D

\_\_\_\_\_ Court of \_\_\_\_\_ County, Mississippi

\_\_\_\_\_  
Plaintiff(s)  
v.  
\_\_\_\_\_  
Defendant(s)

)  
)  
)  
)  
)

Case No. \_\_\_\_\_

**SUBPOENA TO APPEAR AND TESTIFY  
AT A HEARING OR TRIAL (CIVIL ACTION)**

To: \_\_\_\_\_  
*(Name of person to whom this subpoena is directed)*

**YOU ARE COMMANDED** to appear in the \_\_\_\_\_ Court of \_\_\_\_\_ County, Mississippi at the place, date and time specified below to testify in the above case.

|                     |                |
|---------------------|----------------|
| Place of Testimony: | Courtroom:     |
|                     | Date and Time: |

You must also bring with you the following documents, electronically stored information or things *(leave blank if inapplicable)*:

**YOU SHALL NOT PRODUCE DOCUMENTS OR THINGS OR PERMIT INSPECTION UNTIL TEN DAYS AFTER YOU WERE SERVED WITH THIS SUBPOENA.**

The following provisions of M.R.C.P. 45 are attached - Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e), relating to your duty to respond to the subpoena.

Date: \_\_\_\_\_

CLERK OF COURT

OR

\_\_\_\_\_  
*Signature of Clerk*

\_\_\_\_\_  
*Attorney's Signature*

The name, email address, and telephone number of the attorney representing *(name of party)* \_\_\_\_\_ who issued or requested this subpoena are:

**Notice to the person who issues or requests this subpoena:**  
This subpoena must first be served upon each party pursuant to M.R.C.P. 5 before it is served on the person to whom it is directed. M.R.C.P. 45(a)(5).

**PROOF OF SERVICE**

*(This section shall be promptly filed with the court as required by M.R.C.P. 45(c)(2).)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy on the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_.

Unless the subpoena was issued on behalf of the State of Mississippi or an officer or agency thereof, or unless excused by the court upon a showing of indigence, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_.

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I declare under penalty of perjury under the laws of the State of Mississippi that the foregoing information contained in the Proof of Service is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's Signature*

\_\_\_\_\_  
*Printed Name and Title*

\_\_\_\_\_  
*Address of Server*

Additional information regarding attempted services, etc.:

## NOTICE TO PERSONS SUBJECTED TO SUBPOENAS

Mississippi Rule of Civil Procedure 45 (d) and (e)

### (d) Protection of Persons Subject to Subpoenas.

#### (1) In General

(A) On timely motion, the court from which a subpoena was issued shall quash or modify the subpoena if it (i) fails to allow reasonable time for compliance; (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, (iii) designates an improper place for examination, or (iv) subjects a person to undue burden or expense.

(B) If a subpoena (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, the court may order appearance or production only upon specified conditions.

#### (2) Subpoenas for Production or Inspection.

(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents, electronically stored information, or tangible things, or to permit inspection of premises need not appear in person at the place of production or inspection unless commanded by the subpoena to appear for deposition, hearing or trial. Unless for good cause shown the court shortens the time, a subpoena for production or inspection shall allow not less than ten days for the person upon whom it is served to comply with the subpoena. Absent order of the court, production or inspection shall not be made until the tenth day after the date of service of the subpoena on the recipient and this shall be conspicuously noted on the face of the subpoena. A subpoena commanding production or inspection will be subject to the provisions of Rule 26(d).

(B) The person to whom the subpoena is directed may, within ten days after the service thereof or on or before the time specified in the subpoena for compliance, if such time is less than ten days after service, serve upon the party serving the subpoena written objection to inspection or copying of any or all of the designated materials, or to inspection of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the material except pursuant to an order of the court from which the subpoena was issued. The party serving the subpoena may, if objection has been made, move at any time upon notice to the person served for an order to compel the production or inspection.

(C) The court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (i) quash or modify the subpoena if it is unreasonable or oppressive, or (ii) condition the denial of the motion upon the advance by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, electronically stored information, or tangible things.

### (e) Duties in Responding to Subpoena.

#### (1) Producing Documents or Electronically Stored Information.

(A) Documents. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

#### (B) Form for Producing Electronically Stored Information Not Specified.

If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

#### (C) Electronically Stored Information Produced in Only One Form.

The person responding need not produce the same electronically stored information in more than one form.

#### (D) Inaccessible Electronically Stored Information.

The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery, motion for a protective order, or motion to quash, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(5). The court may specify conditions for the discovery, including those listed in Rule 26(b)(5).

#### (2) Claiming Privilege or Protection.

(A) Information Withheld. When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of this subpoena has been served on:

\_\_\_\_\_  
Name of Counsel or Unrepresented Party

\_\_\_\_\_  
Address

\_\_\_\_\_  
If serving counsel, name of represented party

\_\_\_\_\_  
Method of Service

So certified, this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature  
Counsel for \_\_\_\_\_

## WITNESS PREPARATION

### **UCCR 3.07. Conference With Witnesses**

Counsel for each party shall confer with his witness before beginning the taking of testimony in behalf of his client. This rule shall not apply to witnesses who are inaccessible before that time.

### **UCCR 3.02. Cloud of Witness–What Done**

The practice of summoning numerous witnesses to prove the same fact or set of facts often serves merely to increase the costs and consume the time of the court. In such cases, the Chancellor may, in his discretion, tax the per diem and mileage of all such unnecessary witnesses against the party causing them to be summoned *whether they be called to testify or not. [Emphasis added.]* in all cases the mileage and per diem of all witnesses who are not called to testify shall be taxed against the party causing them to be summoned, unless good cause to the contrary be shown.

**WHEN THE CASE IS OVER, TURN OUT THE LIGHTS**

Mississippi Electronic Courts  
EIGHTH CHANCERY COURT DISTRICT  
CARTER BISE, PRESIDING  
GULFPORT CHANCERY COURTROOM 4

Monday, [REDACTED]

VACATION

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06/12/23 24CH1:05-cv-[REDACTED] MODIFICATION [REDACTED] G Modification  
09:00 AM [REDACTED], JR VS [REDACTED] Hearing

**Parties:**

K.A.D. (Ward),

[REDACTED] (Plaintiff, Counter Defendant),  
[REDACTED] Jr (Plaintiff, Counter Defendant),  
[REDACTED] (Defendant, Counter Claimant),  
[REDACTED] (Defendant, Counter Claimant),  
[REDACTED] (Respondent),  
[REDACTED] S (Respondent)

**Docket Text:** [73] NOTICE of Court Setting:Contempt set for 6/12/2023 09:00 AM in Gulfport Chancery Courtroom 4 before Carter Bise.

**Comments:**

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06/08/23 24CH1:20-cv-05 [REDACTED] CB [REDACTED] RG) Contempt  
09:00 AM [REDACTED] Hearing

**Parties:**

[REDACTED] (Plaintiff),  
[REDACTED] (Plaintiff, Counter Claimant),  
[REDACTED] G (Plaintiff, Counter Claimant),  
[REDACTED] G (Plaintiff, Counter Claimant),  
[REDACTED] G (Plaintiff),  
[REDACTED] G (Defendant, Counter Defendant),  
[REDACTED] G (Defendant, Counter Defendant),  
[REDACTED] (Defendant),

Charliene Roemer representing **Charlene Roemer** (Guardian Ad Litem)

**Docket Text:** [91] NOTICE of Court Setting:Emergency Motion set for 6/8/2023 09:00 AM in Gulfport Chancery Courtroom 4 before Carter Bise.

## **PROOF YOUR WORK**

FILED  
MAY 19 2023

*HARRISON*  
IN THE CHANCERY COURT OF ADAMS COUNTY, MISSISSIPPI  
*SECOND JUDICIAL DISTRICT*

IN RE: ADMINISTRATION OF ESTATE OF  
DECEASED

John McAdams Chancery Clerk  
*Kathy W...*  
D.C.  
CAUSE NO.

, Petitioner

DECREE ADJUDICATION HEIRSHIP

THIS CAUSE having come on for hearing upon Petition filed by Petitioner,

seeking the adjudication of heirship of the said

Deceased, and the matter having been duly noticed for hearing, with the parties being properly before the Court in the time and manner provided by law, ~~and the Court having heard evidence adduced in open Court,~~ the Court does find the following facts, to-wit:

1.

Decedent, \_\_\_\_\_ departed this life on the \_\_\_\_\_ day of \_\_\_\_\_ 2022 in Harrison County, Mississippi, and maintained a fixed place of residence in Biloxi, Mississippi.

2.

That decedent, \_\_\_\_\_ was survived by her natural heirs, \_\_\_\_\_ (daughter), \_\_\_\_\_, Mississippi 39564, \_\_\_\_\_ Biloxi, Mississippi 39532, and *Gulfport*, ~~Gulf Port~~, Mississippi 39503.

3.

The Court further finds that any other persons claiming ~~an interest in the estate of~~ *to be heirs* \_\_\_\_\_ were duly summonsed according to law by ~~Summons by~~ Publication ~~published~~ in The Sun Herald on 2/10 . 2023. 2/17 . 2023, and 2/24 . 2023,

to appear at a hearing on . 9:00 a.m. in the Harrison County Chancery Court in

*Biloxi*  
~~Gulfport, Mississippi and state the basis for their claim.~~ *Upon call of the docket*  
*no other heirs or persons claiming to be heirs appeared.*  
4.

That said Decedent had no Last Will and Testament and \_\_\_\_\_ was the  
owner of both real and personal property at the time of her death and it is necessary for an  
adjudication of heirs in order to properly clear title to the real property and vest all the property  
in her lawful heirs.

5.

The Court does hereby find and adjudicate the sole and only lawful heirs of  
Deceased, to be

SO ORDERED, ADJUDGED AND DECREED on this the 19 day of May,  
2023.

  
\_\_\_\_\_  
CHANCELLOR

*CC*  
*filed*  
*5/21*



## **COURT PERSONNEL**

Be Nice!!!

New Filings/Same Parties

Orders and Judgments

## **UNIFORM CHANCERY COURT RULES**

### **LOCAL RULES FOR THE EIGHTH CHANCERY COURT DISTRICT**

#### **EXHIBITS**

Local Rule 3:

(e) Exhibits:: In all contested matters before the Court the attorneys shall check with the court reporter in advance to determine whether pre-marking of exhibits and an exhibit list are required. Attorneys must provide sufficient copies of exhibits so that counsel for all parties, the witness, and the Court can review the exhibits.

Uniform Chancery Court Rule:

#### **RULE 3.05 COPY OF EXHIBITS**

Unless excused by the Court, it shall be the duty of an attorney to distribute copies of any exhibits to the Court and opposing counsel when offered. If a party is to make a substitution of a copy for any exhibit introduced into evidence, the copy shall be presented at the time the original is presented unless it could not be reasonably anticipated that the exhibit was to be offered.

#### **AUTHENTICATION OF DOCUMENTS**

MRE 803(6)-(18)

MRE 902

## **DIVORCES/CONTEMPT/CUSTODY**

### Joint Legal Custody

Miss. Code Ann. §93-5-24(5):

(d) For the purposes of this section, “legal custody” means the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child.

(e) For the purposes of this section, “joint legal custody” means that the parents or parties share the decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child. An award of joint legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and to confer with one another in the exercise of decision-making rights, responsibilities and authority.

An award of joint physical and legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and unless allocated, apportioned or decreed, the parents or parties shall confer with one another in the exercise of decision-making rights, responsibilities and authority.

UCCR 8.05

## **ESTATES**

### Heirship

MRCP 4(c)(4)(D)

When unknown heirs are made parties defendant in any proceeding in the chancery court, upon affidavit that the names of such heirs are unknown, the plaintiff may have publication of summons for them and such proceedings shall be thereupon in all respects as are authorized in the case of a nonresident defendant. When the parties in interest are unknown, and affidavit of that fact be filed, they may be made parties by publication to them as unknown parties in interest.

MCA §13-3-25

When unknown heirs are made parties defendant in any proceeding in the chancery court, upon affidavit that the names of such heirs are unknown, the complainant may have publication of summons for them and such proceedings shall be had thereupon in all respects as are authorized in the case of a nonresident defendant. When the parties in interest are unknown, and affidavit of that fact be filed, they may be made parties by publication to them as unknown parties in interest.

Caldwell v. Caldwell, 533 So. 2d 413 (Miss. 1988)

Strict compliance is required.

Notice to Creditors

MCA §91-7-145

(1) The executor or administrator shall make reasonably diligent efforts to identify persons having claims against the estate. Such executor or administrator shall mail a notice to persons so identified, at their last known address, informing them that a failure to have their claim probated and registered by the clerk of the court granting letters within ninety (90) days after the first publication of the notice to creditors will bar such claim as provided in Section 91-7-151.

(2) The executor or administrator shall file with the clerk of the court an affidavit stating that such executor or administrator has made reasonably diligent efforts to identify persons having claims against the estate and has given notice by mail as required in subsection (1) of this section to all persons so identified. Upon filing such affidavit, it shall be the duty of the executor or administrator to publish in some newspaper in the county a notice requiring all persons having claims against the estate to have the same probated and registered by the clerk of the court granting letters, which notice shall state the time when the letters were granted and that a failure to probate and register within ninety (90) days after the first publication of such notice will bar the claim. . . .

## PETITIONS FOR MODIFICATION

Must allege:

- A. A material change in circumstances in the custodial home;
- B. The material change has had an adverse effect on the child(ren); and
- C. Modification would be in the best interest of the child(ren).

See McMurry v. Sadler, 846 So. 2d 240 (Miss. App. 2002)

The allegations are jurisdictional and the court will (or should) dismiss without prejudice if the pleadings do not state those things.

The material change must have occurred since the last Order or Judgment, and must not have been foreseeable.

## RULE 65

**(b) Temporary Restraining Order; Notice; Hearing; Duration.** A temporary restraining order may be granted, without notice to the adverse party or his attorney if

(1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or his attorney can be heard in opposition, and

(2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and reasons supporting his claim that notice should not be required.

Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance;

shall be filed forthwith in the clerk's office and entered of record;

shall define the injury

and state why it is irreparable and why the order was granted without notice;

and shall expire by its terms within such time after entry, not to exceed ten days, as the court fixes (except in domestic relations cases, when the ten-day limitation shall not apply), unless within the time so fixed the order for good cause shown is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be stated in the order.

In case a temporary restraining order is granted without notice,

the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and

take precedence over all matters except older matters of the same character.

When the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and,

if he does not do so, the court shall dissolve the temporary restraining order.

On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

**(c) Security.** No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs, damages, and reasonable attorney's fees as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained; provided, however, no such security shall be required of the State of Mississippi or of an officer or agency thereof, and provided further, in the discretion of the court, security may not be required in domestic relations actions.

## MISCELLANEOUS