

Ethical and Practical Considerations
in the United States District Court
for the Southern District of Mississippi

By Arthur Johnston, Clerk of Court
“Last Chance CLE,” July 31, 2023
Flowood Library, Flowood, Mississippi

A. Ethical Considerations

1. Signing Pleadings. Under the 2018 amendments to the Federal Rules of Civil Procedure, a certificate of service is no longer required for pleadings served or filed under Rule 5. A filing made through an attorney’s electronic-filing account, “together with that person’s name on a signature block” constitutes the attorney’s signature. A certificate of service remains required, though, when one or more of the parties are *pro se*.

2. Rule 11. This process is sufficient to constitute an attorney’s signature for purposes of FED. R. CIV. P. 11(c).

3. Pro Hac Vice Admissions Under Local Rule 83.1(d)(7). L. U. CIV. R. 83.1(d)(7) governing admissions *pro hac vice* contains an often-overlooked pitfall.

The rule provides:

- (7) Standards for Admission. The court has discretion whether to grant applications for admission *pro hac vice* and to set the terms and conditions of admission. An application ordinarily should be granted ***unless the court finds reasons to believe that:***
 - (A) admission would be detrimental to the prompt, fair and efficient administration of justice;
 - (B) admission would be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;
 - (C) one or more of the clients the applicant proposes to represent would be at risk of receiving inadequate representation and cannot adequately appreciate the risk;

- (D) the applicant has engaged in more than five (5) separate unrelated cases or other matters before the Northern and Southern Districts of the federal courts of this state within the last twelve (12) months immediately preceding the appearance in question; or
- (E) the applicant had, before the application, filed or appeared in the federal court without having secured approval under these rules.**

With respect to subsection (E), a non-resident attorney who signs and files a pleading before obtaining *pro hac* admission in the local district is subject to having his or her *pro hac* application denied. That attorney is also subject to a motion to disqualify, as was the case in *Reech v. Sullivan*, No. 3:18-cv-35 HSO-LRA, 2018 WL 1698303 (S.D. Miss. April 5, 2018).

Reech was a Louisiana resident who sued three Mississippi defendants in our court. Her complaint contained the electronic signatures of a Mississippi attorney admitted to the Mississippi Bar and admitted practice in our court along with that of William Most, Esq., a Louisiana attorney who was not so admitted. *Reech*, 2018 WL 1698303, at *1. Most's electronic signature contained a note reading: "*pro hac vice* to be filed." *Id.* However, at the time the complaint was filed, no petition for admission *pro hac vice* had been filed. Most also executed a notice and request for waiver of service of process under FED. R. CIV. P. 4 (d) and forwarded the same to counsel for the defendants. *Id.* at *2. Only Most's name appeared on the notice and the waiver itself. The defense entered a limited appearance for purposes of contesting Most's appearance and filed a motion to disqualify him. Four days later, Most applied to the court for *pro hac* admission. *Id.* at *2.

Finding that Most's actions in affixing his electronic signature to the complaint and the notice and request for waiver constituted an appearance for purposes of L. U. R. CIV. P. 83.1(d)(7), U. S. Magistrate Judge Linda R. Anderson granted the motion to disqualify Most and denied Most's *pro hac* application but declined to strike the complaint or otherwise sanction either lawyer. *Id.* at *7-8.

On slightly different facts, U. S. Magistrate Judge Jane M. Virden reached a different result in *Clayton v. City of Oxford*, No. 3:21-cv-174 GHD-JMV, 2021 WL 4699182 (N.D. Miss. October 7, 2021). In *Clayton*, the out-of-state lawyer, James A. Bryant: (1) allowed his name and contact information appear on the complaint before securing *pro hac* admission, (2) "participated in a press conference after the lawsuit was filed" during "which he made clear that he was representing and had been representing the plaintiffs in this case," and (3) reflected on the complaint that his *pro hac vice* application was pending when it had not even been filed. *Clayton*, 2021 WL 46991822 at *1.

The court drew a distinction between the facts of *Clayton* and those of *Reech*, noting, importantly, that Bryant, unlike Most, did not “sign” the complaint. *Id.* The court did not, however, address the applicability of FED. R. CIV. P. 5 (d)(3)(C), probably because the Mississippi attorney in the case actually used his own electronic filing account to file the complaint. The court found that while there was a misrepresentation, and while the appearance of Bryant’s name on the complaint before *pro hac* admission was granted “constitutes an unauthorized practice of law,” there was no “intent to deceive the Court... .” *Id.*, at *2. The court also concluded that holding a press conference to announce local representation did not amount to an appearance. *Id.*

The United States Court of Appeals for the Fifth Circuit has noted that “district courts enjoy broad discretion to determine who may practice before them.” *Isom v. Valley Forge Ins. Co.*, 716 Fed. App’x. 280, 288 (5th Cir. 2017)(internal quotations and citations omitted). The Fifth Circuit also cited with approval the Mississippi Supreme Court’s decision in *In re Williamson*, 838 So.2d 226, 235 (Miss. 2002) for the proposition that a foreign attorney who “signs the pleadings or allows his or her name to be listed on the pleadings” has made an appearance. *Isom*, 716 Fed. App’x at 288. The court observed that our Local Uniform Rules adopt the Mississippi Rules of Professional Conduct. Further, as the court wrote in *Reech*, “the ability to appear *pro hac vice* is a privilege not a right.” *Reech*, 2018 WL 1698303, at *7.

Accordingly, the best practice is to avoid placing the name or “signature block” of a yet-to-be admitted non-resident attorney on any pleading until after *pro hac* admission is granted. Even a notation that “*pro hac* admission to be filed” should be avoided.

4. Attorney Admissions in Criminal Cases. Our Local Criminal Rules direct that the admission of attorneys in criminal cases is subject to the provisions of Rule 83.1 of Local Civil Rules, with one important caveat: “However, the judge in any criminal proceeding may waive the requirement of local counsel or any limitation on the number of *pro hac vice* admissions.” L. U. CRIM. R. 44.1. Bear that in mind if you are seeking to admit co-counsel in a criminal matter.

5. Criminal Subpoenas. In December of 2019, the Local Criminal Rules Advisory Committee approved, and the board of judges of both districts approved, a new Local Criminal Rule 17 dealing with subpoenas in criminal cases:

A party seeking a subpoena for books, papers, documents, data or other objects under Fed. R. Crim. P. 17(c) returnable in advance of trial must seek prior approval from the magistrate judge assigned to the case. For good cause, an application for approval may be made *ex parte*. The court will address issues of notice, place of production, and whether the

material must be disclosed to opposing parties upon consideration of the application.

This rule is consistent with practice in many other district courts and is allowed under FED. R. CRIM. P. 17(c)(1) and (3)(noting that the court may direct the designated items be produced “in court before trial or before they are offered in evidence” and that “a subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order.”)

The trouble was that all sorts of documents were being sought to be produced, particularly financial records, and the other side (government or defense) was unaware and had no opportunity to object. The only way an objection would occur is if a motion to quash were filed by the party upon whom the subpoena was served.

6. Privacy Concerns. FED R. CIV P. 5.2 deals with privacy protections for filings made with the court. Rule 5.2(h) states that “a person waives the protection of [the Rule] by filing it without redaction and not under seal. This raises an ethical issue that imposes a duty on attorneys to make sure that private information is not disclosed in court filings. What should be redacted? The rule lists them:

- an individual’s social security number;
- a corporate taxpayer identification number;
- a birth date;
- a minor’s name;
- a financial account numbers.

For these items, you should only include:

- the last four digits of social security and taxpayer identification numbers;
- the year of an individual’s birth;
- the minor’s initials; and
- the last four digits of a financial account number.

Rule 5.2(h) has gotten attorneys in trouble ethically since, arguably, by mistakenly filing a document with these client identifiers unredacted, the attorney has waived the privacy protections for his client. If this should occur in your practice, give us a call. We can take measures to restrict access to the filing to give you time to (a) seek leave to file a redacted document, or (b) authorize the filing to be permanently sealed, or (c) seek a protective order.

It is also important to remember to seek redaction of portions of the transcript of any trial or hearing in which similar information is divulged in the courtroom. Also, in proceedings before a Magistrate Judge (like initial appearances, arraignments and bond hearings – and occasionally motion hearings), often an audio recording of

such proceedings is made and uploaded to CM/ECF. If such information is divulged in those proceedings, you may want to seek to restrict access to the audio file. We have signs on counsel tables to remind attorneys of this important step.

B. Practical Considerations

1. Electronic Filings of Complaints and Notices of Removal. Since 2017, the Southern District accepts initial case filings (both civil complaints and notices of removal) by electronic means. In addition, we have modified the procedure to allow the clerk's office to send summonses by email to attorneys after issuance. Of course, service of process must still be achieved conventionally under Rule 4 of the Federal Rules of Civil Procedure. Here are the steps:

- 1. Log in to CM/ECF using your assigned username and password.*
- 2. Click on the "Civil" tab in the blue menu bar.*
- 3. Click on one of the following links corresponding to the division in which the case is to be filed:*

Open a New Civil Case (Northern Division)

Open a New Civil Case (Southern Division)

Open a New Civil Case (Eastern Division)

Open a New Civil Case (Western Division)

Pay careful attention to this step and be sure to select the correct division for the case. Cases filed in the wrong division are subject to dismissal by the presiding judge.

- 4. Highlight Civil Case Request by Attorney.*

- 5. Follow all prompts.*

- 6. Attach the Complaint or Notice of Removal as the main initiating document.*

*7. Attach all supporting documents, proposed summons(es), and the civil cover sheet **as separate exhibits to the complaint or notice of removal**. Please do not combine the complaint, civil cover sheet, exhibits and summons as one single document. Additionally, with a Notice of Removal, all pleadings served on the defendant in the state court below should be attached as an exhibit and the entire state court record must be filed as a separate document within 14 days after the Notice of Removal is filed.*

- 8. Pay the proper filing fee using www.pay.gov when prompted.*

Upon completion of the filing transaction, the clerk's office will open the case and the filing attorney will receive a Notice of Electronic Filing (NEF) confirming the

case number and judge assignment. The case number received in this NEF will be the official case number for the case and must be used on all further filings in the case.

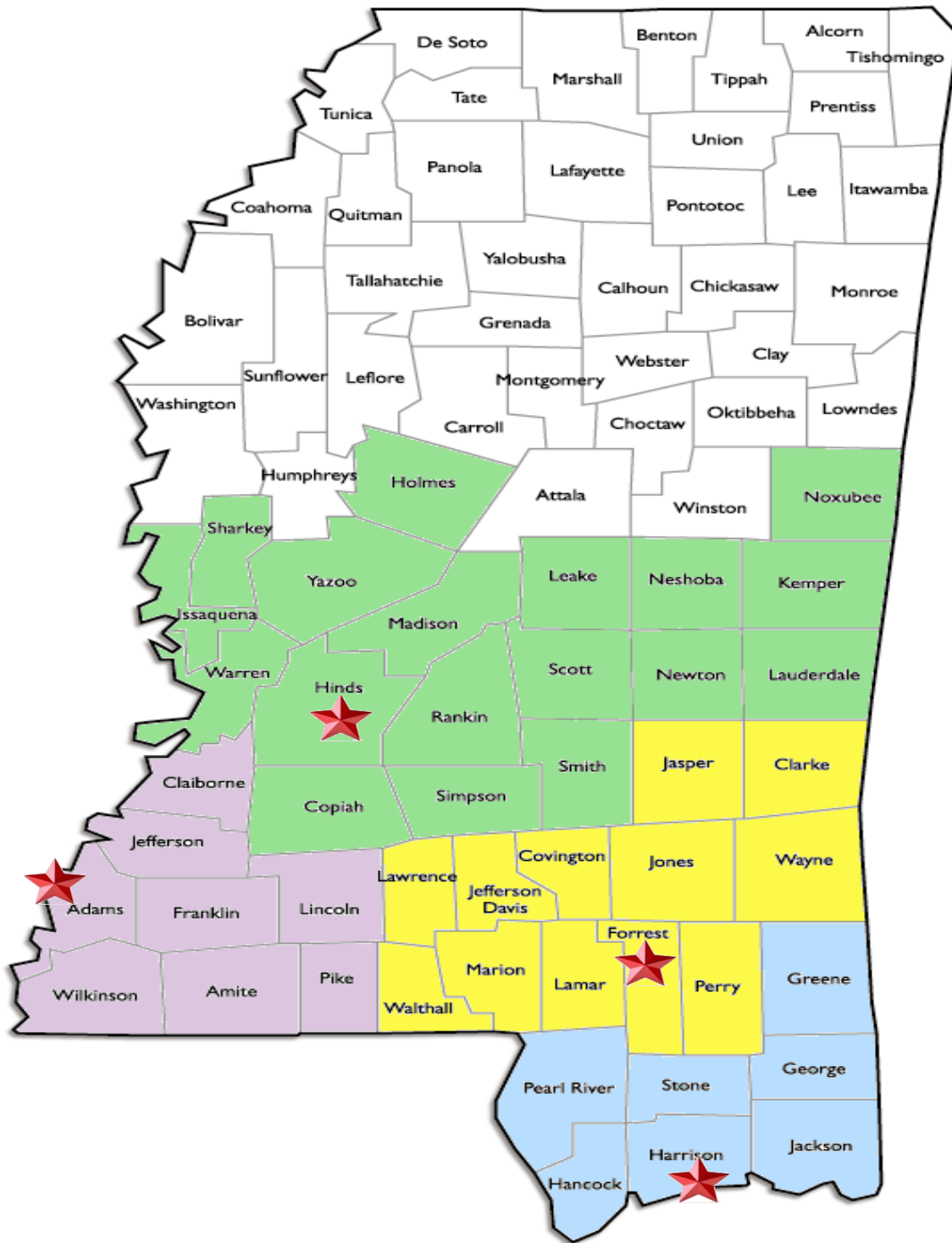
We still permit paper filing of complaints and notices of removal. Take your choice.

2. Be mindful of related cases. Near the bottom of the federal civil cover sheet, section VIII asks for the docket number and district judge assigned to any case related to the case being filed. Generally speaking, in the absence of a standing order directing certain related cases to be assigned to the judge in the first-filed case, the clerk's office does not automatically assign the case to the related case judge. If an attorney believes, in the interest of justice, that the case should be so assigned, a motion should be filed alerting the court to the related facts and issues, and the assigned judge will rule on that motion. The same is true in criminal cases, although normally under Section II, subsection E of Internal Rule 1 (discussed below), the United States Attorney will file a notice of related cases, and upon the filing of such a notice, the clerk's office will re-assign the case to the judge in the first-filed case.

3. Be mindful of intra-district venue. It is important to pay attention to venue within the divisions of our court. This is critical because of judge caseload and statistics. We work hard to evenly divide our workload based on divisional filings. By statute, the court has the power to, *sua sponte*, "transfer venue of a civil action "[f]or the convenience of parties and witnesses, in the interest of justice . . . to any other district or division where it might have been brought." 28 U. S. C. §1404(a).

Often, in diversity cases, a plaintiff may have a choice of intra-district forums. A plaintiff may reside in the Northern Division and a defendant corporation may have offices in the Southern Division, and the injury may have occurred in the Eastern Division. For venue purposes, either of the three divisions is probably an acceptable forum. But, in those cases where venue is plainly in one division or another, be sure to file your case in the proper division. Magistrate Judges will review the pleadings at or prior to the Case Management Conference for venue purposes.

4. Be mindful of the court's statutory divisions.



5. Understand Internal Rule 1. The court's caseload is divided evenly among the judges. Part of the job of the Clerk of Court is to ensure this remains so, and the key to that is the percentage breakdown of new case assignments which is controlled by Internal Rule 1. Here it is:

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Internal Rule 1, excerpt

Each criminal case filed in the Southern District will bear the same number format as the civil docket number, with the exception of the letters "cr" being substituted for the letters "cv".

I. ASSIGNMENT OF CIVIL CASES TO DISTRICT JUDGES

Civil cases in this district are to be assigned a district judge as follows:

A. NORTHERN DIVISION - Civil cases will be assigned as follows:

| | | |
|---------------------|---------------------|--------------------|
| Judge Wingate - 22% | Judge Jordan - 22% | Judge Reeves - 22% |
| Judge Lee - 12% | Judge Johnson - 22% | |

B. SOUTHERN DIVISION - Civil cases will be assigned as follows:

| | | |
|---------------------|---------------------|--------------------|
| Judge Guirola - 26% | Judge Ozerden - 37% | Judge McNeel - 37% |
|---------------------|---------------------|--------------------|

C. EASTERN DIVISION - Civil cases will be assigned as follows:

| | | |
|----------------------|---------------------|--------------------|
| Judge Starrett - 40% | Judge Ozerden - 30% | Judge McNeel - 30% |
|----------------------|---------------------|--------------------|

D. WESTERN DIVISION - Civil cases will be assigned as follows:

| | |
|-----------------------|----------------------|
| Judge Bramlette - 80% | Judge Starrett - 20% |
|-----------------------|----------------------|

II. ASSIGNMENT OF CRIMINAL CASES TO DISTRICT JUDGES

Criminal cases in this district are assigned to district judges as follows:

A. NORTHERN DIVISION - From and after December 21, 2020, criminal cases will be assigned randomly and without regard to grand jury schedules as follows:

| | | | |
|-----------------------|-----|--------------------------|-----|
| Judge Lee - 10% | 11% | Chief Judge Jordan - 25% | 21% |
| Judge Johnson - 15% | | Judge Wingate - 25% | 21% |
| Judge Bramlette - 11% | | Judge Reeves - 25% | 21% |

B. WESTERN DIVISION - Criminal cases will be assigned as follows:

| |
|------------------------|
| Judge Bramlette - 100% |
|------------------------|

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3 Internal Rule 1 effective 8-23-2021- excerpts.pdf - Adobe Acrobat Pro (32-bit)

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C. **EASTERN DIVISION** - Criminal cases will be assigned as follows:
Judge Starrett - 55% Judge Johnson - 45%.

D. **SOUTHERN DIVISION** - Criminal cases will be assigned as follows:
Judge Guirola - 18% Judge Ozerden - 41% Judge McNeel - 41%.

E. **RELATED CRIMINAL CASES** - Upon notice filed by the United States Attorney, a criminal matter which is related to a previously assigned criminal case will be transferred by the Clerk of Court to the judge with the previously assigned criminal case. For purposes of this order, criminal cases are related if they involve substantially the same parties and factual situation, relate to or are based upon the same act or transaction, or involve actions connected with or constituting part(s) of a common scheme or plan.

III. **CAPITAL HABEAS CASES** - All habeas corpus cases filed in this district reviewing a sentence of death will be assigned to district judges equally, regardless of division, utilizing the sequence: HTW, DPJ, HSO, CWR, KHJ and TBM. A case previously assigned to a district judge which is returned to this district will not impact this sequencing.

IV. **REASSIGNMENT** - The Chief Judge may, after conferring with the affected district judge(s) or magistrate judge(s), reassign cases in any division in order to ensure an equal distribution of the work load and to effectuate a prompt disposition of all pending matters.

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3 Internal Rule 1 effective 8-23-2021- excerpts.pdf - Adobe Acrobat Pro (32-bit)

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E. Pursuant to 28 U.S.C. § 636 (b)(1)(B), the following matters are hereby referred to the magistrate judge to conduct hearings, including evidentiary hearings, and to submit proposed findings of fact and recommendations for disposition:

- (1) prisoner petitions challenging conditions of confinement;
- (2) applications for post-trial relief made by individuals convicted of criminal offenses, excluding capital cases; and
- (3) social security appeals.

An Order of Reference executed by the district judge assigned to the case is required in all other cases assigned to a magistrate judge. Motions to vacate, set aside or correct the sentence pursuant to 28 U.S.C. § 2255 are referred to the sentencing judge.

VIII. ASSIGNMENT OF CIVIL CASES TO MAGISTRATE JUDGES

A. Except as provided in paragraphs B and C below, in all civil actions filed in this district, the following shall apply:

1. Magistrate Judge Ball is assigned all civil cases assigned to Judge Jordan, 50% of the cases assigned to Judge Reeves, 31% of the cases assigned to Judge Bramlette, and 8% of the cases assigned to Judge Lee.
2. Magistrate Judge Isaac is assigned all civil cases assigned to Judge Wingate, 50% of the cases assigned to Judge Reeves, 31%

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of the cases assigned to Judge Bramlette, and 8% of the cases assigned to Judge Lee.

3. Magistrate Judge Parker is assigned all civil cases assigned to Judge Johnson, all Eastern Division cases assigned to Judge Starrett, and 42% of the cases assigned to Judge Lee.

4. Magistrate Judge Myers is assigned all civil cases assigned to Judge McNeel, 55% of the cases assigned to Judge Guirola, and 42% of the cases assigned to Judge Lee.

5. Magistrate Judge Gargiulo is assigned all civil cases assigned to Judge Ozerden, 45% of the cases assigned to Judge Guirola, and 38% of the cases assigned to Judge Bramlette and all Western Division cases assigned to Judge Starrett.

B. Cases arising under the Social Security Act including appeals thereof shall be assigned a magistrate judge utilizing the sequence: RPM, MTP, LGI, FKB, and JCG, regardless of the assigned district judge.

C. Cases filed by pro se prisoners seeking habeas relief under 28 U. S. C. § 2254 shall be assigned a magistrate judge utilizing the sequence: JCG, FKB, LGI, MTP, RPM regardless of the assigned district judge.

IX. ASSIGNMENT OF CRIMINAL MATTERS TO MAGISTRATE JUDGES.

A. All misdemeanor criminal cases will be assigned, upon the filing of an information, complaint or violation notice, or the return of an indictment,

6. Become familiar with Clerk's Office Staff assigned to your case.

DIRECTORY
U. S. DISTRICT COURT, S/D MS
www.mssd.uscourts.gov

Rev. 07/12/2023

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|--|---|----------|---|----------------|
| NORTHERN AND WESTERN DIVISIONS at JACKSON, MISSISSIPPI (601) 608-4000 | | | <u>TRAFFIC / MISDEMEANOR (CVB)</u> | |
| | 501 E. Court St., Suite 2.500 Jackson, Mississippi 39201 | | Kim Schutz or Nathan Dean | 608-4180 |
| <u>ADMINISTRATIVE</u> | | | <u>INFORMATION TECHNOLOGY</u> | |
| Johnston, Arthur, <i>Clerk</i> | 608-4010 | | Robinson, Keithfer, <i>IT Director</i> | 608-4042 |
| Porfi Stokes, <i>Chief Deputy</i> | (228) 563-1707 | | Weathersby, Larry, <i>Programmer/Analyst</i> | 608-4045 |
| Shearer, Karen, <i>Administrative/Personnel Specialist</i> | 608-4010 | | Burnett, Russell, <i>Systems Technology Administrator</i> | 608-4044 |
| | | | Watson, Patrick, <i>Network Administrator</i> | 608-4046 |
| | | | Spencer, Reggie, <i>Network Administrator</i> | 608-4047 |
| | | | McVay, Cooper, <i>IT Support Specialist</i> | 608-4043 |
| <u>DOCKETING/OPERATIONS</u> Northern and Western Divisions | | | <u>SPACE AND FACILITIES</u> | |
| Beard, Michelle | Division Manager | 608-4026 | Creath, Nelson, <i>Court Architect</i> | 608-4015 |
| Louisville, Chris | (civil files ending in 3 and criminal files ending in 3, 7) | 608-4023 | | |
| Dean, Nathan | (civil files ending in 2, and criminal files ending in 1 and 2) | 608-4027 | EASTERN DIVISION at HATTIESBURG, MISSISSIPPI (601) 255-6400 | |
| Schutz, Kim | (civil files ending in 4 and Criminal files ending in 4 and 6) | 608-4064 | 701 N. Main St., Suite 200 Hattiesburg, Mississippi 39401 | |
| Moser, Vangie | (civil files ending in 7,9 and criminal files ending in 9) | 608-4036 | Regan, Linda, <i>Deputy-in-Charge</i> | (601) 255-6401 |
| Townsend, Lasonya | (civil files ending in 0,1 and criminal files ending in 0) | 608-4019 | civil files ending in 3, 5, 6, 8, 9 and criminal files ending 3, 5, 6, 8, 9, 0 | |
| Green, Pat | (civil files and criminal files ending in 8) | 608-4018 | Smith, Candace, <i>Deputy Clerk</i> | (601) 255-6402 |
| Overby, Connie | (civil files ending in 5 and 6 criminal files ending in 5) | 608-4021 | civil files ending in 1, 2, 4, 7, 0 and criminal files ending 1, 2, 4, 7 | |
| Dilmore, Whitney | (<i>atty. admissions, CCAM</i>) | 608-4028 | <u>INFORMATION TECHNOLOGY</u> | |
| | | | Mitchell, Trey, <i>Information Technology Technician</i> | |
| | | | SOUTHERN DIVISION at GULFPORT, MISSISSIPPI (228) 563-1700 | |
| | | | 2012 15 th Street, Suite 403 Gulfport, Mississippi 39501 | |
| <u>JURY</u> (<i>General number - 601-608-4080</i>) | | | Stokes, Porfi, <i>Chief Deputy</i> | (228) 563-1707 |
| Dennis, Donnie | 608-4081 | | Civil and criminal files ending in 8 | |
| May, Lisa | 608-4082 | | Duggan, Wendy, <i>Deputy Clerk</i> | (228) 563-1703 |
| Lewis, Erica | 608-4083 | | civil files and criminal files ending in 7,9,0 | |
| <u>FINANCE</u> | | | Hough, Jennifer, <i>Deputy Clerk</i> | (228) 563-1705 |
| Janos, Shane, <i>Financial Manager</i> | 608-4032 | | Civil and criminal files ending in 1,3,5 | |
| Ashley, Raven, <i>Property and Procurement</i> | 608-4033 | | White, Rena, <i>Deputy Clerk</i> | (228) 563-1704 |
| <u>PRO-SE</u> (<i>General number 601-608-4060</i>) | | | Civil and criminal files ending in 2,4,6 | |
| <u>DEATH PENALTY LAW CLERK</u> | | | <u>INFORMATION TECHNOLOGY</u> | |
| Blanchard, Charles | 608-4484 | | Saunders, Randy, <i>Systems Technology Administrator</i> | (228) 563-1709 |
| | | | Busby, Adam, <i>Help Desk Technician</i> | (228) 563-1710 |

CHAMBERS

| | | | |
|---|----------------|--|----------------|
| Chief Judge Daniel P. Jordan III 501 E. Court St., Suite 5.750 Jackson, MS 39201 COURTROOM 5A (Jackson) | (601) 608-4120 | Sr. Judge Louis Guirola, Jr. 2012 15th Street, Suite 614 Gulfport, MS 39501 COURTROOM #606 (Gulfport) | (228) 563-1767 |
| District Judge Henry T. Wingate 501 E. Court St., Suite 6.750 Jackson, MS 39201 COURTROOM 6A (Jackson) | (601) 608-4100 | Sr. District Judge Keith Starrett 701 N. Main St., Suite 228 Hattiesburg, MS 39401 COURTROOM #1 (Hattiesburg) | (601) 255-6420 |
| District Judge Sul Ozerden 2012 15 th St., Suite 814 Gulfport, MS 39501 COURTROOM #806 (Gulfport) | (228) 679-1070 | Magistrate Judge Michael T. Parker 701 N. Main St., Suite 216 Hattiesburg, MS 39401 COURTROOM #2 (Hattiesburg) | (601) 255-6370 |
| District Judge Carlton Reeves 501 E. Court St., Suite 5.550 Jackson, MS 39201 COURTROOM 5B (Jackson) | (601) 608-4140 | Magistrate Judge F. Keith Ball 501 E. Court St., Suite 5.150 Jackson, MS 39201 COURTROOM 5D (Jackson) | (601) 608-4460 |
| District Judge Kristi H. Johnson 501 E. Court St., Suite 4.550 Jackson, MS 39201 COURTROOM 4B (Jackson) | (601) 608-4400 | Magistrate Judge Lakeysa G. Isaac 501 E. Court St., Suite 6.150 Jackson, MS 39201 COURTROOM 6D (Jackson) | (601) 608-4442 |
| District Judge Taylor B. McNeel 2012 15 th St., Suite 714 Gulfport, MS 39501 COURTROOM #706 (Gulfport) | (228) 563-1744 | Magistrate Judge Robert P. Myers 2012 15 th St., Suite 870 Gulfport, MS 39501 COURTROOM #881 (Gulfport) | (228) 563-1720 |
| Sr. Judge David Bramlette P. O. Box 928 Natchez, MS 39121 COURTROOM #1 (Natchez) | (601) 897-6945 | Magistrate Judge Bradley W. Rath 2012 15 th St., Suite 672 Gulfport, MS 39501 COURTROOM #683 (Gulfport) | (228) 563-1755 |
| Sr. Judge Tom S. Lee 501 E. Court St., Suite 4.756 Jackson, MS 39201 COURTROOM 4A (Jackson) | (601) 608-4420 | | |

COURT REPORTERS:

Jackson

Candice Crane - (601) 608-4187
Caroline Morgan - (601) 608-4188
Teri Norton - (601) 608-4186

Gulfport

Sherri Penny - (228) 563-1781
Kati Vogt - (228) 563-1780

Hattiesburg

Fred Jeske - (601) 255-6432

Fifth Circuit Judges - Jackson

Judge E. Grady Jolly - (601) 608-4745
Judge Rhessa Barksdale - (601) 608-4730
Judge Leslie Southwick - (601) 608-4760
Judge James E. Graves, Jr. - (601) 608-4775
Judge Cory Wilson - (601) 608-4790

Bankruptcy Judges:

Judge Jamie Wilson - (601) 608-4690
Judge Katharine Samson - (228) 563-1840

7. Be mindful of properly linking documents. Linking documents is important in CM/ECF not just for the sake of clean-looking docket sheets. It is important because the linkage allows for quick and easy review and study of all documents related to a motion. Our judges – and their law clerks – really do use it. Here’s an example of a good one:

| | |
|--|--|
| <p>85 MOTION for Summary Judgment <i>Motion filed:</i> 08/19/2020 <i>Motion terminated:</i> 11/12/2020 <i>Filed by:</i> Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi</p> | <p><i>Reply filed:</i> 11/12/2020 <i>Ripe:</i> 11/12/2020</p> |
| <p>MOTION for Summary Judgment by Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi (Attachments: # 1 Exhibit 1 (Complaint), # 2 Exhibit 2 (Yazoo County Records), # 3 Exhibit 3 (Bentonia Records), # 4 Exhibit 4 (CAD Report), # 5 Exhibit 5 (McGinnis Deposition), # 6 Exhibit 6 (Dean Deposition), # 7 Exhibit 7 (Wadford Deposition), # 8 Exhibit 8 (Parks Deposition), # 9 Exhibit 9 (MedStat Records), # 10 Exhibit 10 (Photographs), # 11 Exhibit 11 (Criminal Records), # 12 Exhibit 12 (Policies & Procedures), # 13 Exhibit 13 (Training Records))(Dare, Jason)</p> | |
| <p>Related entries:</p> <p>08/19/2020 86 MEMORANDUM in Support re 85 MOTION for Summary Judgment filed by Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi (Dare, Jason)</p> <p>08/31/2020 87 Unopposed MOTION for Extension of Time to File Response/Reply as to 85 MOTION for Summary Judgment , 83 MOTION to Exclude <i>Expert Testimony</i> by Felicia Parks (Guy, Sean)</p> <p>08/31/2020 88 TEXT-ONLY ORDER granting 87 Unopposed Motion for Extension of Time to File Response/Reply re 83 MOTION to Exclude <i>Expert Testimony</i>, 85 MOTION for Summary Judgment. Responses due by 9/14/2020; Replies due by 9/21/2020. Signed by Chief District Judge Daniel P. Jordan III on August 31, 2020. No further written order will issue. (EHP)</p> <p>09/14/2020 92 RESPONSE in Opposition re 85 MOTION for Summary Judgment filed by Felicia Parks (Attachments: # 1 Exhibit A - Deposition Excerpts of Felicia Parks, # 2 Exhibit B - Deposition Excerpts of Cole McGinnis, # 3 Exhibit C - Deposition Excerpts of Christopher Dean, # 4 Exhibit D - Narrative of Dustin Wadford, # 5 Exhibit E - Narrative of Jason Bright, # 6 Exhibit F - Deposition Excerpts of Dustin Wadford, # 7 Exhibit G - Deposition Excerpts of Simon Stubblefield, # 8 Exhibit H - Kenneth Goodrum Affidavit and Expert Report, # 9 Exhibit I - Deposition Excerpts of Jason Bright, # 10 Exhibit J - Indictment; Cause No. 2017-2182, # 11 Exhibit K - Petition to Enter Guilty Plea; Cause No. 2017-2182, # 12 Exhibit L - Sentencing Order; Cause No. 2017-2182, # 13 Exhibit M - Yazoo County Policy on Positional Asphyxiation, # 14 Exhibit N - Deposition Excerpts of Yazoo County 30(b)(6), # 15 Exhibit O - Deposition Excerpts of Terry Gann)(Guy, Sean)</p> <p>09/14/2020 93 MEMORANDUM IN OPPOSITION re 85 MOTION for Summary Judgment filed by Felicia Parks (Guy, Sean)</p> <p>09/21/2020 95 REPLY to Response to Motion re 85 MOTION for Summary Judgment , 92 Response in Opposition to Motion,,, filed by Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi (Attachments: # 1 Exhibit 1 (Yazoo County Deposition), # 2 Exhibit 2 (Gann Deposition))(Dare, Jason)</p> <p>11/12/2020 97 ORDER - Defendants' motion for summary judgment 85 is granted in part and denied in part. Plaintiff's claims against Yazoo County are dismissed. The parties are instructed to contact the Courtroom Deputy by November 18, 2020, to set the case for a status conference via Zoom. Signed by Chief District Judge Daniel P. Jordan, III on 11/12/2020 (ND)</p> | |

Here is another good one from the same case:

| | |
|---|--|
| <p>83 MOTION to Exclude <i>Expert Testimony</i> <i>Motion filed:</i> 08/19/2020 <i>Motion terminated:</i> 11/12/2020 <i>Filed by:</i> Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi <i>Referred to:</i> F. Keith Ball</p> | <p><i>Reply filed:</i> 11/12/2020 <i>Ripe:</i> 11/12/2020</p> |
| <p>MOTION to Exclude <i>Expert Testimony</i> by Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi (Attachments: # 1 Exhibit A - Plaintiff's Designation of Experts with Exhibit)(High, Michelle)</p> | |
| <p>Related entries:</p> <p>08/19/2020 84 MEMORANDUM in Support re 83 MOTION to Exclude <i>Expert Testimony</i> filed by Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi (High, Michelle)</p> <p>08/31/2020 87 Unopposed MOTION for Extension of Time to File Response/Reply as to 85 MOTION for Summary Judgment , 83 MOTION to Exclude <i>Expert Testimony</i> by Felicia Parks (Guy, Sean)</p> <p>08/31/2020 88 TEXT-ONLY ORDER granting 87 Unopposed Motion for Extension of Time to File Response/Reply re 83 MOTION to Exclude <i>Expert Testimony</i>, 85 MOTION for Summary Judgment. Responses due by 9/14/2020; Replies due by 9/21/2020. Signed by Chief District Judge Daniel P. Jordan III on August 31, 2020. No further written order will issue. (EHP)</p> <p>09/14/2020 90 RESPONSE in Opposition re 83 MOTION to Exclude <i>Expert Testimony</i> filed by Felicia Parks (Attachments: # 1 Exhibit A - Affidavit of Kenneth Goodrum with Expert Report)(Guy, Sean)</p> <p>09/14/2020 91 MEMORANDUM in Opposition re 83 MOTION to Exclude <i>Expert Testimony</i> filed by Felicia Parks (Guy, Sean)</p> <p>09/21/2020 94 Rebuttal re 83 MOTION to Exclude <i>Expert Testimony</i> filed by Christopher Dean, Simon Stubblefield, Dustin Wadford, Yazoo County, Mississippi (High, Michelle)</p> <p>11/12/2020 96 ORDER - Defendants' motion to exclude expert testimony 83 is granted in part and denied in part, as follows: Kenneth Goodrum may not offer legal conclusions and must submit a supplemental report that highlights the admissible opinions from his initial report that he would offer at trial; John Tisdale is excluded; and Testimony by Parks's treating physicians and medical providers will be limited to the facts contained in the medical records. Signed by Chief District Judge Daniel P. Jordan, III on 11/12/2020 (ND)</p> | |

8. Be sure to describe your exhibits when attaching them to a document in CM/ECF. It is important to follow docketing instructions, especially regarding describing your Exhibits. The attachment function gives you two boxes, one is for the category (e.g., “Exhibit”); and the other is a free form text box for you to insert a description of the Exhibit (e.g., “Contract for Services.” Always be sure to use the free form box. Why? It quickly tells the judge and the law clerks what document it is.

Here is what I mean:

The screenshot shows the CM/ECF web interface for filing a document. At the top, there is a navigation bar with links for Civil, Criminal, Query, Reports, Utilities, Search, Help, What's New, and Log Out (Arthur Johnsto). Below this, the page title is "Motions" and the case number is "3:40-mc-00012 v.". The "Date document filed (mandatory)" is set to "6/22/2022". The main section is titled "Select the PDF document and any attachments." Under "Main Document", there is a "Choose File" button and "No file chosen". Below this, there is a table with columns for "Attachments", "Category", and "Description". The first row has a "Choose File" button, "No file chosen", and a dropdown menu for "Category". The dropdown menu is open, showing a list of categories: Affidavit, Appendix, Civil Cover Sheet, Errata, Exhibit, Supplement, Summons, Criminal Cover Sheet, Envelope, Notice of Assignment, Cover Letter, Attachment, and Notice of Maximum Penalty. The "Description" column is highlighted in yellow.

Select the proper category and then, in your own words, briefly tell the court – in the “Description” text box – what the attachment is. For example, if “**Exhibit**” is the selected category, in the description text box type “Contract with ABC Company” or “Excerpts from Johnston deposition” or “Diagram of Accident Scene” or “Photo of Crash Site.” If “**Affidavit**” is the category, tell the court who the affidavit is from, for example type “of Robert Johnston, witness.”

9. Be sure to understand what types of motions are handled by Magistrate Judges and what types are reserved to the District Judges. Here is a handy list:

The **Magistrate Judge** handles the following if they are filed before the pretrial conference:

- All discovery motions (including motions to compel)
- All scheduling matters
- Motions for additional time to answer complaint, to serve process, or to respond to discovery
- Motions to withdraw as counsel
- Motions to consolidate
- Motions to appear *pro hac vice*
- Motions to substitute counsel
- Motions to proceed *in forma pauperis*
- All motions filed in *habeas corpus* cases, regardless of whether represented by counsel (The Magistrate Judge will prepare an R&R or Proposed Findings of Fact if there is no consent.)
- All motions filed in § 1983 cases by *pro se* prisoners (The Magistrate Judge will prepare an R&R or Proposed Findings of Fact if there is no consent.)
- All motions filed in social security cases (The Magistrate Judge will prepare an R&R or Proposed Findings of Fact if there is no consent.)

The **District Judge** handles the following:

- All dispositive motions (motions to dismiss, motions to transfer venue, motions to remand, motions for summary judgment, motions for judgment on the pleadings)
- Motions to compel arbitration
- Motions to strike answer or defenses
- All motions to strike expert testimony
- Motions to review decisions by the magistrate judge
- All motions filed after the pretrial conference
- Motions *in limine*
- Motions for preliminary injunction, temporary restraining order, permanent restraining order, and declaratory judgment
- §2255 motions and motions challenging sentencing
- All post-trial and post-sentencing motions
- Motions in §1983 cases filed by prisoners who are represented by counsel are assigned in the same manner as cases filed by non-prisoners
- All motions for extensions of time, additional pages, permission to file sur-reply, and reconsideration that pertain to motions being handled by the district judge
- Review of reports and recommendations/proposed findings of fact and conclusions of law
- Bankruptcy appeals

10. Make use of our attorney business centers. We have one at the Thad Cochran United States Courthouse in Jackson. It is located off the 2nd Floor lobby down the bankruptcy clerk’s alcove. It has WiFi, charging stations, printers, refrigerator, kitchen, and lounge area available to attorneys. We will soon have another in Gulfport located on the second floor adjacent to the bankruptcy clerk’s office with similar amenities.

11. Make use of CourtPublic WiFi. While you are in our attorney business centers, clerk’s offices, courtrooms, or judges’ chambers in Jackson, Hattiesburg and Gulfport, remember we have **free high-speed WiFi** available for your use. It will show up in your WiFi settings as “CourtPublicWiFi.” No username or password is required but you will have to toggle through a “splash” page the first time you use it – and subsequently if you wait too long between usage.

12. History of District Judgeships. Appendix A reflects a history of all active judgeships in the Southern District since inception.

13. Contact me personally at any time with questions.

Arthur.Johnston@mssd.uscourts.gov.

601-608-4010 (desk) or

601-260-2519 (cell).

**History and Succession for Authorized, Active Judgeships
in the U.S. District Court for the Southern District of Mississippi**

| June 18, 1838 5 Stat. 247 | May 19, 1961 75 Stat. 80 | March 18, 1966 80 Stat. 75 | July 10, 1984 98 Stat. 333 | July 10, 1984 98 Stat. 333 | December 1, 1990 104 Stat. 5089 |
|--------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|--|
| Adams, George 1838 | Cox, William H. 1961-1982 | Nixon, Walter L., Jr. 1968-1989 | Wingate, Henry T. 1985- | Gex, Walter J., III 1986-2004 | Bramlette, David C. 1991-2006 |
| Gholson, Samuel J. 1839-1861 | Barbour, William H., Jr. 1983-2006 | Pickering, Charles W., Sr. 1990-2004 | | Guirola, Louis, Jr. 2004-2018 | Ozerden, H. Suleyman 2007- |
| Hill, Robert A. 1866-1891 | Reeves, Carlton W. 2010- | Starrett, Keith 2004-2018 | | McNeel, Taylor B. 2020- | |
| Niles, Henry C. 1891-1918 | | Johnson, Kristi H. 2020- | | | |
| Holmes, Edwin R. 1918-1936 | | | | | |
| Mize, Sidney C. 1937-1965 | | | | | |
| Russell, Dan M., Jr. 1965-1983 | | | | | |
| Lee, Tom S. 1984-2006 | | | | | |
| Jordan, Daniel P., III 2006- | | | | | |

Appendix A