Volume 1

CHAPTER 1. SUBJECT MATTER JURISDICTION

3 1:1	Nature of subject matter jurisdiction
§ 1:2	Common misunderstandings regarding subject matter jurisdiction
§ 1:3	Original jurisdiction distinguished from appellate jurisdiction
§ 1:4	Courts of general jurisdiction distinguished from courts of special or limited jurisdiction
3 1:5	Concurrent jurisdiction
3 1:6	Jurisdiction of the person distinguished
3 1:7	Venue distinguished
3 1:8	Subject matter jurisdiction: How conferred
3 1:9	Consequences of absence of subject matter jurisdiction
3 1:10	Jurisdiction to determine jurisdiction
3 1:11	"Typing" touchstones for deciding jurisdiction
3 1:12	The well pleaded complaint rule
3 1:13	Counterclaims and defenses not considered
3 1:14	Amount in controversy
3 1:15	Jurisdictional facts exception
3 1:16	The circuit courts
1:17	The chancery courts
3 1:18	The county courts
3 1:19	Appeals from administrative agencies
1:20	The right to trial by jury
1:21	Pendent jurisdiction
3 1:22	Right of trial by jury and pendent jurisdiction considered together
3 1:23	Jurisdiction of federal claims
3 1:24	Justiciability: a constitutional overview
3 1:25	Justiciability in practice
3 1:26	Ripeness
3 1:27	Declaratory judgment
3 1:28	The Initiative Cases
1:29	Standing to sue
3 1:30	—Quasi-jurisdictional at most, not to be confused with

§ 1:31	Standing to sue—Plaintiffs bringing public interest civil actions
§ 1:32	Standing to sue—Associational standing to sue
§ 1:33	Whither standing to sue in the 21st Century
§ 1:34	Mootness—A traditional overview
§ 1:34	—Public interest; capable of repetition or evading
	review
§ 1:36	—While on appeal; vacatur of orders
§ 1:37	Political questions—No absolute separation of powers
§ 1:38	—Generally
§ 1:39	Ecclesiastical questions—Ecclesiastical abstention doctrine
§ 1:40	—When the ecclesiastical doctrine applies
§ 1:41	—When the ecclesiastical doctrine does not apply
CHA	PTER 2. PERSONAL JURISDICTION
§ 2:1	Personal jurisdiction in overview; state and federal law
§ 2:2	Personal jurisdiction, subject matter jurisdiction, legislative jurisdiction, venue, and service of process distinguished
§ 2:3	Mississippi's long arm statutes, in general; defendants outside of the long arm statute but within the jurisdiction of the court
§ 2:4	Personal jurisdiction over nonresident motorists
§ 2:5	Requirement that claims arise from operation of
	"motor vehicle"
§ 2:6	Nonresident within the reach of the Nonresident Motorist Statute
§ 2:7	Nexus requirement in Nonresident Motorist Statute
§ 2:8	Nonresident Motorist Statute not exclusive
§ 2:9	Nonresidents within the scope of general long arm statute; domesticated corporations; nonresident plaintiffs
§ 2:10	Personal jurisdiction over nonresidents under the contract prong
§ 2:11	Suits against nonresidents on claims other than predicate contract
§ 2:12	Personal jurisdiction under the tort prong of the long arm statute
§ 2:13	Suits by nonresidents against nonresidents under the tort prong
§ 2:14	Suits against nonresident tortfeasors on claims other than predicate tort

Personal jurisdiction over nonresidents under the doing business prong of the long arm statute

§ 2:15

3 2:16	Suits against nonresidents on claims unrelated to the predicate business
\$ 2:17	Due process limits on assertions of personal jurisdiction over a nonresident, in general
3 2:18	Specific and general jurisdiction distinguished
§ 2:19	Specific jurisdiction; doctrinal orthodoxy
\$ 2:20	Claims must arise from or relate to the nonresident's in-state contacts
\$ 2:21	Focusing on the defendant's own contacts; contacts through agents; employee contacts; subsidiary contacts
§ 2:22	Specific jurisdiction in defective products cases; the stream of commerce
§ 2:23	Bordering businesses; local franchises of national businesses
§ 2:24	Jurisdiction in actions related to property; attachment of the defendant's property
\$ 2:25	Specific jurisdiction in contracts; consumer and commercial transactions
\$ 2:26	Forum selection clauses
§ 2:27	Contacts necessary to sustain jurisdiction in domestic relations cases
\$ 2:28	Determining whether an assertion of personal jurisdiction is unreasonable or fundamentally unfair
§ 2:29	Proving unreasonableness where minimum contacts are present
§ 2:30	General jurisdiction
§ 2:31	Online activity conferring personal jurisdiction
§ 2:32	Restricted access to plaintiff's home forum; judicial administration implication of essentially at home rule
§ 2:33	Asserting a personal jurisdiction defense; waiver and consent
§ 2:34	The old special appearance procedure
§ 2:35	Hearing on a motion to dismiss; burden; discovery; appellate review
_	PTER 3. VENUE
3:1	Introduction
3 3.2	Venue proper as to one defendant is proper for all

§ 3:2	Venue proper as to one defendant is proper for all
§ 3:3	Venue in chancery court: Miss. Code Ann. § 11-5-1
§ 3:4	Venue in circuit court: Miss. Code Ann. § 11-11-3
§ 3:5	Venue in actions alleging defective products: Miss Code Ann. § 11-11-3(1)(a)(ii)
§ 3:6	Venue in actions against nonresident defendants: Miss Code Ann. § 11-11-3(1)(a)(b)

§ 3:7	Venue in actions against health care providers: Miss Code Ann. § 11-11-3(3)
§ 3:8	Venue where more than one plaintiff is joined: Miss. Code Ann. § 11-11-3(2)
§ 3:9	Specialized venue statutes
§ 3:10	Pleading venue
§ 3:11	Change of venue—Improper venue and waiver
§ 3:12	—Fraudulent joinder
§ 3:13	—Bias or prejudice
§ 3:14	—Forum non conveniens
§ 3:15	—Standard of review on appeal
§ 3:16	Forum selection clauses

APPENDIX TO CHAPTER 3. SELECTED MISSISSIPPI LEGISLATIVE VENUE PROVISIONS

CHAI	PTER 4. CHOICE OF LAW
§ 4:1	Cases with interstate elements, and difference in state law necessitates choice
§ 4:2	Purposes served by choice of law system
§ 4:3	Choice of law, personal jurisdiction and subject-matter jurisdiction distinguished
§ 4:4	Role of federal courts in applying Mississippi's choice of law rules
§ 4:5	Basic outline of center of gravity approach to choice of law
§ 4:6	Mississippi courts always apply Mississippi's procedural law regardless of what substantive law governs the action
§ 4:7	An issue-by-issue approach to choice of law employed
§ 4:8	Use of Second Restatement in center of gravity approach to choice of law; general principles and specific presumptive choice of law rules
§ 4:9	Choice of law analysis under Restatement depends initially on characterizing substantive issue
§ 4:10	The choice of law significance of individual contacts depends on issue under consideration
§ 4:11	"Applying" choice of law principles of Section 6 of Restatement in Mississippi center of gravity approach—Announced theory in practice
§ 4:12	Resolving cases where more than one state has interest in having its law applied
§ 4:13	Use of presumptive rules in center of gravity approach
§ 4:14	Public policy exception
§ 4:15	When affiliation contacts—Domicile, residence, place of

TABLE OF CONTENTS

	incorporation and place of business—Are important, post-event changes of affiliations irrelevant
§ 4:16	Considering foreign choice of law rules in center of gravity approach—Renvoi problem
§ 4:17	Tort cases generally
§ 4:18	In automobile cases, rules of the road of place of accident apply
§ 4:19	On loss distribution rules, law of common domicile applies
§ 4:20	Law of state where injury occurs often applied on liability issues
§ 4:21	Vicarious liability
§ 4:22	Contracts cases: Protection of justified expectations
§ 4:23	Contracts of insurance; workers' compensation
§ 4:24	Contract cases with choice of law provisions
§ 4:25	Other contracts cases
§ 4:26	Real property cases
§ 4:27	Personal property cases
§ 4:28	Distribution of family property
§ 4:29	The traditional rule regarding choosing law on statutes of limitations
§ 4:30	Choosing statutes of limitations under borrowing statute
§ 4:31	Two methods for determining where a claim accrued under borrowing statute
§ 4:32	Other potential problems under borrowing statute
	PTER 5. SERVICE OF PROCESS
§ 5:1	Fundamental considerations
$\S 5:2$	Construing the rules generally
§ 5:3	Obtaining the summons (Rule 4(a))
$\S 5:4$	Format/form of the summons (Rule 4(b))
§ 5:5	Timing of service (Rule 4(h))
§ 5:6	Cause shown
§ 5:7	Good cause
§ 5:8	Service options generally
§ 5:9	Service method 1: process server (Rule $4(a)(1)(A)$, $(a)(2)$, (b) , $(c)(1)$, (f))
§ 5:10	Service method 2: sheriff (Rule $4(a)(1)(B)$, $(a)(2)$, $(c)(2)$, (f))
§ 5:11	Service method 3: first-class mail (Rule $4(a)(1)(A)$, $(a)(2)$, $(c)(3)$, (f))
§ 5:12	Service method 4: certified mail (applicable only to persons outside state) (Rule 4(a)(1)(A), (a)(2), (c)(5), (f))

§ 5:13	Service method 5: publication (Rule 4(a)(1)(A), (a)(1)(C), (c)(4)(A) to (E))
§ 5:14	Service on individuals generally (Rule 4(d)(1)(A) (d)(1)(B))
§ 5:15	Service on unmarried infants, mentally incompetent persons, and prisoners (Rule $4(d)(2)(A)$, $(d)(2)(B)$ to (C) , $(d)(3)$)
§ 5:16	Service on business entities (Rule 4(d)(4))
§ 5:17	Service on State of Mississippi and departments, officers, or institutions thereof (Rule 4(d)(5))
§ 5:18	Service on counties, municipal corporation, and other governmental entities (Rule 4(d)(6), (7), (8))
§ 5:19	Misnomer doctrine
§ 5:20	Waiver of service (Rule 4(e))
§ 5:21	Return of service (Rule 4(f))
§ 5:22	Amendment of process or proof of service (Rule 4(g))
§ 5:23	Summons related to Rule 81 matters
$\S 5:24$	Motions to dismiss: insufficiency of process or service

CHAPTER 6. PLEADINGS; BASIC REQUIREMENTS; AMENDMENTS TO PLEADINGS

	IDII (GIO
§ 6:1	Commencement of action: Rules 3 and 5
§ 6:2	Pleadings allowed: Rule 7(a); motions
§ 6:3	General requirements common to all pleadings: Rules
	5, 8, and 10
§ 6:4	Pleading special matters: Rule 9
§ 6:5	Pleading capacity: Rule 9(a)
§ 6:6	Pleading fraud or mistake: Rule 9(b)
§ 6:7	Pleading conditions precedent: Rule 9(c)
§ 6:8	Pleading official document or act, ordinance, or special
	statute: Rule 9(d)
§ 6:9	Pleading judgments: Rule 9(e)
§ 6:10	Pleading time and place: Rule 9(f)
§ 6:11	Pleading special damages: Rule 9(g)
§ 6:12	Pleading fictitious and unknown parties: Rule 9(h)
§ 6:13	Amended and supplemental pleadings: Rule 15
§ 6:14	Amendments to pleadings: Rule 15(a)
§ 6:15	Amendments to conform to the evidence: Rule 15(b)
§ 6:16	Relation back of amendments: Rule 15(c)
§ 6:17	Supplemental pleadings: Rule 15(d)

CHAPTER 7. CLAIMS FOR RELIEF; JOINDER OF CLAIMS

 $\S~7:1$ Requirements common to claims for relief: Rule 8

§ 7:7

§ 7:2 Complaints: Rule 3 § 7:3 Counterclaims and cross-claims: Rule 13 § 7:4 Permissive and compulsory counterclaims: Rules 13(a) and 13(b) Cross-claims: Rule 13(g); trial practice: Rule 13(j), (k) § 7:5 § 7:6 Third-party practice: Rule 14

CHAPTER 8. ANSWERS AND DEFENSES

- § 8:1 Answers and defenses: Rule 12 § 8:2 Service of responsive pleadings: Rule 12(a) § 8:3 Form and content of responsive pleadings: Rule 12(b) and related rules Affirmative defenses under Rule 8(c) § 8:4 § 8:5 Motions under Rule 12(b) § 8:6 Lack of jurisdiction over subject matter: Rule 12(b)(1) § 8:7 Lack of in personam jurisdiction: Rule 12(b)(2) § 8:8 Improper venue: Rule 12(b)(3) § 8:9 Insufficiency of process and service of process: Rules 12(b)(4) and 12(b)(5) Failure to state a claim upon which relief can be § 8:10 granted: Rule 12(b)(6)
- § 8:11 Failure to join party under Rule 19: Rule 12(b)(7)
- § 8:12 Judgment on the pleadings: Rule 12(c)
- § 8:13 Preliminary hearings: Rule 12(d)

Joinder of claims: Rule 18

- § 8:14 Motion for more definite statement: Rule 12(e)
- § 8:15 Striking objectionable material: Rule 12(f)
- § 8:16 Consolidation of defenses in motion; waiver or preservation of certain defenses: Rules 12(g) and 12(h)

CHAPTER 9. PARTIES

- § 9:1 Generally
- § 9:2 Real party in interest
- § 9:3 Standing
- § 9:4 Assignment
- § 9:5 Subrogation
- § 9:6 Minors and incompetents
- § 9:7 Unborn and unconceived persons
- § 9:8 Representatives and fiduciaries
- § 9:9 Third-party beneficiaries
- § 9:10 Statutory plaintiffs
- § 9:11 Government officials
- § 9:12 Procedure on challenge to capacity

§ 9:13 Joinder of claims § 9:14 Mandatory joinder § 9:15 Joinder required Joinder not required § 9:16 § 9:17 Joinder not feasible § 9:18 Joinder and federal jurisdiction § 9:19 Fraudulent joinder § 9:20 Procedure for failure to join party Permissive joinder § 9:21 § 9:22 Joinder of plaintiffs Joinder of defendants § 9:23 § 9:24 Separate trials Procedure on adding or deleting parties § 9:25 § 9:26 Wrongful death cases § 9:27 Misjoinder and nonjoinder of parties § 9:28 Interpleader § 9:29 Intervention § 9:30 Statutory right § 9:31 Matter of right § 9:32 Permissive intervention § 9:33 Intervention by state § 9:34 Procedure on intervention § 9:35 Substitution of parties § 9:36 Death § 9:37 Legal disability Transfer of interest § 9:38 Public officers § 9:39

CHAPTER 10. RULE 11 OBLIGATIONS; LITIGATION ACCOUNTABILITY ACT

§ 10:1 Purpose of Rule 11 § 10:2 Signing requirement § 10:3 Attorney's certification by signing § 10:4 Possibility of sanctions § 10:5 Procedure for seeking sanctions § 10:6 Standard for Imposing Sanctions § 10:7 Frivolous and nonfrivolous filings § 10:8 Pleadings or motions filed for harassment or delay § 10:9 No continuing duty of inquiry § 10:10 Sanctions against pro se parties Pleadings or motions filed to defeat purpose of rule § 10:11 § 10:12 Litigation Accountability Act § 10:13 —Language of Act

§ 9:40

Conclusion

\$ 10:14 — Power of court to sanction
\$ 10:15 — Limit of civil action
\$ 10:16 — Requirement of reasonableness
\$ 10:17 — Sanctions against attorney or party
\$ 10:18 — Sanctions upon motion or sua sponte
\$ 10:19 — When sanctions are authorized
\$ 10:20 — Continuing duty of inquiry
\$ 10:21 — Duty to specify reasons for award

§ 10:22 —Standard of review

CHAPTER 11. DISCOVERY—SCOPE AND LIMITATIONS

	IAIIONS
§ 11:1	Purpose of discovery
§ 11:2	Scope of discovery
§ 11:3	Methods of discovery
§ 11:4	Limits on discovery
§ 11:5	Work-product doctrine
§ 11:6	Party and non-party statements
§ 11:7	Privileges
§ 11:8	Privileges under Rules of Evidence
§ 11:9	Constitutional privileges
§ 11:10	Legislative privilege
§ 11:11	Asserting privilege in discovery; privilege logs and in camera review
§ 11:12	Inadvertently disclosed information in discovery
§ 11:13	Discovery conference
§ 11:14	Protective orders
§ 11:15	Appeal of discovery orders
§ 11:16	Sequence, timing, and filing of discovery
§ 11:17	Discovery by agreement and stipulation

CHAPTER 12. MECHANISMS FOR DISCOVERY

§ 12:1	Depositions
§ 12:2	Before whom taken
§ 12:3	Precomplaint depositions
§ 12:4	Depositions pending appeal
§ 12:5	Perpetuation of testimony after discovery deadline
§ 12:6	Tactical considerations in taking depositions
§ 12:7	Time considerations in taking depositions
§ 12:8	Alternatives to depositions
§ 12:9	Depositions upon written questions
§ 12:10	Depositions within 30 days of service of summons and

§ 12:11	Location of deposition
8 14.11	Lucanon of deposition
§ 12:12	Notice of examination
§ 12:13	Telephonic depositions
§ 12:14	Deposition by other than stenographic means
§ 12:15	Conducting the deposition—Preliminary matters; objections and stipulations
§ 12:16	Examination and cross-examination
§ 12:17	Scope of deposition examination
§ 12:18	Terminating or limiting examination
§ 12:19	Reading and signing
§ 12:20	Certification, exhibits, copies, notice of filing
§ 12:21	Failure to attend deposition or serve subpoena
§ 12:22	Deposition expenses not taxed as court costs
§ 12:23	Corporate depositions
§ 12:24	Use of depositions in court proceedings
§ 12:25	How used, by whom
§ 12:26	Objections to admissibility
§ 12:27	Errors and irregularities in depositions
§ 12:28	Interrogatories
§ 12:29	Number of interrogatories
§ 12:30	Timing of interrogatories
§ 12:31	Scope of interrogatories
§ 12:32	Answering interrogatories
§ 12:33	Identifying business records and records in the possession of third persons in interrogatories
§ 12:34	Requests for production and entry upon land
§ 12:35	Responding to requests for production
§ 12:36	Discovery of electronically stored information
§ 12:37	Physical and mental examination
§ 12:38	Requests for admission
§ 12:39	Responding to requests for admission
§ 12:40	Failure to respond in a timely manner
§ 12:41	Effect of admissions; withdrawal of admissions
§ 12:42	The duty to supplement under Rule 26(f)

CHAPTER 13. E-DISCOVERY: OBTAINING ELECTRONICALLY STORED INFORMATION

§ 13:1	Overview
§ 13:2	2020 amendments to Rule 26
§ 13:3	Sources of ESI
§ 13:4	Litigation holds and preserving/collecting ESI
§ 13:5	Requesting ESI
§ 13:6	Collecting, searching, and reviewing ESI
§ 13:7	Documents that are "not reasonably accessible

§ 13:8 Production of ESI
§ 13:9 ESI and subpoenas
§ 13:10 Admissibility of ESI
§ 13:11 Computer forensics and recovering data
§ 13:12 Tools for electronic review of ESI

CHAPTER 14. DISCOVERY OF EXPERT OPINIONS

§ 14:1	Discovery of expert opinions: The limitations of Rule
	26(b)(4)
§ 14:2	Classification of experts
§ 14:3	The two-step process for discovery of opinions of trial
	experts

- § 14:4 Adequacy of answers to a Rule 26(b)(4) interrogatory § 14:5 Obtaining additional discovery from expert witnesses
- § 14:6 The right to redesignate the expert expected to testify at trial
- § 14:7 Scope of discovery regarding trial experts
- § 14:8 When is an expert retained or specially employed
- § 14:9 Discovery of opinions of "retained nontrial experts"
- § 14:10 Obtaining the identity of the retained nontrial expert
- § 14:11 Nonretained informally consulted experts
- § 14:12 Actor experts
- § 14:13 Fees for additional discovery of trial experts' opinions and for discovery from retained nontrial experts
- § 14:14 Supplementation; motions to compel
- § 14:15 Consequences of not responding, or of responding inadequately to discovery regarding experts
- § 14:16 Attempts to avoid sanctions by requesting continuances
- § 14:17 Cases in which late supplementation did not result in exclusion
- § 14:18 Experts under the rules of evidence
- § 14:19 Deadlines for disclosure of experts before trial
- § 14:20 Conclusion

CHAPTER 15. SANCTIONS FOR VIOLATIONS OF OBLIGATIONS IN DISCOVERY

- § 15:1 Context of discovery disputes; authority for sanctions
- § 15:2 Sanctions under Rule 26(g)
- § 15:3 Structure of Rule 37
- § 15:4 Reasonable notice to parties and affected persons
- § 15:5 Proper court for filing motions to compel

§ 15:6	Circumstances where motions to compel appropriate under Rule 37(a)
§ 15:7	
§ 15:8	
, 20.0	37(d) compared
§ 15:9	-
§ 15:1	
	violations
§ 15:1	1 Waiver of attorney client privilege as sanction for
	discovery violations
§ 15:1	
	violations
§ 15:1	3 Expenses for failing to make admissions under Rule 36
§ 15:1	·
§ 15:1	
§ 15:1	6 Use of continuances
CH	ADTED 16 CHMMADY HIDCMENT
	APTER 16. SUMMARY JUDGMENT
§ 16:1	
§ 16:2	<i>i i i i</i>
§ 16:3	· · · · · · · · · · · · · · · · · · ·
§ 16:4	
§ 16:5	<u>-</u>
§ 16:6	
§ 16:7	Rule 56 motion
§ 16:8	
§ 16:9	
§ 16:1	
§ 16:1	
§ 16:1	e e e e e e e e e e e e e e e e e e e
§ 16:1	* * *
§ 16:1	
§ 16:1	· · · · · · · · · · · · · · · · · ·
§ 16:1	
§ 16:1	7 —Material fact
§ 16:1	
§ 16:1	0
	nonmoving parties
§ 16:2	· · · · · · · · · · · · · · · · · · ·
§ 16:2	1 Materials submitted in support of or in opposition to motion
8 10.0	
§ 16:2	
§ 16:2	3 —Pleadings

§ 16:24	—Depositions
§ 16:25	—Interrogatory answers
§ 16:26	—Admissions
§ 16:27	—Other documentary evidence
§ 16:28	—Oral testimony
§ 16:29	Affidavits
§ 16:30	—What every affidavit must show
§ 16:31	—Documents attached to affidavit
§ 16:32	—Timely service of affidavit
§ 16:33	—Affidavits of expert witnesses
§ 16:34	-Effect of affidavit inconsistent with affiant's
	deposition
§ 16:35	—Motion to strike insufficient affidavits
§ 16:36	—Unavailability of affidavits
§ 16:37	—Affidavits made in bad faith
§ 16:38	Effect of cross motions for summary judgment
§ 16:39	Effect of proposed amendment to pleadings
§ 16:40	Partial summary judgment
§ 16:41	Sanctions and recovery of expenses
§ 16:42	Appeal of grant or denial of summary judgment
§ 16:43	Proposed amendments to Rule 56
8 16.44	Comparison to Federal Rule 56

CHAPTER 17. CASE MANAGEMENT THROUGH CONSOLIDATION, SEPARATE TRIALS, AND SEVERANCE OF CLAIMS

§ 17:1	Case management through consolidation, separate trials and severance of claims
§ 17:2	Consolidation generally; types of consolidation
§ 17:3	Severance, separate trials, bifurcation of trials, generally
§ 17:4	Purpose of consolidation
§ 17:5	Purpose of orders of separate trials of claims or issues
§ 17:6	Trial court's discretion
§ 17:7	Circumstances where consolidation is appropriate
§ 17:8	Scope of consolidated actions
§ 17:9	Circumstances where severance of claims is appropriate
§ 17:10	Disposition of severed claims; dismissal, re-filing, and forum non conveniens
§ 17:11	Severance of joint tortfeasors in wrongful death cases prohibited
§ 17:12	Bifurcation

§ 17:13 Procedure for consolidation, for ordering separate trials, and for severance of claims; preserving objections

CHAPTER 18. JURY SELECTION

§ 18:	Summoning a jury
§ 18:	Juror qualifications
§ 18:	Grounds for potential juror exemption
§ 18:	Pre-voir dire considerations
§ 18:	Number of jurors and alternates to be selected
§ 18:	Types of questions permitted in voir dire
§ 18:	Voir dire questioning procedure
§ 18:	Jury selection procedure
§ 18:	Number of challenges
§ 18:	0 Goals of voir dire
§ 18:	1 Tools for challenging potential jurors
§ 18:	2 Challenges for cause
§ 18:	3 Challenging an entire array
§ 18:	4 Peremptory challenges
§ 18:	5 Limitations on peremptory challenges
§ 18:	6 Batson step 1: prima facie case
§ 18:	7 Batson step 2: facially non-discriminatory reason
§ 18:	8 Batson step 3: whether reason is valid or pretextual
	for discrimination

Volume 2

CHAPTER 19. TRIAL AND POST-TRIAL MOTIONS

§ 19:1	Introduction
§ 19:2	Motions for directed verdict
§ 19:3	Judgment notwithstanding verdict
§ 19:4	Denial of a motion
§ 19:5	Rule 52: Findings by the court
§ 19:6	Rule 59: Motions for new trial or amendment of judgment
§ 19:7	Grounds
§ 19:8	Weight of the evidence
§ 19:9	Newly discovered evidence to support Rule 59 motions
§ 19:10	Misconduct
§ 19:11	Defective verdict
§ 19:12	Rulings or instructions at trial

§ 19:13	Time for motion
§ 19:14	Appellate review of rulings on Rule 59 motions
§ 19:15	Rule 60: Relief from judgment or order; grounds
§ 19:16	Fraud, misrepresentation or other conduct of an adverse party
§ 19:17	Accident or mistake
§ 19:18	Newly discovered evidence to support Rule 60 motions
§ 19:19	Void judgments
§ 19:20	Judgment has been released or satisfied or it is no longer equitable that the judgment should have prospective application
§ 19:21	Any other reason justifying relief
§ 19:22	Procedure
§ 19:23	Time
§ 19:24	Effect of appeal on the trial court
§ 19:25	Appellate review of rulings on Rule 60 motions
§ 19:26	Rule 62: Stay of proceedings to enforce a judgment
СНАІ	PTER 20. JURY INSTRUCTIONS
§ 20:1	Advocacy in instruction practice
§ 20.1 § 20:2	· · · · · · · · · · · · · · · · · · ·
§ 20:2 § 20:3	Procedural and standard instructions to jury
	Deadlines and format for instructions; number allowable
§ 20:4	Duty to request instructions
§ 20:5	Objecting to instructions and to refusal to instruct
§ 20:6	Instructions evaluated as whole; standards for reversal
§ 20:7	Instructions not supported by evidence
§ 20:8	Instructions to contain correct statements of law; court's duty to instruct
§ 20:9	Conflicting instructions
§ 20:10	Confusing or misleading instructions
§ 20:11	Abstract or vague instructions; negligence cases
§ 20:12	Latin idioms or quoting from case law in instructions
§ 20:13	Argumentative or repetitive instructions
§ 20:14	Peremptory instructions and directed verdict motions
§ 20:15	Limiting instructions
СНАІ	PTER 21. JURY VERDICTS
§ 21:1	Verdict forms permissible under Rule 49
§ 21:1	General verdicts
§ 21.2 § 21:3	Special verdicts
§ 21.5 § 21:4	Drafting special verdicts
5 41.T	Diaming special vertices

	WIISSISSIPPI CIVIL I ROCEDOR.
§ 21:5	Instructing jury on verdict form
§ 21:6	Preserving objections to verdict forms
§ 21:7	Issues omitted from verdict form
§ 21:8	Cases where special verdict forms appropriate; trial court discretion
§ 21:9	Entry of judgment on special verdict
§ 21:10	General verdicts accompanied by answers to interrogatories
§ 21:11	Supplying verdict forms; objections
§ 21:12	Polling jury
	PTER 22. DISMISSALS AND
JUDO	GMENTS
§ 22:1	Right to voluntary dismissal under Rule 41(a)
§ 22:2	Showing necessary for involuntary dismissal
§ 22:3	Dismissal on clerk's motion pursuant to Rule 41(d)
§ 22:4	Costs of previously dismissed action
§ 22:5	Requirement of judicial factfinding under Rule 52
§ 22:6	Entry of judgment and Rule 54 requirements
§ 22:7	Default judgments under Rule 55
§ 22:8	Steps to obtain default judgment
§ 22:9	What constitutes Rule 55(b) appearance
§ 22:10	Assessing damages in default judgment
§ 22:11	Excuses for default
§ 22:12	Setting aside entry of default
§ 22:13	Setting aside judgment of default
§ 22:14	Relief from judgment or order under Rule 60
§ 22:15	Specific grounds for relief under Rule 60(b)(1) to (5)
§ 22:16	The catchall provision of Rule 60(b)(6)
_	PTER 23. ADDITUR AND REMITTITUR
§ 23:1	Introduction
§ 23:2	Common law and statutory history
§ 23:3	Common law and constitutional sanctity of jury verdicts
§ 23:4	Standard of review
§ 23:5	Standard for altering jury verdict
§ 23:6	Liability, proximate cause and age
§ 23:7	Additur in general
§ 23:8	Remittitur in general
§ 23:9	Review of substantial compensatory damage verdicts: "Special" remittitur model
§ 23:10	Consortium
§ 23:11	Punitive damages

§ 23:12	Post-trial procedure for attacking jury verdict
§ 23:13	Statutory "caps" on damages
~	
	PTER 24. FINALITY OF JUDGMENTS
§ 24:1	Doctrines that determine legal effect of judgments
§ 24:2	Common criteria for triggering res judicata and collateral estoppel
§ 24:3	Res judicata and collateral estoppel distinguished
§ 24:4	Judicial and tribunal "judgments" entitled to preclusive effect
§ 24:5	Foreign and federal judgments
§ 24:6	The final judgment requirement
§ 24:7	The requirement that judgments be on merits
§ 24:8	Identity of parties to causes of action
§ 24:9	Non-mutual estoppel
§ 24:10	The same claim requirement for res judicata
§ 24:11	Consequences of preclusion of all claims that should have been brought
§ 24:12	The issue-actually-decided requirement for collateral estoppel
§ 24:13	Splitting claims or causes of action; special rules on parallel actions
§ 24:14	Impact of lack of an incentive to litigate in the earlier action and other reasons to deny preclusive effect
§ 24:15	Special rules in paternity actions
§ 24:16	Procedure for raising claim or issue preclusion
CHAF	TER 25. CONTEMPT OF COURT
§ 25:1	Types of contempt
§ 25:2	Sources of contempt power
§ 25:3	Civil contempt
§ 25:4	Criminal contempt
§ 25:5	—Direct contempt
§ 25:6	Criminal Contempt—Constructive or indirect contempt
§ 25:7	Contexts in which contempt arises
§ 25:8	Showing required for contempt
§ 25:9	Defenses to contempt finding—Inability to pay
§ 25:10	—Vague or ambiguous order
§ 25:11	—Other defenses
§ 25:12	Commencement of contempt proceedings
§ 25:13	Show cause hearing; other procedural safeguards
§ 25:14	Role of judge; recusal
§ 25:15	Burden of proof

§ 25:16	Opportunity for review
§ 25:17	Standard of review
CHAP RULE	TER 26. SPECIAL MASTERS UNDER 53
\$ 26:1 \$ 26:2 \$ 26:3 \$ 26:4 \$ 26:5 \$ 26:6 \$ 26:7 \$ 26:8 \$ 26:9 \$ 26:10 \$ 26:11	Special masters generally Propriety of a reference to a special master Qualifications of a special master Selection of special master Compensation to the special master Apportioning the special master's compensation among the parties Proceeding requirements of the special master Power of special masters Special master's report Bond requirements Distinguishing family masters
СНАР	TER 27. CIVIL APPEALS
	GENERAL
§ 27:1	Introduction to civil appeals
B. AP	PEALS FROM INFERIOR COURTS
	From Justice Court and Municipal Court From County Court
	PEALS FROM BOARDS OF SUPERVISORS D MUNICIPAL AUTHORITIES
§ 27:4	Generally
	PEALS FROM ADMINISTRATIVE AGENCIES CIRCUIT COURT
\$ 27:5 \$ 27:6 \$ 27:7 \$ 27:8	From Workers' Compensation Commission From Department of Employment Security From Employee Appeals Board From Public Service Commission in motor carrier cases From Floation Commissioners
§ 27:9 § 27:10	From Election Commissioners From Party Executive Committee in election contest

CERTIORARI FROM INFERIOR TRIBUNALS TO CIRCUIT COURT

§ 27:11 Generally

F. APPEALS FROM ADMINISTRATIVE AGENCIES TO CHANCERY COURT

- § 27:12 From Public Service Commission in public utilities § 27:13 From Oil and Gas Board
- § 27:14 From Insurance Commission
- § 27:15 From Department of Environmental Quality
- § 27:16 From Department of Revenue

G. APPEALS TO MISSISSIPPI SUPREME COURT

- From final judgments of circuit or chancery court
- § 27:18 From interlocutory orders
- § 27:19 From Public Service Commission
- § 27:20 From State Bar Tribunal
- From Court of Eminent Domain § 27:21
- § 27:22 From Youth Court
- From decisions denying consent to abortion § 27:23

H. REVIEW BY EXTRAORDINARY WRIT

§ 27:24 Generally

I. CERTIORARI FROM COURT OF APPEALS TO MISSISSIPPI SUPREME COURT

§ 27:25 Generally

J. STATUTES RELATING TO APPEALS ON SPECIAL MATTERS

§ 27:26 Generally

CHAPTER 28. TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS

- § 28:1 General considerations
- § 28:2 What courts have injunctive power
- § 28:3 The required elements for injunctive relief
- § 28:4 Prohibitory versus mandatory injunctions
- § 28:5 Form and scope of injunctions
- § 28:6 Persons enjoined

8 20.7	The mandatory hand requirement
§ 28:7	The mandatory bond requirement
§ 28:8	"No notice" TROs, and the basic differences between
	a TRO and preliminary injunction
§ 28:9	The preliminary injunction hearing and option for consolidation with the trial on the merits
§ 28:10	Dissolution of a TRO or preliminary injunction by the trial court
§ 28:11	Contempt
§ 28:12	Appeals from TROs and preliminary injunctions

CHAPTER 29. TIME CONSIDERATIONS UNDER THE RULES OF CIVIL PROCEDURE

UNDER THE RULES OF CIVIL PROCI	
§ 29:1	General guidelines regarding computation of time under rules
§ 29:2	Complaint
§ 29:3	Responsive pleadings
§ 29:4	Motions
§ 29:5	Third-party practice
§ 29:6	Amended or supplemental pleadings
§ 29:7	Pretrial conference
§ 29:8	Recusal of judge
§ 29:9	Intervention
§ 29:10	Substitution of parties
§ 29:11	Discovery
§ 29:12	Assignment of cases for trial
§ 29:13	Dismissals
§ 29:14	Subpoenas
§ 29:15	Motions at trial
§ 29:16	Jury instructions

- § 29:17 Findings by court § 29:18 Default judgment
- § 29:19 Summary judgment
- § 29:20 Declaratory judgment
- § 29:21 Entry of judgment
- § 29:22 New trial or amendment of judgment
- § 29:23 Relief from judgment
- § 29:24 Stay of proceedings § 29:25 Transfer orders
- § 29:25 Transfer order
- § 29:26 Injunctions
- § 29:27 Offer of judgment
- § 29:28 Special proceedings
- § 29:29 Appeals
- § 29:30 Pro hac vice admission

APPENDICES

APPENDIX A. Forms

APPENDIX B. Mississippi Rules of Civil Procedure
 APPENDIX C. Mississippi Uniform Civil Rules of Circuit and County Court Practice
 APPENDIX D. Mississippi Uniform Chancery Court Rules
 APPENDIX E. Mississippi Rules of Appellate Procedure
 APPENDIX F. Mississippi Court-Annexed Mediation Rules for Civil Litigation
 APPENDIX G. Rules for Electronic and Photographic Coverage

Table of Laws and Rules Table of Cases

Index