

Serial: 209796

IN THE SUPREME COURT OF MISSISSIPPI

No. 89-R-99027-SCT

*IN RE: MISSISSIPPI RULES OF
APPELLATE PROCEDURE*

ORDER

This matter is before the en banc Court on the Court's own motion.

After due consideration, we find that Rule 11 of the Mississippi Rules of Appellate Procedure and Section II of the Guidelines for Court Reporters should be amended to accommodate electronic transmission of the appellate record.

IT IS THEREFORE ORDERED that Rule 11 of the Mississippi Rules of Appellate Procedure and Section II of the Guidelines for Court Reporters are amended as set forth in the attached Exhibit A. The amendments are effective upon entry of this order.

IT IS FURTHER ORDERED that the Clerk of this Court must spread this order upon the minutes of the Court and forward a certified copy to West Publishing Company for publication as soon as practicable in the advance sheets of *Southern Reporter, Third Series (Mississippi Edition)*, and in the next edition of the *Mississippi Rules of Court*.

SO ORDERED, this the 5th day of January, 2017.

/s/ Josiah Dennis Coleman

JOSIAH DENNIS COLEMAN, JUSTICE
FOR THE COURT

AGREE: WALLER, C.J., DICKINSON, P.J., KITCHENS, KING, COLEMAN,
MAXWELL AND BEAM, JJ.

RANDOLPH, P.J., AND CHAMBERLIN, J., NOT PARTICIPATING.

Exhibit A

RULE 11. COMPLETION AND TRANSMISSION OF THE RECORD

(d) Duty of Trial Court Clerk to Prepare and Transmit Record.

(1) *Clerk's Preparation of Record.* Upon the appellant's compliance with subparagraph (b)(1) and service of the designation required by Rule 10(b)(1), the trial court clerk shall assemble the record as follows:

h. Clerk's Papers.

(a) *Conventional.* A certified copy of the docket entries prepared by the clerk of the trial court shall be followed by a legible photocopy of any papers filed with the clerk and designated by the parties and a cost bill for the preparation of the record indicating costs for the trial court clerk and court reporter and the Supreme Court filing fee. Within 30 days, the clerk shall assemble the papers in the order of filing, number each page consecutively at the bottom, and transmit a list of the papers correspondingly numbered and identified with reasonable definiteness. All jury instructions shall be placed in the record with court instructions first, instructions given to plaintiff second, instructions refused plaintiff third, instructions given to defendant fourth, and instructions refused defendant fifth.

The trial court clerk shall separate the clerk's papers into volumes of no more than 150 pages for fastening. The clerk shall fasten the clerk's papers on the top and provide suitable covers for each volume. Each volume of clerk's papers shall be bound in a brown binder and the outside of each binder shall designate the page numbers of the pages contained in that volume.

(b) *Electronic.* Within 30 days, the clerk shall use the Mississippi Electronic Court (MEC) system to assemble the record as follows. The docket shall be followed by the papers designated by the parties and a cost bill for the preparation of the record indicating costs for the trial court clerk and court reporter. The clerk shall assemble the papers in the order of filing, except that jury instructions shall be assembled with court instructions first, instructions given to plaintiff second,

instructions refused plaintiff third, instructions given to defendant fourth, and instructions refused defendant fifth.

The Supreme Court filing fee shall be mailed to the Supreme Court.

ii. Transcript.

(a) Conventional. The original transcript is prepared by the court reporter pursuant to Rule 11(c). The clerk of the trial court shall not renumber the pages of the original transcript, nor make copies of the original transcript, nor handle the original transcript in any way other than to include in the table of contents of the Clerk's Papers the number of volumes contained in the original transcript and include the original transcript as part of the record to be transmitted to the Supreme Court. The court reporter is responsible for preparing, certifying, and binding the transcript and is responsible for furnishing the transcript fully ready for transmission to the Supreme Court.

(b) Electronic. The original transcript is prepared by the court reporter pursuant to Rule 11(c). The court reporter shall either file the transcript electronically or deliver the transcript on an electronic disk to the clerk so that the clerk can then file the transcript electronically. The court reporter is responsible for preparing and certifying the transcript and for furnishing the transcript fully ready for transmission to the Supreme Court.

iii. Exhibits. Within 30 days, a copy of exhibits designated by the parties shall be assembled in a flat file envelope or a box. If an exhibit is a photograph, the original shall be included and a photocopy retained by the trial court clerk. Video and audio tapes shall be included and a duplicate shall be retained by the trial court clerk. The clerk shall include with the exhibits forwarded to the Supreme Court a list of all exhibits designated by the parties, indicating thereon those retained by the trial court clerk and those submitted to the Supreme Court. Documents of unusual bulk or weight and physical exhibits other than documents, shall not be transmitted by the trial court clerk unless the clerk is directed to do so by a party or by the clerk of the Supreme Court. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits of unusual bulk or weight.

(2) *Transmission of Record.* When the clerk's papers and exhibits are assembled and the transcript is received, the clerk shall then execute a certificate of compliance with this Rule and serve notice of completion on the parties and on the clerk of the Supreme Court.

At the end of the time prescribed by Rule 10(b)(5), the clerk shall immediately deliver the record to the Supreme Court.

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APPENDIX III

MISSISSIPPI SUPREME COURT RULES GUIDELINES FOR COURT REPORTERS

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II. TRANSCRIPTS - HOW FILED

(a) Upon completion of the transcript, the court reporter shall certify the transcript and attach the certification at the end of the transcript. The reporter shall then make a copy of the original transcript and bind in suitable covers both the original and copy at the left. Each volume shall contain no more than 150 pages and shall be consecutively labeled with Roman Numerals, *i.e.* Volume I, Volume II, etc. The reporter shall also prepare a copy of the transcript on electronic disk. The reporter shall simultaneously file the electronic disk and the transcript with the trial court clerk. *See* M.R.A.P. 11(c).

For electronic filing, upon completion of the record, the court reporter shall certify the transcript and attach the certification at the end of the transcript. The reporter's password issued by the Mississippi Electronic Courts (MEC) combined with the reporter's login identification serves as the reporter's signature for certification and other purposes. The reporter shall then either file the certified transcript electronically or deliver the certified transcript on an electronic disk to the clerk.

(b) Upon review of the completed transcript, should the parties agree on corrections, or should the trial court order corrections as to form only, the reporter shall verify that the corrections are required. Within seven (7) days after receiving the record for corrections, the reporter shall complete the corrections on the original transcript, the transcript copy and the electronic disk. M.R.A.P. 10(b)(5).