

Supreme Court revises rules of venue and joinder

Feb. 20, 2004

The Mississippi Supreme Court on Friday, Feb. 20, amended rules and commentary dealing with consolidation, joinder and venue in civil litigation.

The order signed by Chief Justice Edwin L. Pittman addressed changes to Rules 20, 42 and 82 of the Mississippi Rules of Civil Procedure.

Joinder is the practice of combining multiple parties or causes of action into a single lawsuit. Venue refers to the place where a lawsuit is filed.

Rule 20 is titled "Permissive Joinder of Parties." In amending Rule 20, the court struck a portion of the commentary which had previously stated, "The general philosophy of the joinder provisions of these rules is to allow virtually unlimited joinder at the pleading stage but to give the court discretion to shape the trial to the necessities of the particular case."

Commentary added to Rule 20 states, "The phrase 'transaction or occurrence' requires that there be a distinct litigable event linking the parties." New language in the commentary states, "If the criteria of Rule 20 are otherwise met, the court should consider whether different injuries, different damages, different defensive postures and other individualized factors will be so dissimilar as to make management of cases consolidated under Rule 20 impractical."

New commentary to Rule 20 further states, "In order to allow the court to make a prompt determination of whether joinder is proper, the factual basis for joinder should be fully disclosed as early as practicable, and motions questioning joinder should be filed, where possible, sufficiently early to avoid delays in the proceedings."

Rule 42 is titled "Consolidation: Separate Trials." The court added commentary which says, "In exercising its discretion to consolidate cases of particular issues, the court must recognize that on some issues consolidation may be prejudicial. To avoid prejudice, consolidation should be invoked only where the issues of law or fact justifying consolidation predominate over individual issues which will be heard in the consolidated proceedings."

Rule 82 is titled "Jurisdiction and Venue." The court in an amendment to Rule 82 for the first time adopted the doctrine of forum non-conveniens for the selection of venue.

The rule amendment states: "(e) Forum Non-conveniens: With respect to actions filed in an appropriate venue where venue is not otherwise designated or limited by statute, the court may, for the convenience of the parties and witnesses or in the interest of justice, transfer any action or any claim in any civil action to any court in which the action might have been properly filed and the case shall proceed as though originally filed therein."

In commentary to Rule 82, the court said, "The rule recognizes that venue is essentially a legislative matter. However, where there are multiple venues which are all allowable under the statutes, and there are circumstances under which the inconvenience or disadvantage to one or more parties is substantial

and a transfer to another county will not work a substantial hardship on the plaintiff, the court will now transfer the case or claim to the more convenient county. The doctrine is one of reason and common sense to be applied to avoid significant geographical disadvantage."

The Rule 20 and Rule 42 changes are effective today, Feb. 20. The Rule 82 Forum Non-conveniens change applies to cases filed after Feb. 20, but does not apply cases already pending.

A copy of all of the changes is available on the Supreme Court's web site at www.mssc.state.ms.us. Click on the NEWS page.

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