

89-R-99001



2510 14th Street, Suite 1001
Gulfport, MS 39501
T. 228-265-6994
F. 228-863-5278
dvaughn@deutschkerrigan.com

R. Douglas Vaughn

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Mississippi Supreme Court
Rules Committee on Civil Practice and Procedure
c/o Clerk of Appellate Courts
Post Office Box 249
Jackson, MS 39205

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Re: Public Comments: Proposed Amendments to Miss. R. Civ. P.

Dear Supreme Court Rules Committee:

Please accept this correspondence reflecting my opposition to the proposed amendment to Rule 26 of the Mississippi Rules of Civil Procedure. While most of my law practice is reflected in the representation of defendants in civil litigation, I have had the opportunity to represent plaintiffs as well and have tried cases to verdict on behalf of both plaintiffs and defendants.

It is my considered opinion the proposed amendments to Rule 26 are unnecessary and the suggested change could be unfairly prejudicial to the defense bar. As the intent of the proposed amendment is to ensure the plaintiffs get an opportunity to rebut expert testimony proposed by a defendant, my position is such protections are already encompassed by the rules and I have not ever seen a circumstance in practice where a plaintiff claiming surprise was not able to counter a defense expert's designated opinions. The rule already allows plaintiffs to supplement expert opinions following the disclosure of defense experts. Rule 26(f)(1-2) provides for mandatory supplementation of a party's prior discovery responses, including the party's expert witnesses and the opinions of such experts.

In further support of this position, I adopt and incorporate the arguments set forth in the correspondence from Matthew D. Miller, dated October 13, 2023, a copy of which is attached.

Sincerely,

R. Douglas Vaughn

RDV/
Enclosure

MOTION# 2018 2403
attachment