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A Professional Association

October 30, 2023

VIA U.S. FIRST-CLASS MAIL, POSTAGE PREPAID

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

Re: Comment on Proposed Amendment to *Miss. R. Civ. P. 26*

Dear Mr. Whitmire:

Please accept this letter in response to the invitation for comment on the proposed amendment of *Miss. R. Civ. P. 26*. I have reviewed the October 13, 2023 comment and proposal submitted by Matthew D. Miller, Esq.; and I wish to join in and adopt Mr. Miller's comment and proposal, with minimal additional comment.

When studying the proposed amendment, I ask the Advisory Committee to consider the effect that the standard extension of the discovery period for "rebuttal" expert disclosures in all cases would have on case and docket administration. I also ask the Committee to consider how trial and appellate courts would address the foreseeable motions concerning "rebuttal" expert discovery (and the burdens or responsibilities of the parties on such motions).

At present, a party is under an ongoing obligation to supplement prior expert opinions and the party can seek leave of court if there is a need for the expert to issue new opinions. If/when seeking leave, the party must show the court that there is good cause to allow it. This offers courts an opportunity to control possible abuse of expert disclosure requirements before abuses occur. Courts lose that opportunity if case management orders and the expert disclosure process affirmatively invite(s) or contemplate(s) rebuttal experts or disclosures.

MOTION# 2018 2403
a Attachment

Thank you for the opportunity to address the proposed amendment. If further comment is requested, please let me know.

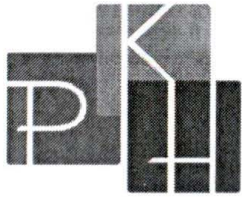
Sincerely yours,

PAGE, KRUGER & HOLLAND, P.A.

A handwritten signature in blue ink, consisting of several overlapping loops and a central dot, positioned above the printed name.

T.L. "SMITH" BOYKIN, III

TLB/pb



**PAGE KRUGER
& HOLLAND**

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