

By: Senator(s) Tindell, McDaniel

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2249

1 AN ACT TO CREATE AN EXPEDITED TRACK FOR CERTAIN SMALL CLAIMS
2 IN COUNTY COURT; AND FOR RELATED PURPOSES.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

4 **SECTION 1.** (1) (a) The county courts may order civil
5 actions to proceed under this section if the sole relief sought is
6 a money judgment and the total claims for all damages by or
7 against any party are less than Fifty Thousand Dollars
8 (\$50,000.00), exclusive of interest, costs and attorneys' fees, or
9 are unspecified.

10 (b) Any complaint, counterclaim or cross-claim for
11 which the amount of the claim does not exceed the dollar
12 limitation of paragraph (a) of this subsection is eligible for
13 assignment as a claim proceeding under the provisions of this
14 section.

15 (c) Upon service of an answer or reply to a
16 counterclaim, the court, in its discretion, may enter an order in
17 each eligible case requiring the case to proceed under the
18 provisions of this section.



19 (2) (a) Within thirty (30) days from service of an answer
20 or reply to a counterclaim, or service of an order directing that
21 the case be litigated under this section as an expedited small
22 claim, whichever is later, a complaining party must serve on other
23 parties the following:

24 (i) A detailed statement of the factual basis and
25 a detailed statement of the legal theory for each claim.

26 (ii) A detailed statement identifying each
27 category of damages claimed, making available for inspection and
28 copying as under Mississippi Rule of Civil Procedure 34 the
29 documents or other evidentiary material that is not privileged or
30 protected from disclosure on which such detailed statement is
31 based.

32 (iii) The name and, if known, the address and
33 telephone number of each individual likely to have discoverable
34 information that the complaining party may use to support its
35 case, identifying the subjects of the information and identifying
36 those individuals whom the party expects to present at trial and
37 those whom the party may call if the need arises.

38 (iv) A copy of, or, if furnishing a copy is not
39 feasible, a description by category and location of, all
40 documents, data compilations and tangible things that are in the
41 possession, custody, or control of the party and that may be
42 relevant to the claims or defenses of any party. If a copy is not
43 furnished, all evidence so identified, as well as all related



44 written and other tangible evidence, shall be made available for
45 an opposing party's inspection and copying as under Mississippi
46 Rule of Civil Procedure 34 at the earliest reasonable time.

47 (v) If the claim includes damages for personal
48 injury, an injury-specific medical authorization and release shall
49 be immediately provided at the request of a defending party.

50 (b) Within a reasonable time of service of the required
51 disclosures, the complaining party shall file with the court a
52 certificate of compliance with this subsection (2). Disclosures,
53 however, need not be filed until used with respect to any
54 proceeding. Any evidence not disclosed in compliance with this
55 section is presumptively inadmissible.

56 (3) (a) Within the earlier of sixty (60) days from service
57 of the disclosures required by subsection (2) of this section or
58 thirty (30) days before trial, a defending party must serve on
59 other parties the following:

60 (i) A detailed statement of the factual basis and
61 a detailed statement of the legal theory for each affirmative
62 defense.

63 (ii) The name and, if known, the address and
64 telephone number of each individual likely to have discoverable
65 information that the defending party may use to support its case,
66 unless solely for impeachment, identifying the subjects of the
67 information and identifying those individuals whom the party



68 expects to present at trial and those whom the party may call if
69 the need arises.

70 (iii) A copy of, or, if furnishing a copy is not
71 feasible, a description by category and location of, all
72 documents, data compilations, and tangible things that are in the
73 possession, custody or control of the party and that may be
74 relevant to the claims or defenses of any party. If a copy is not
75 furnished, all evidence so identified, as well as all related
76 written and other tangible evidence, shall be made available for
77 an opposing party's inspection and copying as under Mississippi
78 Rule of Civil Procedure 34 at the earliest reasonable time.

79 (b) Within a reasonable time of service of the required
80 disclosures, the defending party shall file with the court a
81 certificate of compliance with this section. Disclosures,
82 however, need not be filed until used with respect to any
83 proceeding. Any evidence not disclosed in compliance with this
84 section is presumptively inadmissible.

85 (4) Unless the court otherwise orders:

86 (a) A party may demand in writing, for inspection and
87 copying as under Mississippi Rule of Civil Procedure 34, any
88 insurance agreement under which any person carrying on an
89 insurance business may be liable to satisfy part or all of a
90 judgment which may be entered in the action or to indemnify or
91 reimburse for payments made to satisfy the judgment.



92 (b) (i) Pursuant to the Mississippi Rules of Civil
93 Procedure, a party may take the deposition of:

94 1. Any other party; and

95 2. Up to two (2) nonparties, limited in time
96 to an aggregate of four (4) hours or less.

97 (ii) The parties may serve up to ten (10)
98 interrogatories on one another pursuant to Mississippi Rule of
99 Civil Procedure 33.

100 (iii) The parties may serve up to ten (10)
101 requests for admission pursuant to Mississippi Rule of Civil
102 Procedure 36.

103 (iv) All discovery must be completed within ninety
104 (90) days from service of the defendant's disclosures under
105 subsection (2).

106 (v) Notwithstanding any other provision of this
107 section, any party may seek the issuance of subpoenas pursuant to
108 Mississippi Rule of Civil Procedure 45 for attendance, production
109 or inspection for a trial or hearing.

110 (5) (a) Each party must disclose: (i) the identity of each
111 person whom the party expects to call as an expert witness at
112 trial; (ii) the subject matter on which the expert is expected to
113 testify; (iii) the substance of the facts and opinions to which
114 the expert is expected to testify; (iv) a summary of the grounds
115 for each opinion; and (v) a summary of the expert's qualifications
116 and experience. The direct testimony of any expert shall be



117 strictly limited to the opinions so set forth. Discovery
118 depositions of experts shall not be permitted; however, an
119 expert's trial testimony may be taken by deposition.

120 (b) The disclosures under this subsection (5) shall be
121 made promptly at the conclusion of discovery, but in no event
122 later than sixty (60) days before trial, or, if the evidence is
123 intended solely to contradict or rebut evidence on the same
124 subject identified by another party, within thirty (30) days after
125 disclosure by the other party.

126 (c) Any evidence not disclosed in compliance with this
127 subsection (5) is presumptively inadmissible.

128 (6) Promptly after discovery, but in no event later than
129 thirty (30) days before trial, a party may supplement, with
130 evidence which by due diligence could not have been discovered
131 earlier, its lists of witnesses, documents or other things. Any
132 evidence not disclosed in compliance with this section is
133 presumptively inadmissible.

134 (7) (a) Any party may file any motion permitted by
135 Mississippi Rule of Civil Procedure 12.

136 (b) (i) A complaining party may move for a summary
137 judgment pursuant to Mississippi Rule of Civil Procedure 56 to
138 collect on an open account or other liquidated debt.

139 (ii) Before the conclusion of discovery, a
140 defending party may move for a summary judgment pursuant to
141 Mississippi Rule of Civil Procedure 56 raising:



- 142 1. An immunity defense;
- 143 2. A defense to a claim of professional
- 144 malpractice; or
- 145 3. Any other matter constituting an avoidance
- 146 or affirmative defense.

147 (c) Before the conclusion of discovery, the parties are

148 expected to resolve discovery disputes, if any. If it is

149 necessary to seek a ruling, the parties may initiate and the judge

150 may dispose of the matter in the most expeditious means available,

151 such as by letter, telephone call or electronic mail.

152 (d) Neither additional discovery shall be due or

153 obtained, nor additional motions not contemplated by this section

154 shall be filed or heard, unless the parties stipulate thereto or

155 the court has ordered otherwise based on the court's determination

156 that such is necessary to obtain a fair, swift and cost-effective

157 determination of the case.

158 (e) If a motion is denied, the court shall award the

159 prevailing party the reasonable expenses incurred in attending the

160 hearing of the motion and shall award attorneys' fees.

161 (8) Objections to the authenticity of documents

162 shall be made reasonably in advance of trial. Unless their

163 authenticity is controverted, the following documents shall be

164 presumed admissible and may be introduced in evidence at trial,

165 provided the documents are disclosed in accordance with the

166 requirements of this section and, where relevant, the name,



167 address and telephone number of the author of the document is
168 contained in the document or otherwise set forth:

169 (a) Any written contract between the parties;

170 (b) A copy of any billing statement or invoice prepared
171 in the normal course of business;

172 (c) Copies of any correspondence between the parties,
173 except documents inadmissible under Rule 408 of the Mississippi
174 Rules of Evidence;

175 (d) Any document that would be admissible under Rule
176 803(6) of the Mississippi Rules of Evidence;

177 (e) A bill, report, chart or record of a hospital,
178 physician, dentist, nurse practitioner, physician's assistant,
179 registered nurse, licensed practical nurse, physical therapist,
180 psychologist or other health care provider, on a letterhead, or
181 billhead or otherwise clearly identifiable as part of the
182 provider's professional record;

183 (f) A bill for drugs, medical appliances or other
184 related expenses on letterhead, or billhead or otherwise clearly
185 identifiable as part of a provider's professional record;

186 (g) A bill for, or estimate of, property damage or loss
187 on a letterhead or billhead. In the case of an estimate, the
188 offering party shall notify the adverse party promptly, but in no
189 event later than thirty (30) days before trial whether the
190 property was repaired, in full or in part, and provide the actual
191 bill showing the cost of repairs;



192 (h) A weather or wage loss report or standard life
193 expectancy table to the extent it is relevant without need for
194 authentication; and

195 (i) A photograph, videotape, x-ray, drawing, map,
196 blueprint or similar evidence to the extent it is relevant without
197 the need for authentication.

198 The admission of a document under this subsection (8) does
199 not, in any manner, restrict argument or proof relating to the
200 weight of the evidence admitted.

201 (9) After thirty (30) days from the filing of the final
202 answer or responsive pleading, the court shall set the cause for
203 trial.

204 (10) If the court, on its own motion or the motion of any
205 party, determines that the provisions of this section are not
206 appropriate for the case, it shall order that the case proceed in
207 accordance with the Mississippi Rules of Civil Procedure as for
208 any other civil case. A motion disputing or objecting to the
209 applicability of this section shall ordinarily be filed with the
210 complaint, answer or reply. The movant shall simultaneously
211 notice a hearing on the motion for the earliest practicable time.
212 In ruling on the motion, the trial court shall consider, among
213 other factors it deems relevant, the nature of the claim or claims
214 and the defenses, the existence of multiple claims or parties, the
215 complexity of the case, and the need for the examination of a
216 party pursuant to Mississippi Rule of Civil Procedure 35.



217 (11) A party may otherwise initiate the provisions of this
218 section by motion. The movant shall simultaneously notice a
219 hearing on the motion for the earliest practicable time. If
220 opposed, the court shall rule on the motion as provided in
221 subsection (10) of this section. If the court orders the case to
222 proceed pursuant to this section, the court shall set forth a
223 schedule for meeting the requirements of this section.

224 **SECTION 2.** This act shall take effect and be in force from
225 and after July 1, 2017, and shall stand repealed on June 30, 2017.

