



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

May 24, 2024

John H. McWilliams, Esq.  
Attorney, Sunflower County Board of Supervisors  
220 Second Street  
Indianola, Mississippi 38751-0107

Re: Recusal of Justice Court Judges

Dear Mr. McWilliams:

The Office of the Attorney General has received your request for an official opinion.

### Questions Presented

1. In a civil case where all justice court judges of the county have recused themselves, who is responsible for appointing or securing a substitute judge to hear the case?
2. Are there any guidelines or limitations on how much additional compensation the substitute judge should be paid for hearing this case?
3. Who is responsible for paying the substitute judge?
4. Would the direction provided by your office be different if this were a criminal case rather than a civil case?

### Brief Response

1. Rule 7 of the Uniform Rules of Justice Court authorizes the circuit court judge of the district to appoint a justice court judge of another county when all of the justice court judges recuse themselves.
2. Rule 7(c) authorizes only reimbursement of expenses pursuant to Mississippi Code Annotated Section 25-3-41 and as otherwise allowed by law. Outside of a justice court judge's set salary in Section 25-3-36 and the reimbursement of expenses in Section 25-3-41, we find no other authority allowing additional compensation.

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3. The court rules and state statutes do not specify who is responsible for paying the substitute judge, only that the judge is entitled to reimbursement of expenses.
4. No. Rule 1 states that rules 1-10 of the Uniform Rules of Justice Court apply to all cases in justice court regardless of their type.

### **Applicable Law and Discussion**

Uniform Justice Court Rule 7 provides, in pertinent part:

(b) Reassigning case. If a judge is disqualified from participating in a case, the justice court clerk shall assign the action to another justice court judge of the county to hear the case. If no justice court judge is able to serve because of recusals, or is otherwise unable to serve, then a circuit court judge of the district may appoint any justice court judge from another county to hear the case.

(c) Reimbursement of expenses. Any justice court judge assigned or appointed to participate in a case under subdivision (b) of this rule shall be entitled to reimbursement of expenses pursuant to section 25-3-41 of the Mississippi Code and as otherwise allowed by law.

Rule 7 authorizes the circuit court judge of the district to appoint a justice court judge from another county to hear a case in the district if all justice court judges have recused. Regarding payment, Rule 7 only addresses reimbursement of expenses pursuant to Section 25-3-41 and those otherwise allowed by law. The rule does not contemplate any other additional compensation for hearing the case. Justice court judges are paid a set salary “as full compensation for his or her services” by the county board of supervisors pursuant to Section 25-3-36. Outside the reimbursement afforded under Section 25-3-41 and the set salary in Section 25-3-36, we find no other authority allowing additional compensation. Accordingly, and in response to your second question, the judge would be entitled only to reimbursement of expenses and no additional payment. *See MS AG Op., Carter at \*1 (Sept. 14, 1998)*. In response to your third question, neither the court rules nor the state statutes specify who is responsible for reimbursing the substitute judge for expenses.

In response to your fourth and final question, Uniform Justice Court Rule 1 states “Rules 1-10 shall be applicable to all cases, whether civil or criminal in nature.”

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: /s/ Abigail C. Overby

Abigail C. Overby  
Special Assistant Attorney General