

Warner's Griffith

MISSISSIPPI
CHANCERY
PRACTICE

REVISED EDITION

By
George D. Warner, Jr.
Chancery Judge
Twelfth Chancery Court District
State of Mississippi

THE  HARRISON COMPANY, PUBLISHERS

3110 Crossing Park • P O Box 7500 • Norcross, GA 30091-7500

§ 24 Some of the subjects of equity jurisdiction

A complete listing of the subjects of equity jurisdiction would be almost impossible. Why? Because equity has jurisdiction to afford relief in any case where redress is proper and no specific authority exists at law. The court of chancery has continuing jurisdiction over most of its cases, and it may retain jurisdiction if necessary. Perhaps half the court's time is consumed with family law matters such as divorce and child custody. Yogi Berra, the great baseball player, once said, "It ain't over 'til it's over." Domestic relations matters in chancery are seldom over. Modifications are constantly sought and are time consuming. Yet these are subject matter jurisdictional issues that must be decided by the court. A court of law is not burdened with this type of procedure. Parties cannot apply years later for a new trial on a jury verdict to modify the amount rendered due to a change in circumstances. Matters of child support, alimony, custody, visitation, and the like may be modified at any time for a material change in circumstances.

Some of the major subjects under the jurisdiction of the chancery court, in addition to modifications, include the handling of ancillary estates from other jurisdictions, foreign wills, boundary line disputes, the providing of easements, drainage disputes, injunctions, equitable foreclosures, reformation of contracts and other instruments, actions concerning liens, deficiency claims, determining compensation for improvements and taxes in actions involving land or the sale of land, marshalling assets in appropriate cases, specific performance of contracts, vacating and modifying land plats, and actions involving fraud.

Historically some of the original equity subject matter claims involved claims upon accident, mistake, and the equivalent thereof; claim based upon fraud, actual and constructive; claims based upon trusts — express, resulting, and constructive; claims for the reformation, re-execution, rescission, and surrender or for the cancellation of written instruments; claims to have deeds of trust and mortgages declared to be actual deeds or the reverse; actions to foreclose mortgages, deeds of trust, and other equitable liens; claims to foreclose vendors' liens on land and pledges of personal property; actions to foreclose statutory liens where no provision was made by the statute creating such liens;

actions to e
performan
substitutio
between co
protection
accounting
same are co
void and t
multiplicity
boundaries
made to hir
actions res
actions for
actions req
wherein a v
section is ag
matter juris
as has been
equity to af
impendingl
adequate, a
equity, and
more so, as
wrong or r

1. Tillotson v. Water Supply
2. Tillotson v. Water Supply
3. C. E. F. (1979), citing t (Miss. 1969) employment c — (1990), c

§ 24a A in the cha

SUBJECT

1. Divorce
2. Child Cu Support

actions to enforce equitable assignments; actions for the specific performance of contracts; actions involving subrogation and substitution; actions for the apportionment and contribution between co-obligors or co-sureties; actions for the exoneration or protection of sureties and other secondary obligors; actions for accounting¹ and for surcharging and falsifying accounts if the same are complicated; actions to have void judgments declared void and to avoid voidable judgments; actions to prevent a multiplicity of actions at law;² actions to establish disputed boundaries; actions to set aside any fraudulent conveyance made to hinder, delay, or defraud creditors; actions for estoppel;³ actions respecting assignments for the benefit of creditors; actions for the partition of lands; actions to compel interpleader; actions requiring the appointment of a receiver; and actions wherein a writ of *ne exeat republica* is required. Following this section is again an incomplete, but representative, list of subject matter jurisdiction with the appropriate statute cited. However, as has been stated several times, there is always jurisdiction in equity to afford relief for all rights withheld or wrongs done or impending threatened to be done. If there be no plain, adequate, and complete remedy at law, litigants may resort to equity, and this recourse is as important as it ever was, perhaps more so, as equity can move swiftly and promptly to right a wrong or remedy a situation.

1. Tillotson v. Anders, 551 So. 2d 212 (Miss. 1989); Pearl River Valley Water Supply v. Hinds Cty., 445 So. 2d 1330 (Miss. 1984).

2. Tillotson v. Anders, 551 So. 2d 212 (Miss. 1989).

3. C. E. Frazier Const. Co. v. Campbell Roofing, 373 So. 2d 1036 (Miss. 1979), citing the section. See also Morgan v. U. S. F. & G. Co., 222 So. 2d 820 (Miss. 1969) on chancery's jurisdiction. For an injunction suit on an employment contract, see Hood v. Dept. of Wildlife Conservation, — So. 2d — (1990), citing this section.

§ 24a A partial listing of subject matter jurisdiction in the chancery court¹

SUBJECT	AUTHORITY (MISS. CODE ANN. 1972 AND MISS. CONST. 1890)
1. Divorce and Alimony	Const. (1890), Art. VI, § 159 93-5-1 to 93-5-23
2. Child Custody and Support	93-5-23