

Alabama Rules of Civil Procedure

VII. JUDGMENT

Rule 63.

Inability of a judge to proceed.

If a trial or hearing has been commenced and the judge is unable to proceed, any other judge may proceed with it upon certifying familiarity with the record and determining that the proceedings in the case may be completed without prejudice to the parties. In a hearing or trial without a jury, the successor judge shall at the request of a party recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

(dc) *District court rule.* Rule 63 does not apply in the district courts.

[Amended eff. 10-1-95.]

Committee Comments on 1973 Adoption

The rule, identical with Federal Rule 63, covers all the duties of the court after verdict or findings of fact and conclusions of law. See generally, 7 Moore's *Federal Practice*, ¶¶ 63.01-63.06 (2d ed. 1971); 3 Barron & Holtzoff, *Federal Practice and Procedure*, § 1391 (1958).

Committee Comments to October 1, 1995, Amendment to Rule 63

The amendment incorporates the present version of F.R.Civ.P. 63. Under former Ala.R.Civ.P. 63, provision was made for the disability of a judge. The revised rule addresses disability, disqualification, or other reasons for withdrawal. It also permits the successor judge to act at an earlier stage in the proceedings, if necessary.