

**RULES OF THE ELEVENTH JUDICIAL DISTRICT
STATE OF KANSAS**

JUDGES

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PREFACE

The following rules have been adopted by the Judges of the Eleventh Judicial District of Kansas pursuant to Supreme Court Rule 105. The 11th Judicial District is composed of Cherokee, Crawford and Labette counties. Copies are on file in the office of each Clerk of the District Court in this district.

The requirements imposed by these rules upon "counsel" or "attorney" apply equally to parties appearing without counsel.

Any rule shall be subject to such modification as the presiding judge may deem appropriate and necessary to meet emergencies or to avoid injustice or undue hardship.

These rules may be amended by the judges of this judicial district. These rules and any amendments thereto shall be effective upon filing with the Clerk of the Supreme Court of Kansas pursuant to Supreme Court Rule No. 105.

GENERAL AND ADMINISTRATIVE

RULE NO. 1

Required Days of Court. The required days of court are Wednesday of every week. When such required day of court shall fall on a legal holiday, the required day of court shall be the day following such legal holiday.

RULE NO. 2

Assignment of Cases.

1. Generally. Assignment of cases shall be as the judges in this district shall agree.
2. Percentage Assignment Selection Process. When assignments are to be made on a percentage basis, the clerk shall establish a system that will provide for the random selection of a judges on the appropriate percentage basis. The selection and assignment shall not be made until after the case is filed.
3. Refiled Cases. Any case dismissed and refiled shall be assigned to the same judge to whom it was previously assigned.
4. Assignment of Consolidated Cases. Companion cases shall be assigned to the judge having the case with the lowest number.
5. Unavailability of Judge. When a judge is unavailable, any case assigned to that judge may be tried and any pending motion heard by any other available judge in this district on the consent and agreement of the available judge. Ex parte orders and agreed orders may be similarly granted when an assigned judge is unavailable.
6. Reassignment. When any judge has occasion to ask that a case or cases be reassigned, such reassignment shall be: a) first, by consultation and agreement between the judges who sit in the same county; b) by the method of random assignment set forth in paragraph 2 above; c) by agreement between the assigned judge and any other judge in the district; d) or by the Chief Judge.

RULE NO. 3

Clerks Office Hours: As a general rule the District Clerk's offices shall be open to the general public from 8:00 a.m. to 5:00 p.m. each working day. The Chief Judge and/or the Court Administrator may, however, authorize the closing of any clerk's office to accommodate emergencies, weather conditions, court house closings, personnel issues or to complete accumulated filing, docketing and accounting records.

RULE NO. 4

Records, Files and Exhibits. All files checked out to court officers, abstractors or members of the bar pursuant to Supreme Court Rule 106 shall be returned within five (5) days unless an earlier return is requested or a longer period is permitted by order of the court.

RULE NO. 5

Disposal of Subpoenaed Business Records. When business records are subpoenaed into the clerk's office pursuant to K.S.A. 60-245a, records not introduced into the record

or made part of the record will be disposed of upon termination of the case. If return of the records has not been requested by the record custodian, the clerk will destroy said records, or they may be released to counsel of record with the written consent of the record custodian.

RULE NO. 6

Jury Questionnaires. Jury questionnaires shall be confidential. Jury questionnaires will be available to counsel prior to trial dates. Copies may be checked out but are to be returned to the court at the conclusion of the trial. Neither counsel nor the parties shall make any copies of juror questionnaires and all information contained therein shall remain confidential.

RULE NO. 7

Funds Held By Clerks: A judge of the District Court may order moneys that are deposited with a Clerk of the District Court pending final determination of an action filed in this district, be deposited in an interest bearing account in any federally insured financial institution in this district. When the action has been resolved by settlement or judicial determination, said funds shall be paid out only upon order of the court providing for distribution, division or apportionment thereof and of any interest accumulated thereon. Unless otherwise ordered, interest shall be payable to the person found to be the owner of the principal fund deposited, or if more than one owner, proportionately on the basis of the division of the principal amount.

RULE NO. 8

Preparation of Papers: Except as otherwise specifically directed by statute, attorneys appearing in this district shall be required to complete all summons, garnishment orders, and subpoenas. Blank forms will be provided by the clerks on request. Foreign service process papers shall be accompanied by a check in the appropriate amount payable for the fees and charges of the foreign process server. Subpoenas shall be accompanied by a check for the statutory witness and mileage fees.

RULE NO. 9

Probable Cause Hearings During Non-business Hours. A probable cause hearing shall, when applicable, be held in person, by telephone or facsimile with any judge in this district during non-business hours from 8:00 a.m. to 10:00 p.m., as to any person being held and entitled to such hearing within 48 hours of arrest, by contacting the judge at his home.

RULE NO. 10

Assigned Files; Judge in Different County. Case files shall be maintained and remain in the office of the clerk of the court where the case is filed. When a file is assigned to a judge sitting in a county other than the county where the case is filed, the assigned judge will be mailed a copy of all pleadings in the file to the date of assignment. It will be counsel's responsibility to direct a bench copy of every item thereafter filed in the case to the assigned judge so that he can be advised of the progress of the case. All bench copies

and correspondence concerning the case shall be directed to the assigned judge at the assigned judge's address.

RULE NO. 11

Security of Court Facilities. Anyone or anything entering a county courthouse or judicial center within this Judicial District shall be subject to search. No person, other than a law enforcement officer or other person or official as authorized and described in K.S.A. 21-4218, shall possess a firearm while on courthouse or judicial center grounds in this Judicial District. Conspicuously placed signs clearly stating this policy shall be placed in the courthouses and judicial centers in this district.

RULE NO. 12

Media Coordinator. The Court Administrator is designated as Media Coordinator for purposes of working with the chief judge, the trial judge and the media in implementing Kansas Supreme Court Rule 1001 with respect to electronic and photographic media coverage of judicial proceedings in this district.

RULE NO. 13

Public Records Search Requests.

Purpose. The purpose and goal of this rule is to guide the access of public records under control of the courts in this district, to protect court records from damage and disorganization, to prevent excessive disruption of court functions, to provide guidelines for requesting and obtaining information and to ensure effective and timely action in response to requests for inspection of public records. [K.S.A. 45-215 *et seq.*, K.S.A. 28-170, Kansas Supreme Court Administrative Order No. 156.]

Public Information Officer. The Eleventh Judicial District Court Administrator shall be the Public Information Officer for this judicial district.

Hours of Inspection. Public records shall be open for inspection during the time the District Clerks Offices are open to the general public.

Access to Records. Inspection requests should be made in writing on a form to be provided by the Clerk. The use of the form is encouraged but not mandatory in all circumstances. The Clerks of the Courts in this district have designated all trial court clerks as additional persons to be custodians of the records for the purposes of the Open Records Act.

Fees. The fee to be paid for a copy of any record shall be 25 cents per page and \$1.00 per certification. An access fee of \$12.00 per hour may be assessed for employee time when concentrated attention of a custodian of the records is required. Payment in advance of the custodians estimated fees may be required.

Clerks Authority. No district court employee may conduct a search that requires the making of a legal judgment or determination.

Criminal Records. Requests for criminal record searches for employment, credit or the like shall be referred to the executive branch agency most likely to have centralized reference files, e.g., the Kansas Bureau of Investigation or the Division of Vehicles.

Confidential Records. Certain court records are confidential and are excepted from public examination and disclosure under the Kansas Open Records Act. The

disclosure of these records is specifically prohibited or restricted by federal law, state law or by Kansas Supreme Court Rule. Confidential records include, but are not limited, to the following:

<u>Description of Confidential Record</u>	<u>Authority</u>
- Certain sections of a criminal presentence investigation report.	KSA 21-4714(c)
- Expunged criminal records including diversion agreements and juvenile offender records.	KSA 21-4619 KSA 38-1610
- Affidavits or sworn testimony in support of the issuance of a search or arrest warrant or summons.	KSA 22-2302 KSA 22-2502
- Unserved arrest warrants in criminal cases.	KSA 21-3827
- Non-moving traffic violations.	KSA 8-1560d
- Grand jury proceedings.	KSA 22-03012
- Certain juvenile records.	KSA 38-1506 & 1607
- Adoption records.	KSA 59-2122
- Certain employee personnel records.	KSA 45-221(a)(4)
- Mental illness, alcohol, and drug abuse treatment records.	KSA 59-2979

PROCESS SERVERS

RULE NO. 14

Process Servers. Process Servers appointed under the provisions of K.S.A. 60-303 and K.S.A. 61-1803 shall be appointed for no more than a period of one year, expiring on December 31 of each year for which appointed.

The appointment of a Process Server shall be limited and so state in the Order of Appointment that it is for the purpose of serving process under K.S.A., 60-303 and K.S.A. 61-1803 *without authority* to serve Writs of Execution, Orders of Attachment, Replevin Orders, Orders for Delivery, Writs of Restitution, and Writs of Assistance. The appointment may be made by any District Judge in this district.

All Process Servers shall comply with the General Guidelines for Process Servers issued by the Court, following or attached hereto, and on file in the office of the Clerk of the Court in each County in this district.

The person being appointed as a Process Server shall state in an application, under oath, that he or she has no felony or misdemeanor convictions, or list such convictions. Accompanying the Application for Appointment of Process Server shall be an affidavit by an attorney duly authorized to practice law in the State of Kansas, which attests to the good reputation of the person applying for appointment.

GENERAL GUIDELINES FOR PROCESS SERVERS

11th Judicial District

1. Professionalism. Appointees of the Eleventh Judicial District for the service of process are expected to act in a professional manner during the execution of their assigned duties.

2. Use of Force. The use of force by process servers will not be authorized in this district.

3. A process server is expected to know the legal rights of party litigants and the rights of third persons.

4. No process server shall utilize any weapon, including a firearm, in the conduct of his or her duty except for legal self-defense.

5. The appointment by the Court of a person as a process server does not impart to them any authority to arrest.

These general guidelines do not grant any rights to process servers unless otherwise provided by law.

DOMESTIC RELATIONS

RULE NO. 15

Mandatory Parenting in Divorce Class Attendance. The parents of minor children who are parties to an action for divorce, annulment, separate maintenance, paternity, or otherwise, that in any manner pertains to custody or parenting time with minor children, shall attend and complete an education seminar, certified by the chief judge, concerning the emotional and psychological effect of the termination of marriages on children and/or the effect of custody and parenting time issues on their children. This rule also applies to parents involved in post-decree motions for modification of custody and/or parenting time who have not previously taken the class.

Both parents prior to trial or final hearing must complete the seminar, unless attendance is excused or deferred by the presiding judge for good cause shown.

RULE NO. 16

Domestic Relations Mediation. Unless waived by the presiding judge, any contested child custody, residency or parenting time issue shall be submitted to mediation by a neutral mediator before being scheduled for a final evidentiary hearing. This rule applies to all such actions, including those filed under the Kansas Parentage Act and may be required in Protection From Abuse actions..

Counsel shall submit a proposed order for mediation to the court, approved by one or both counsel, substantially in the form set out below. The order shall contain the names, addresses and telephone numbers of the parties. No hearing regarding disputed custody, residency or parenting time issues shall be scheduled until the mediation process has been completed.

The order shall provide, and counsel submitting and approving the order shall be deemed to have certified, that the parties and their counsel have engaged in substantial good faith efforts to amicably settle the issues concerning custody, residency and/or parenting time, and that further progress is impossible without the intervention of an independent mediator.

The mediator shall report the results of mediation to the court and to the attorneys for the parties. If agreement is reached, the proposed agreement shall be submitted to counsel for the parties for execution by the parties. Any agreement shall provide for a procedure by which disputes between the parents may be resolved without court

intervention. Counsel shall, within ten days thereafter, submit to the court a proposed order approving the agreement.

ORDER FOR MEDIATION

Now on this ___ day of _____, 19___, the undersigned parties and/or counsel, having certified by signature hereto, that the parties and their counsel have engaged in substantial good faith efforts to amicably settle the issues concerning custody, residency and/or parenting time, and that further progress is impossible without the intervention of an independent mediator, IT IS ORDERED:

- 1. The above named parties shall participate in mediation by a neutral mediator, as defined by K.S.A. 23-601, of the disputed issues of child custody, residency and parenting time. Unless otherwise ordered, the costs of mediation shall be shared equally by the parties.
- 2. _____ shall serve as mediator in this case by _____ agreement of the parties _____ by order of the presiding judge.
- 3. Counsel shall promptly provide a copy of this Order to the mediator.
- 4. The parties shall arrange directly with the mediator for mediation.
- 5. The results of mediation shall be reported to court and to counsel by the mediator. If agreement is reached, the agreement shall be promptly reduced to writing and signed by the parties. Counsel shall submit, within ten days thereafter, a proposed order approving the agreement.

6. The addresses and telephone numbers of the parties are:

Petitioner: _____

Respondent: _____

7. No hearing regarding these issues shall be scheduled until the mediation process is complete.

Judge of the District Court

APPROVED:

Attorney for Petitioner: _____

Attorney for Respondent: _____

RULE NO. 17

Mediated Agreements; Changes. Changes in a parenting plan may be made by agreement of the parents without prior approval of the mediator. In the event that communications break down and the parents find they are unable to work through their problems, they will actively seek assistance and negotiation through mediation before any court action is initiated.

RULE NO. 18

Parenting Time and Contact Guidelines. The following is a sample parenting time and contact schedule that the judges in this district will normally consider minimally consistent with the best interests of the child(ren) under a joint legal custody and parenting time order.

1. Alternate Weekends. Parent B to have alternate weekend parenting time beginning at 6:00 p.m. on Friday until 7:00 p.m. on Sunday.
2. Evening Physical Custody. Parent B to have one weekday evening per week which, if feasible, should be overnight.
3. Easter Weekend. Parenting time with parent B from 6:00 p.m. Friday until 7:00 p.m. Sunday during even numbered years and with parent A during odd numbered years.
4. Spring Break. Parenting time with each parent during one half of the spring break, with a transfer to occur on Wednesday evening at 7:00 p.m. The parent normally having the child during the first weekend of spring break shall continue to have the child until the Wednesday transfer.
5. Mother's Day. From 9:00 a.m. until 7:00 p.m. with the child's mother.
6. Memorial Day. From 6:00 p.m. Friday until 7:00 p.m. Monday with Parent A in even numbered years and parent B during odd numbered years.
7. Father's Day. From 9:00 a.m. until 7:00 p.m. with the child's father.
8. Independence Day. From 6:00 p.m. July 3 until 9:00 p.m. on July 5 with parent A during even numbered years and parent B during odd numbered years.
9. Labor Day. From 6:00 p.m. Friday until 7:00 p.m. Monday with parent B during even numbered years and parent A during odd numbered years.
10. Halloween. A minimum of three hours Halloween evening with parent A in even numbered years and with parent B during odd numbered years.
11. Thanksgiving. From 7:00 p.m. Wednesday until 7:00 p.m. Thursday with parent B during even numbered years and parent A during odd numbered years.
12. Christmas Eve. From 7:00 p.m. the day school is dismissed for Christmas vacation until 10:00 p.m. Christmas Eve, December 24, with parent B during even numbered years and parent A during odd numbered years.
13. Christmas Period. From 7:00 p.m. December 24 until 7:00 p.m. December 30 with parent A during even numbered years and parent B during odd numbered years.
14. New Years Even and New Years Day. From 7:00 p.m. December 30 until 7:00 p.m. on the evening before school resumes with parent B in even numbered years and parent A in odd numbered years.
15. Parent's Birthday. The child shall spend part of the day (a minimum of three hours) with the respective parent on that parent's birthday.

16. Child's Birthday. The child shall spend the child's birthday with parent B in even numbered years and with parent A in even numbered years. The child shall spend the day before or the day after the child's birthday with the other parent.

17. Vacation. After 30 days advance notice and consultation with the other parent, each parent may arrange to take a vacation trip with the child for a period not exceeding 14 days.

18. Conflicts and Good-faith Considerations:

a. Birthday – Holiday. Conflicts between a holiday and a birthday shall be resolved in favor of the holiday schedule. However, the parties are directed to be flexible in allowing the birthday to be celebrated before or after the holiday period.

b. Weekend - Holiday. Conflicts between weekends and holidays shall be resolved in favor of the holiday schedule.

c. Weekend. The schedule of weekend parenting time shall be determined without regard to whether the regular schedule has been preempted from time to time by one of the scheduled holidays. There shall be not adjustment for “missed” weekends due to interruption by the holiday visitation schedule, however, the parties are encouraged to compensate for missed parenting time so a non-residential parent will not go three weekends without seeing the child.

d. Adjustments. It is expected that parents will exercise good faith with each other and act in the best interests of their child(ren) so that each parent can have a full and active participation in the lives of their child(ren). Any parenting plan or schedule, for example, should take into consideration the age of the child. For infants and preschool children, consideration should be given to scheduling more frequent but shorter contacts with parent B during the week on a routine and consistent basis. Consideration should also be give to older adolescents whose personal schedules may interfere with these guidelines.

19. Telephone and Internet Communication. Telephone calls and Internet communication between parent and child should be liberally permitted at reasonable hours and at the expense of the calling parent. Weekly telephone communication with the child should be permitted.

20. Mail and e-mail Contact. Parents and children should have an unrestricted right to send cards, letters, packages, audio, video and e-mail communications to each other. Neither parent should interfere with this right.

21. Long Distance Parenting. When there is a significant geographical distance separating the two parents, parenting plans should provide for the following:

a. Weekly telephone contact.

b. Longer periods of parenting time during school holidays.

c. Extended summer residency for school age children.

d. The parent having residency where the child goes to school shall send school records, school calendars, school photographs, activities schedules, report cards, standardized test results, etc. on a frequent basis to the other parent.

RULE NO. 19

Expedited Judicial Process. All judges in this district will be available to preside at summary proceedings relating to the establishment, modification, or enforcement of child support, parenting time and visitation per the mandate of Kansas Supreme Court Rule 172.

All judges in this district shall be available, on request of the chief judge, any clerk of the court, counsel or party pro se, to assist with, handle and expedite judicial process of petitions filed pursuant to K.S.A. 65-6705, in conformity with Kansas Supreme Court Rule 173. If such proceedings arise after hours, the attorney or party may follow the procedure set out in the probable cause rule herein provided.

RULE NO. 20**Costs and Assignments in Domestic Relations Cases.**

1. Costs in Prior Actions. No case for divorce, annulment or separate maintenance shall be filed where there is a record in the clerk's office of a prior case between the same parties which is undisposed of unless the court costs have been paid, or unless the court shall otherwise order for good cause shown. In any event the unpaid costs in such prior case shall be assessed as costs in the new case and the court shall make an order for the payment of costs.

2. Prior Divorce Actions Between Parties. If the parties have previously filed a divorce action in this judicial district, the case shall be assigned to the same judge to that the previous case was assigned.

3. Assignment of Divorce and Protection From Abuse Cases. When a protection from abuse action is filed, and there is a prior filing of a divorce action between the same parties, the protection from abuse action shall be assigned to the judge that the divorce action was assigned. Conversely, when a divorce action is filed subsequent to a protection from abuse action, the divorce action shall be assigned to the judge that the protection from abuse action is assigned.

4. Assignment CINC Cases. Pending divorce, protection from abuse and child in need of care cases that involve the same children should be assigned to the judge before whom the CINC case is pending or to the district judge having general jurisdiction.

RULE NO. 21

Dismissal of Protection From Abuse Actions. If the plaintiff in a protection from abuse action fails to appear at the scheduled hearing for final orders, the case shall be dismissed without further notice to either party unless the defendant appears and consents to an order of protection.

RULE NO. 22**Dissemination of Custody Investigation Reports.**

1. Application. This rule applies to cases where the court directs that a written report be prepared by an investigator relating to child custody issues.

2. Investigator. The term "investigator" includes anyone whom the court directs to make an investigation or evaluation, including court service officers, mental health counselors, other professionals, and guardian ad litem.

3. Dissemination and Copies of Reports. The investigator shall provide a copy of the report to the attorney of record for each party and a copy shall be provided to the judge. Attorneys may discuss the contents of the report with their clients, but shall not give a copy of the report to their clients and shall not permit their clients to read, copy or make notes from these reports. If a party is not represented by an attorney of record, the report shall be made available for review by the pro se litigant, but no copy of the report shall be given to unrepresented parties. The review of the report by a pro se litigant shall be subject to such conditions as the court shall determine. If a pro se litigant is allowed to read the report, then the represented litigant shall be allowed the same privilege.

4. Exceptions. Exceptions to this policy shall be granted only upon a showing of necessity after a written motion and hearing. A copy of the motion and notice of hearing shall be served upon the investigator who prepared the report, who shall be allowed to advise the court regarding the investigator's recommendations as to the risks of providing a written copy of the report.

5. Notice. The following notice shall be included as part of any order for child custody investigation or report.

IT IS BY THE COURT ORDERED that the attorneys of record may discuss the contents of the report with their clients but shall not give a copy of the report to their clients and shall not permit the clients to read or make notes from the report.

IT IS FURTHER ORDERED that a party not represented by counsel shall be allowed to review the report, but shall not be provided with a copy of such report. The court may set further conditions upon the review of the report by a party not represented by counsel.

IT IS FURTHER ORDERED that failure to comply with the terms of this order, by either attorney or a party, may be punishable by such sanctions for contempt as the court may determine.

RULE NO. 23

Necessary Parties in Child Support and Paternity Actions. In any action brought for the purpose of establishing or enforcing child support and/or for reimbursement of birth, medical, support, and education expenses of a child, both parents shall be joined as parties to the action if they are subject to service of process in this state. In the absence of good cause shown, custody and parenting time issues shall be addressed and resolved in the same proceeding. [Am. 11/02/01.]

CIVIL

RULE NO. 24

1. **Poverty Affidavits.** A poverty affidavit submitted pursuant to K.S.A. 60-2001(b), or any other applicable chapter, shall include, or be accompanied by, an affirmation that no attorney fee has been paid and that none will be paid until such time as all docketing fees, including surcharges, have been fully paid.

2. Filing for Extensions Out of Time. An extension of time may be granted pursuant to Supreme Court Rule No. 113 or by the court ex parte as the interests of justice may demand. However, no ex parte permission shall be granted to file any pleading out of time. Anyone aggrieved by such an extension shall be entitled to a hearing upon three days' notice. [Am. 5/1/03.]

RULE NO. 25

Discovery.

1. Time for Giving Notice of Depositions. "Reasonable time" within which notice must be given before taking of a deposition under K.S.A. 60-230(a) shall be five days. For good cause shown, the court may enlarge or shorten such time. K.S.A. 60-206 shall govern the computation of time.

2. Motion for Protective Order. The filing of a motion for protective order pursuant to K.S.A. 60-226 or 60-230 shall stay the discovery at which the motion is directed pending order of the court. The filing of a motion to quash or modify a deposition subpoena pursuant to K.S.A. 60-245 shall stay the deposition at which the motion is directed. No properly noticed deposition shall be automatically stayed under this rule unless the motion directed at it shall have been filed and served upon counsel for the parties by delivering a copy within ten days after service of the deposition notice, and at least 48 hours prior to the noticed time of the deposition. Pending resolution of any motion which stays a deposition under this rule, neither the objecting party, witness, or any attorney shall be required to appear at the deposition to which the motion is directed until the motion has been ruled upon or otherwise resolved.

3. Motions for Order Compelling Discovery.

a. Except as otherwise ordered, the court will not entertain any motion under K.S.A. 60-237, unless counsel for the moving party has conferred with or has made reasonable effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. The moving party shall certify as to the efforts of the parties to resolve discovery or disclosure disputes and shall describe the steps taken by all counsel to resolve the issue in dispute.

b. Motions under K.S.A. 60-226 or 60-237 directed at interrogatories, requests for production, or requests for admissions and the responses thereto, shall be accompanied by copies of the portions of the interrogatories, requests or responses in dispute.

RULE NO. 26

Scheduling Conference. The court may set a scheduling conference on its own or on request of any party. Unless otherwise directed by the court, counsel may appear at the scheduling conference by conference call. The parties shall agree in advance as to who is responsible for initiating the call. Matters for discussion and scheduling at the discovery conference are time limits for discovery, for listing of expert witnesses and furnishing reports or interrogatory responses, for amendments to pleadings, for dispositive motions, for listing of witnesses and exhibits, for hearing of motions, to schedule the case for

pretrial conference and to discuss such other appropriate matters as counsel or the court may wish.

RULE NO. 27

Pretrial – Non-Domestic Cases.

1. Agreed Pretrial Order. Prior to any pretrial conference setting, counsel shall confer to determine if they can agree to submit a jointly prepared pretrial order. When an agreed pretrial order is submitted to the court prior to the pretrial conference, counsel may appear at the pretrial conference by conference call by making prior arrangements between themselves for the placing of the call. The agreed pretrial order shall cover all relevant matters outlined in Supreme Court Rule No. 140.

2. Pretrial Questionnaires. In the event counsel cannot agree upon a pretrial order, they shall prepare and exchange pretrial questionnaires at least 10 days prior to the scheduled pretrial conference. The questionnaires shall specify all relevant information contemplated by Supreme Court Rule No. 140.

3. Failure to Appear at Pretrial Conference. If a party fails to appear at a pretrial conference after notice, an ex parte hearing may be held and an appropriate order or judgment entered.

RULE NO. 28

Interviewing Experts. When the physician-patient privilege has been waived or does not exist under the terms of K.S.A. 60-427, lawyers may interview treating physicians outside the presence of the patient or opposing counsel, providing the physician is supplied with a written consent by the person holding the privilege or by a qualified Protective Order of this court that incorporates the applicable provisions of HIPAA (42 U.S.C. 1320d et seq.) and regulations promulgated pursuant to HIPPA. Lawyers may not interview any expert witness who has been retained or specially employed by another party in anticipation of litigation or preparation for trial without consent of counsel or order of the court. [Am. 10/05/06]

RULE NO. 29

Voir Dire Examination. Questions asked and answered on juror questionnaires shall not be unnecessarily repeated by counsel during voir dire examination. Counsel should, so far as practicable, direct questions to the panel as a whole, avoid unnecessary repetition of questions, and avoid inquiry about anticipated instructions and the law.

RULE NO. 30

Pleading Judgment Amounts and Interest. When presenting an order of judgment to the court, the presenting attorney shall set out the amount of the original judgment sum itself and separately set out the amount claimed as interest on the judgment, particularly detailing the pre- and post-judgment amounts and the interest rate and time periods that are claimed to be applicable.

RULE NO. 31**Medical Malpractice Screening Panels.**

1. Required Information. Any party filing a request for a malpractice screening panel shall file with the request:

- a. A short statement explaining the basic failures alleged and the nature of the alleged injury. (That defendant was negligent or deviated from care or duty generally is not sufficient. There must be some identification of the claimed injury and some brief statement of the suspected departures from standard practice.) This statement shall not be binding or limit the plaintiff from other allegations which become known thereafter.
- b. An order signed by counsel and ready for the court's signature authorizing the release of medical records, x-rays, etc. to counsel for all named defendants. (The names of counsel need not be specified as they will be unknown at that time.)
- c. A list of all health care providers who have rendered treatment to the plaintiff within the preceding five (5) years, including all hospitals where plaintiff received treatment. To the extent possible, full names and addresses shall be provided.
- d. The above list shall include the plaintiff's date of birth.

2. Additional Requirements. Along with the notice convening the screening panel, the court will provide to the parties copies of all additional documents required to be filed by these rules, including a certified copy of the order for production of medical records.

3. Status Conference. On application of any party or of the chairperson, the court will hold a status conference requiring counsel for the parties and chairperson to appear to establish a schedule for the submission of records, contentions and the preliminary conference of the panel.

4. Submission of Affidavits, Opinions and Depositions. Except by agreement of all parties, no affidavits from the parties, nor any "expert opinions," nor depositions taken in the case shall be submitted.

5. Report. The chairperson shall provide a file stamped copy of the opinion of the panel to counsel for all parties.

RULE NO. 32**Small Claims.**

1. Forms of Pleadings. A party to an action filed pursuant to the Small Claims Procedures Act shall set forth the statement of claim using substantially the same form prescribed by K.S.A. 61-2713.

2. Signature of Parties. Any pleading or other paper filed by a party in a small claims action shall be signed by the party filing the same before a person authorized by law to acknowledge signatures.

3. Responsive Pleadings. Any defendant's claim shall be filed within such time before the scheduled trial date as to allow the plaintiff reasonable time and opportunity to prepare the case as to the defendant's claim.

4. Case Settings. All small claims cases shall be set on the court's trial docket as soon as reasonably possible after filing, allowing proper time for service of process and in any event no later than 120 days after the original filing date unless otherwise extended by order of the court.

5. Continuances. Unless by agreement of the parties, continuances of trial settings of small claims cases shall be for good cause only, or as justice shall demand.

6. Dismissal for Lack of Prosecution. Small claims cases may be dismissed by the court for want of prosecution from time to time upon such terms and conditions and notice as the judge shall prescribe.

7. Entry of Appearance by Attorney After Judgment. After judgment has been entered, an attorney filing an entry of appearance shall send appropriate notice thereof to the opposing party before appearing on behalf of and/or representing a party to a small claim action.

8. Appeals. An appeal from any judgment rendered under the Small Claims Procedures Act may be taken pursuant to K.S.A. 61-2709.

RULE NO. 33

Recovery of Attorney Fees in Bad Check Cases. In cases seeking recovery of attorney fees pursuant to K.S.A. 60-2610, the court will presume that the sum of \$200 shall constitute a reasonable attorney’s fee in the absence of an affidavit or other evidence demonstrating, under applicable standards, i.e., Model Rule of Professional Responsibility 1.5, that a greater amount is required for the award of a reasonable fee in a specific case.

The entry of judgment stating that reasonable attorney’s fees are being awarded in a specific amount shall constitute a finding of fact that the amount awarded constituted the reasonable attorney’s fee in that case under K.S.A. 60-2610(a) and does not constitute a waiver of all or part of the reasonable attorney’s fees incurred by the plaintiff. If a waiver of all or part of the fees found by the court to have been reasonable attorney’s fees is made pursuant to the separate statutory authorization to waive those fees, then the court will make specific written findings as to the reasons that the amounts separately awarded as statutory penalties in that case are sufficient to adequately compensate the holder of the check and, accordingly, to waive all or part of the attorney fees otherwise found by the court to have been reasonable in that case. [Am. 05/20/01.]

RULE NO. 34

Chapter 61 Appearances:

1. Eviction Actions. When a defendant appears in lieu of answering an eviction action filed pursuant to K.S.A. 2000 Supp. 61-3801, *et seq.*, and amendments thereto, the defendant or defendant’s attorney shall complete and file an Appearance of Defendant in Eviction Cases form to be supplied by the clerk substantially as follows:

(Caption)

APPEARANCE OF DEFENDANT IN EVICTION ACTIONS

On this _____ day of _____, 200__, the defendant, _____
_____(name) appears in person
and/or by attorney _____.

Defendant (choose one of the following):

____ Admits the allegations of the petition. The plaintiff may take judgment without

further notice.

_____ Denies the allegations of the petition and hereby sets out the following Answer to the petition:

- (a) Defendant admits paragraphs numbered _____ of the petition.
- (b) Defendant denies paragraphs numbered _____ of the petition.
- (c) Defendant specifies the following affirmative facts and defenses upon which he/she will rely at trial: _____

This action must be tried within eight (8) days. Trial Date: _____, 20__ at _____ .m.

Signature of Defendant

Signature of Defendant's Attorney

Address of Defendant

Address of Defendant's Attorney

Defendant's Telephone Number

Attorney's Telephone Number

2. Actions Other Than Eviction. When a defendant appears in lieu of answering any action filed pursuant to K.S.A. 2000 Supp. Chapter 61, other than an action for eviction, the defendant or defendant's attorney shall complete and file an Appearance of Defendant form to be provided by the clerk substantially as follows:

(Caption)

APPEARANCE OF DEFENDANT

On this _____ day of _____, 200__, the defendant, _____ (name), appears in person and/or by attorney _____.

Defendant: (Choose **one** of the following):

- _____ Admits the allegations of the petition. The plaintiff may take judgment without further notice.
- _____ Denies the allegations of the petition and requests ten (10) additional days to file an answer or other pleading. If no answer is filed within ten (10) days, plaintiff may take judgment without further notice.
New Answer date is: _____.
- _____ Denies the allegations of the petition and hereby sets out the following answer to the petition:
 - (a) Defendant admits paragraphs numbered _____ of the petition.
 - (b) Defendant denies paragraphs numbered _____ of the petition.
 - (c) Defendant specifies the following affirmative facts and defenses upon which he/she will rely at trial.

Signature of Defendant

Signature of Defendant's Attorney

Defendant's Address

Attorney's Address

Defendant's Telephone Number

Attorney's Telephone Number

[Am. 11/02/01]

JUVENILE

RULE NO. 35

Uniform Procedure for Extended Jurisdiction Juvenile Prosecution. The basic procedure for processing extended jurisdiction juvenile prosecutions in this judicial district pursuant to K.S.A. 38-1636(a)(3) and the mandate of K.S.A. 38-1636(f)(2), are as follows:

1. Any motion filed by the State of Kansas seeking to designate proceedings as an extended jurisdiction ("EJ") juvenile prosecution shall be filed within thirty (30) days of the initial filing of charges against the Respondent. A request to file said motion out-of-time may be granted only for good cause shown.

2. A motion seeking EJ status shall be set for hearing by the court as soon as is reasonably practicable.

3. Pursuant to K.S.A. 38-1636(b), the State of Kansas shall include, in any motion seeking EJ status, a statement that the prosecuting attorney will introduce evidence of the offenses alleged in the complaint and request that, on hearing the motion and designating the proceedings as an EJ prosecution, the court may make the finding provided in K.S.A. 22-2902, and the finding that there is no necessity for further preliminary examination.

4. Any motion seeking EJ status shall identify by name and address all persons who are to be notified of the hearing pursuant to K.S.A. 38-1636(c). The motion shall be accompanied by a proposed Order for Hearing for the Clerk's use in scheduling and providing notice. The clerk of the court will send notice, by first class mail, of the date, time and place of hearing, to all persons listed in the motion.

5. The original guardian-ad-litem assigned to the case shall represent the respondent throughout all stages of the proceedings, including any jury trial proceedings requested by respondent.

CRIMINAL

RULE NO. 36

Intermediate Probation Violation Sanctions. It is the policy of this judicial district that the following internal discretionary sanctions and incentives should be considered and applied to all criminal and traffic cases, where appropriate, for violations of probation committed by offenders. It is the purpose and intent of this rule to provide motivation for the offender to bring about positive change in his/her behavior and to avoid, if reasonably possible, the need to request revocation.

A. Sanctions

1. A verbal warning.
2. Refusal of permission to travel for pleasure.
3. Community service work hours not to exceed 10 hours for each violation.
 4. Required participation in mental health or substance abuse evaluation and or treatment.
 5. Increased reporting and or job search requirements.
 6. Imposition of curfew with or without electronic monitoring.
 7. House arrest/detention with or without electronic monitoring, up to 30 days per occurrence.
 8. Arrest or detention in emergency situations as authorized by statute or by order of the court.

Surveillance, with or without electric monitoring, is not considered a sanction and may be imposed at any time.

B. Incentives

1. The method of reporting may be altered in accordance with the risk/needs process.
2. Reporting requirements may be reduced or eliminated in accordance with the risk/needs process.
3. Early termination of probation may be requested.

RULE NO. 37

Pretrial Conference and Proposed Jury Instructions. The court may schedule a pretrial conference in any pending criminal action on application of any party or attorney or on the court's own motion. Any pretrial conference shall be held not less than ten (10) days prior to trial. The prosecution and the defendant shall file proposed jury instructions with the court on or before the date of the pretrial conference.

RULE NO. 38

Motions to Suppress. Motions to suppress a statement or evidence of a crime shall be filed no later than twenty (20) days after arraignment absent a showing of good cause.

AUTHORITY TO WRITE BONDS

RULE NO. 39

Bail and Appearance Bonds. Any person proposing to write appearance and bail bonds under the authority or approval of a judge of this judicial district shall submit a written application to the Chief Judge specifying the following information: (1) the name of the applicant seeking authority; (2) the name of the company or agency, if any, under which the applicant is employed, working or doing business; (3) the applicants business mailing address and street address; (4) the applicant's business telephone number(s); and (5) the county or counties where approval is sought. Where applicable, the following additional information shall be provided: (1) name of insurance company surety; (2) State of Kansas Insurance Agent's License number; and (3) surety limits.

Individuals proposing to write bonds on behalf of insurance companies shall attach to the application a certificate of insurance and of their authority to write bonds. Insurance companies must be authorized to do business in the State of Kansas.

Individuals writing bonds other than on behalf of an insurance company shall attach to the application a verified financial statement describing the property by which such surety proposes to justify and the encumbrances thereon, the number and amount of other bonds and undertakings for bail entered into by such surety and remaining undischarged and such surety's other liabilities. Individuals shall not write a total of bonds in this district exceeding \$100,000.00 without the express written approval and authority of a judge of this district.

Certificates of insurance and financial statements shall be renewed annually on April 15 or each year.

Upon compliance with the terms and conditions set out herein, a Certificate of the authority and qualifications of the individual authorized to write bonds will be issued to the applicant and to the Sheriff, Clerk of the District Court, and County Attorney in each county where said individual is authorized to write bonds.

The discretion of the sheriff of any county of this district to accept and approve bonds pursuant to the authority of K.S.A. 22-2806, amendments thereto, and Kansas Supreme Court Rule No. 114, or other appropriate authority, shall not be affected by this Rule or any certificate issued pursuant to the terms of this Order.