

**RULE 10
FUNDS HELD BY THE CLERK**

- 10.1 **General.** A Judge of the District Court may order that any monies in actions pending before the Court be invested in any local financial institution for safe keeping. As an alternative to investing said funds a Judge may also order that any such funds be held by the Clerk of the District Court in existing accounts.

If the funds are to be invested the Court order for investment may specify that the attorney holding the monies shall be responsible for opening an interest bearing account in such financial institution for deposit of said funds prior to determination of ownership by the Court. Proof of such investment must be placed in and become a part of the court record and be retained by the Clerk of the District Court.

Upon final determination by the Court as to the ownership of such funds, an order must be drawn directing the attorney who made the original investment to pay out all proceeds to the designated parties. Interest received from any investment of funds shall become the property of the person or persons found to be the owners of the monies by the Court unless otherwise ordered.

- 10.2 **Endorsement without Recourse.** When payment for temporary orders or judgments are made by check and received by the district court clerk's office, the clerk is authorized to endorse the check to the proper person "without recourse".

**RULE 11
DEPOSITIONS AND INTERROGATORIES**

- 11.1 **Depositions.** Counsel are expected to cooperate with, and be courteous to each other and deponents. Counsel are further expected to cooperate in selecting the least expensive and least disruptive manner of conducting the deposition. Counsel should consider such cost saving methods as telephone depositions, and sharing of expenses in bringing an out-of-state witness to Kansas for the deposition rather than all counsel traveling to the out-of-state location.

Unless contrary to, or inconsistent with an order of the Court, the parties (and, when appropriate, a non-party witness) may stipulate in any suitable writing to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for the extension of discovery deadlines set by the Court shall be set forth in an agreed order to be approved by the Court.

Absent extraordinary circumstances, counsel shall consult in advance with opposing counsel and proposed deponents in an effort to schedule depositions at mutually

convenient times and places. (Reasonable notice for the taking of depositions shall be ten (10) days.) Depositions shall be scheduled to conform to normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday unless otherwise mutually agreed by all counsel and the witness. The most convenient location for a party's deposition shall be presumed to be in the office of that party's counsel. Except for the principal plaintiff, defendant or key experts, the fact that some counsel may be unavailable shall not, in view of the number of attorneys involved in the litigation, be grounds for postponing a deposition if another attorney from the same firm is able to attend. (Unless by agreement of counsel or leave of court is first obtained, at least ten (10) days notice of any deposition shall be given.)

Unless otherwise mutually agreed by the parties, or ordered under K.S.A. 60-226(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purpose of the deposition, the parties or the representative of a party, and counsel for the deponent. While a deponent is being examined about any stamped confidential document, or the confidential information contained therein, persons to whom disclosure is not authorized under the Confidentiality Order shall be excluded.

The only objections that should be raised at the deposition are those required to be made under K.S.A. 60-232(d)(3) in order to preserve the objection or to preserve a privilege, judicial limitations, or opportunity to seek court protection. Objections on other grounds are unnecessary and should generally be avoided. Relevance and materiality are not appropriate grounds for objection. All objections should be concise, stating the basis of the objection and nothing more than is necessary to preserve the objection and must not suggest answers to (Or otherwise coach) the deponent. Argumentative interruptions will not be permitted.

Directions to the deponent not to answer are improper except on the ground of privilege to enforce a judicial limitation or to enable a party or deponent to present a motion to the Court for termination of the deposition on the ground that it is being conducted in bad faith, or in such a manner as unreasonably to annoy, embarrass, or oppress the party or the deponent. When a privilege is claimed, the witness should nevertheless answer questions relevant to the existence, extent, or waiver of the privilege, such as the date of a communication, who made the statement, to whom the contents of the statement have been disclosed, and the general subject matter of the statement.

Private conferences between deponents and their attorneys during the actual taking of the deposition are improper except for the purpose of determining whether a privilege should be asserted. Unless prohibited by the Court for good cause shown, such conferences may, however, be held during normal recesses and adjournments.

11.2 **PRODUCTION OF DOCUMENTS:** Witnesses subpoenaed to produce numerous

documents must be served at least thirty (30) days before the scheduled deposition unless the witness agrees to a shorter time period. Depending upon the quantity of documents to be produced, some time may be needed for inspection of the documents before the interrogation commences.

- 11.3 **CONFIDENTIALITY ORDER:** A copy of any Confidentiality Order shall be proved to the deponent before the deposition commences if the deponent is to produce or may be asked about documents which may contain confidential information.
- 11.4 **DEPOSITIONS OF WITNESSES WHO HAVE NO KNOWLEDGE OF THE FACTS:** An officer, director or managing agent of a corporation, partnership, association other organization or a government entity serviced with a notice of a deposition or subpoena regarding a matter about which such person has no knowledge, may submit to the noticing party, a reasonable time before the date noticed, an affidavit so stating and identifying a person within the corporation or government entity believed to have such knowledge. Notwithstanding such an affidavit, the noticing party may proceed with the deposition, subject to the right of the witness to seek a protective order. A public or private corporation, partnership, association, other organization or governmental entity, noticed as the deponent under K.S.A. 60-230(b)(6) shall designate the person to be deposed as the representative of the entity who has the most knowledge regarding the subject matter on which the examination is requested.
- 11.5 **EXPERT WITNESSES:** Leave of the court is not necessary in order to depose expert witnesses in addition to, or in lieu of, discovery through interrogatories. Objection to such depositions may be made by motion. Experts shall, upon written request without the necessity of a subpoena, bring to the deposition, the expert's written report, complete file, documents or other materials reviewed and billing records regarding the compensation to be paid for the study and testimony.
- 11.6 **VIDEOTAPED DEPOSITIONS:** By indicating in its notice of a deposition that it will record the deposition by videotape, a party shall be entitled to videotape the deposition pursuant to the following terms and conditions. The videotaped deposition shall be simultaneously recorded stenographically by a qualified court reporter. The court reporter shall, on camera, administer the oath or affirmation to the deponents. The written transcript by the court reporter shall constitute the official record of the deposition for purposes of K.S.A. 60-230(e) (submission of witness) and K.S.A. 60-230(f) (filing; exhibits). The requesting party shall bear the expense of the videotaping. Any party may at its own expense obtain a copy of the videotape and the stenographic transcript. Requests for taxation of these costs and expenses may be made at the conclusion of the litigation in accordance with applicable law. The operator(s) of the videotape recording equipment shall be subject to the provision of K.S.A. 60-2288 unless otherwise agreed by the parties. At the commencement of the deposition, the court reporter shall swear or affirm to record the proceedings fairly and accurately. Each witness, attorney, and other

person attending the deposition shall be identified on camera at the commencement of the deposition. Thereafter, only the deponent (and demonstrative materials used during the deposition) will be videotaped. The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box except when reviewing or presenting demonstrative materials for which a change in position is needed. To the extent practicable, the deposition will be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angle, lens setting, and field of view will be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and materials used during the deposition. Sound levels will be altered only as necessary to record satisfactorily the voices of counsel and the deponent. Eating and smoking by deponents or counsel during the deposition will not be permitted.

The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording will be suspended during all off the record discussions.

Re-reading of questions or answers, when needed, will be done on camera by the stenographic court reporter.

The party requesting the videotape deposition shall preserve custody of the original videotape in its original condition until further order of the court. No part of a videotaped deposition shall be released or made available to any member of the public unless authorized by the Court.

Requests for pretrial rulings on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. If the objection involves matter peculiar to the videotaping, a copy of the videotape and equipment for viewing the tape shall also be provided to the Court.

A party desiring to offer a videotaped deposition at trial shall be responsible for having available appropriate playback equipment and a trained operator. After the designation by the parties of the portions of a videotape to be used at trial, an edited copy of the tape, purged of unnecessary portions (and any portions to which objections have been sustained), shall be prepared by the offering party to facilitate continuous playback, but a copy of the edited tape shall be made available to other parties at least ten (10) days before it is used, and the unedited original of the tape shall also be available at the trial.

The parties and deponents are authorized and encouraged to waive transcription and filing of depositions that prove to be of little or no usefulness in the litigation or to agree to defer transcription and filing until the need for using the deposition arises.

11.7 DISPUTES DURING DEPOSITIONS: Disputes arising during depositions that cannot

be resolved by agreement and that, if not immediately resolved, will significantly disrupt the discovery schedule or require a rescheduling of the deposition, may be presented by telephone to the Court. The presentation of the issue and Court's ruling will be recorded as part of the deposition by the court reporter taking the deposition.

- 11.8 **INTERROGATORIES:** Except by order of the Court, a party shall, without the receipt of formal discovery requests, provide to the other parties answers to standard interrogatories and responses to standard requests for production of documents properly requested by the other parties. The responding party shall print copies of the interrogatory questions and requests for production with the respective answers and responses and serve the questions, answers, requests and responses on all parties of record. No more than thirty (30) questions, including sub parts, and thirty (30) requests for production, may be requested without leave of Court. The responding party shall have thirty (30) days from the date the letter is served in which to provide the information requested. Additional interrogatories, including case specific interrogatories, or requests for production of documents, other than those contained in this rule, may be served when appropriate.

With respect to the information that falls within the scope of the preceding section, the Court will strictly enforce these written requests for information and will not entertain objections to the production of non-privileged information sought unless it falls within the scope of K.S.A. 60-226(c). Extensions of time in which to provide this information will be granted only in extreme cases where substantial hardship exists. Failure to timely provide the information required may result in the imposition of sanctions without the necessity of a motion to compel.

RULE 12 CIVIL CASE MANAGEMENT INCLUDING PRETRIAL CONFERENCE PROCEDURE

The following rules apply to all Chapter 60 civil actions except by order of the Court upon motion. The Court upon motion may order that these rules may be supplemented by adding discovery in complex civil cases, cases involving a large number of legal issues or parties, cases in which geographic considerations may delay the discovery process or any other case which the Court finds in its discretion would not be susceptible to proper management under these rules.

- 12.1 **CASE MANAGEMENT AND SCHEDULING:** A case management conference will be held in every contested civil case with the exception of domestic relations cases. A case management checklist shall be completed by counsel of record prior to the conference. The case management checklist shall be filed with the court and copies provided to all opposing counsel no later than three (3) days before the case management conference (See

