

If a hearing or trial is scheduled to occur within ten (10) days of the bankruptcy case filing, in addition to the written notice required above, the filing party shall immediately give oral notice to all other parties and to the presiding judge.

Upon termination of the stay, any party may move to reactivate the case.

Any of the foregoing rules shall in special cases be subject to such modifications as the judge may deem necessary to meet emergencies or to avoid injustice or great undo hardship.

## **RULE 28 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 29 CRIMINAL CASE PROCEEDINGS**

- 29.1 **General.** Any party requesting a continuance of a criminal hearing shall prepare and file with the court a Motion for Continuance which shall be approved by the District Judge assigned to the case.

The motion shall include the position of (1) the written waiver of speedy trial by the defendant, if the request is to continue or affect a trial setting; (2) the position of other counsel requesting the continuance, including counsel representing any co-defendant's, and (3) any other requested information.

Upon approval the motion, shall be filed with the Clerk of the District Court.

If the continuance is not opposed then an agreed Order should be submitted and filed. If the request is opposed the matter will be taken up on the next available Criminal Docket assigned to that particular Judge.

All continuances should be accomplished prior to the day of hearing in question, thereby freeing the court's and counsel's schedule in order to attend to other business.

- 29.2 **Required Appearances.** If a defendant is charged with a misdemeanor, an attorney may appear for the defendant, however, the defendant shall appear for all trials, pleas, or sentence hearings, unless a waiver of his or her appearance is executed by the defendant and filed with the court. Either the misdemeanor defendant or defendant's attorney must appear at all hearings.

A defendant charged with a felony must appear personally at each hearing, unless the assigned judge approves a continuance in advance of the scheduled hearing.

- 29.3 **Appointed Attorneys (Non-Felony)** Attorneys will be appointed as counsel for indigent misdemeanor defendants, and in juvenile, mental illness, alcohol and drug and other cases for which the counties of the district are responsible on a rotation basis from the list of attorneys maintained in each county except in Linn County and except for juvenile and mental illness cases in Miami County.

The Linn County District Court shall contract with not less than three attorneys to provide indigent defense and other attorney services for which the county is responsible. Miami County District Court will contract with at least 1 attorney for mental illness cases and no less than 2 attorneys for juvenile matters.

Any person for whom the court has appointed counsel under this rule shall be required, consistent with the ability of such people to do so, to reimburse the county for the reasonable cost of the service provided by counsel.

The Chief Judge shall provide, by Administrative Order, a schedule of reimbursement amounts based upon reasonable categories of service rendered with reasonable amounts assessed for each category of service for which an attorney serves by contract. This schedule may be amended from time to time as the chief judge may deem appropriate.

- 29.4 **Motions in Criminal Cases.** All post arraignment motions in criminal cases, to be considered timely, shall be filed no later than twenty (20) days following arraignment in felony cases or seven (7) days following the Court's first notice of trial assignment in misdemeanor cases. All requests for jury trials in misdemeanor cases, to be timely filed, shall be made in writing not later than seven (7) days following the court's first notice of trial assignment.

For speedy trial purposes, any delay of trial occasioned by any motion later filed, if actually entertained by the Court, shall be charged to the party filing the untimely motion.

All motions shall contain the date for hearing set by the court. A copy of a motion shall be delivered to the assigned judge on or before the date of filing. All scheduling must be done in advance with the assigned Judge's office.

- 29.5 **Prosecutor to Track Speedy Trial Time.** When any criminal case is scheduled for trial or continued for trial, the prosecutor shall review the speedy trial time elapsed and advise the assigned judge forthwith if the beginning trial date is not within the speedy trial provisions of K.S.A. 22-3402. The Prosecutor is responsible for seeing that criminal trial settings comply with the speedy trial provisions of K.S.A. 22-3402.

29.6 **Pretrial Release.** The judge issuing a warrant shall set bond as provided by law. If a probable cause for detention determination is made at a time when court is not in session, the judge making the determination may set the amount of bond. If a probable cause for detention determination is made when court is in session, bond will be set by a judge.

For those offenses where no bond is set or is designated “see judge”, the accused shall be brought before a judge of the district court at the next court date to have a bond set.

Persons in custody with any of the following conditions are not eligible for bond and shall be brought before a judge, without unreasonable delay to have bail considered and appropriate bond set by the judge:

A defendant who:

- (a) Has prior bond forfeitures.
- (b) Has been extradited or is awaiting extradition to another state.
- (c) Has a detainer or hold from other states or federal authorities.
- (d) Has a prior conviction of a felony classified as A, B, or C or level 1 through 5.
- (e) Has been detained for a violation of probation.
- (f) The requesting officer believes in good faith may flee, pose a danger to public safety or is not eligible for bond.
- (g) Is to be charged with a felony and have bond set by a judge.
- (h) Is accused of a domestic violence offense.

All other persons arrested shall be subject to a standard bond schedule, approved by the resident district judge of the county, the same to be posted and followed by the Sheriff of said county.

All bail bonds issued in this judicial district are subject to this rule and the General Bond Conditions contained in the custody slip which may be appropriate for each case. Other special conditions may also be imposed by the court as a requirement of release on any bail bond.

All private or professional surety bonds issued in this judicial district shall have a condition that sureties agree to remain liable on any bail bond until all proceedings arising out of the arrest or case for which the bond posted are concluded, the surety has surrendered

the defendant to the Sheriff of county in which charges are filed, or until the surety is released by court order. No surety shall be released on an obligation on a bail bond without court approval. Either a surety or a person arrested and turned in on a bond by a surety may file a motion with the court for a determination of whether the bail bond should be revoked or continued in force.

Bail bonds designated shall be written only on terms specified by a judge of the district court.

**Bond Modification.** Any review or request for modification of a bond before arraignment in misdemeanor cases, or first appearance in felony cases shall be heard by the judge originally setting the bond. Thereafter, any modifications or review requested shall become the responsibility of the assigned judge.

- 29.7 **Petitions for Expungement.** Upon filing a petition for expungement under the Kansas Criminal Code or the Juvenile Offenders Code, petitioner's counsel shall obtain a date and time for hearing from the court and thereafter provide timely written notice to the county attorney. Upon the request of the county attorney, counsel for petitioner shall submit to the presiding judge a proposed order for referral and investigation by the Court Services Office. Copies of the proposed order shall be provided to the county attorney and Court Services Office by petitioner.

Petitioner shall be personally present at the expungement hearing unless specifically excused by the court. Petitioner's attorney shall prepare an appropriate order of expungement and provide the Clerk of the Court with adequate copies for mailing to law enforcement agencies.

- 29.8 **Pleas in Felony Cases.** In all felony cases, if the defendant elects to enter a plea of guilty or a plea of *nolo contendere* to the charge or charges filed against him, there shall be prepared and submitted to the court a written tender of plea of guilty and an accompanying certificate of counsel or a written tender of plea on *nolo contendere* and an accompanying certificate of counsel in substantially the form attached to this rule. See Appendix G.

If, for good cause shown, the presiding judge finds that the tender of plea form cannot or should not be executed by the defendant, then in such event the court shall make oral inquiry of the defendant in open court concerning the matters contained in the tender of plea form. Said inquiry shall be included verbatim in the journal entry of the proceeding.

- 29.9 **Misdemeanor Journal Entries (Computation of Time Served).** In every sentencing journal entry in which a defendant has been in custody or is sentenced to jail the journal entry shall reflect the number of days for which the defendant is entitled credit, and the length of the defendant's sentence.

