

FILED

APR 17 2014

CAROL G. GREEN
CLERK OF APPELLATE COURTS

COURT RULES OF THE DISTRICT COURT

22nd JUDICIAL DISTRICT of the STATE OF KANSAS



James A. Patton, Chief Judge, Division One
John L. Weingart, District Judge, Division Two
Joy E. Moore, Clerk of the District Court, Brown County
Nancy J. Koch, Clerk of District Court, Marshall County
Patricia I. Heideman, Chief Clerk, Nemaha County
Michelle R. Smith, Clerk of District Court, Doniphan County

TABLE OF CONTENTS

	<u>Page</u>
Rules Adopted	3
Rules of Decorum	3
Rule # 1 Administrative Orders	3
Rule # 2 Assignment of Cases.....	3
Rule # 3 Court Files and Records	4
Rule # 4 Pleadings, Documents, Etc.	4
Rule # 5 Photocopies, Certification Fees and Other Charges.....	5
Rule # 6 Poverty Affidavits.....	5
Rule # 7 Filing for Extensions of Time.....	6
Rule # 8 Telephone Discovery Conferences	6
Rule # 9 Continuance of Hearings.....	6
Rule # 10 Summary Judgment Motions.....	6
Rule # 11 Supporting Memoranda for Motions.....	6
Rule # 12 Hearing on Motions	7
Rule # 13 Notice Required for Hearing on Annual Accountings	7
Rule # 14 Pre-Trial Conferences	8
Rule # 15 Settlement Conferences	8
Rule # 16 Notice of Bankruptcy Stay	8
Rule # 17 Jury Questionnaires	9
Rule # 18 Journal Entries and Orders	9
Rule # 19 Court Costs and Refund of Costs	9
Rule # 20 Order of Restitution in Criminal Cases	10
Rule # 21 Standard Conditions of Appearance Bonds	10
Rule # 22 Prior Domestic Actions; Costs and Consolidation	10
Rule # 23 <i>Ex Parte</i> Restraining Orders, <i>Ex Parte</i> Temporary Support Orders and <i>Ex Parte</i> Temporary Custody Orders.....	11
Rule # 24 Domestic Interlocutory Orders.....	11
Rule # 25 Required Disclosures in Domestic Cases.....	12
Rule # 26 Child Custody Investigations.....	12
Rule # 27 Domestic Relations Evaluations.....	12
Rule # 28 Guardian Ad Litem and Attorney for Minors; Investigation Reports.....	12
Rule # 29 Divorce Education Workshop.....	13
Rule # 30 Alternate Dispute Resolution.....	13
Rule # 31 Child Support.....	13
Rule # 32 Domestic Relations Pre-Trial Conferences.....	13
Rule # 33 District Court Trustee and Expedited Judicial Process for Child Support Matters.....	13
Rule # 34 Withdrawal of Counsel.....	16
Rule # 35 Appointment of Counsel for Indigent Defendants and Claims for Services.....	16
Rule # 36 Review or Modification of Appearance Bond in Criminal Cases.....	16
Rule # 37 Jury Instructions.....	17
Rule # 38 Pre-sentence Reports.....	17
Rule # 39 Extended Juvenile Jurisdiction Prosecution.....	17
Rule # 40 Records of Proceedings.....	18
Rule # 41 Recall of Traffic Warrants.....	19
Rule # 42 Investment of Funds in Special Account.....	19
Rule # 43 House Arrest.....	19

RULES ADOPTED

The following rules of the 22nd Judicial District are hereby adopted pursuant to Supreme Court Rule 105 and the same are supplementary to the Kansas Supreme Court Rules relating to District Courts.

All prior rules of the 22nd Judicial District are hereby repealed.

RULES OF DECORUM

Notwithstanding any other provisions the individual judges may make pursuant to their inherent powers to maintain the order and dignity of the Courts, the following rules of decorum are hereby adopted:

1. All attorneys, their clients and other individuals appearing in Court shall be suitably attired.
2. Counsel shall stand at the counsel table or the speaker's podium to address the Court, witnesses and jurors, unless otherwise permitted by the Court.

RULE # 1 **ADMINISTRATIVE ORDERS**

District Court Administrative Orders will be promulgated from time to time by the Chief Judge and shall be effective on filing in the Office of the Clerk of the District Court. Such orders shall be binding on all court employees and shall control administrative procedures and personnel policies in the District. The Clerk in each county shall maintain an official file of such orders, which shall be available for public inspection during normal business hours. Nothing in such orders shall be interpreted to contravene any statute or Supreme Court rule or to affect the substantive rights of any litigant in any judicial proceeding.

RULE # 2 **ASSIGNMENT OF CASES**

All cases shall be assigned by the Clerk to a judge in the manner directed by the Chief Judge. Cases shall be permanently assigned to the judges in a manner that will equalize the caseload. The assignment shall be noted on the appearance docket, the file, and the judge's trial docket sheet. After such assignment, all proceedings shall be held by the judge to which the case has been assigned, except in the event of sickness, absence, or disqualification of such judge. In such an event, another judge may hear the case. Any case so assigned shall be subject to reassignment or transfer by the Chief Judge as the judicial work of the district may require. Any Judge of the District Court in the 22nd Judicial District may be assigned and may hear any case within the judicial district upon assignment by the Chief Judge, notwithstanding the case is not in the assigned judge's county of election.

RULE # 3
COURT FILES AND RECORDS

No file or record of the Court shall be permitted to be outside of the physical possession and control of the Clerk of the District Court or the judge assigned to the case except on a signed receipt of an attorney or abstractor whose place of business is within the 22nd Judicial District, and any such file or record must be returned to the Court immediately upon request. No file or record may be taken outside of the county of the Clerk's office except with the knowledge and consent of the Clerk or by order of a Judge of the district. No file or record may be kept for a period longer than fifteen (15) days and must be returned no later than seven (7) days prior to any trial or hearing.

RULE # 4
PLEADINGS, DOCUMENTS, ETC.

1. Format. All pleadings and other papers in any case or proceeding filed with the Clerk of the District court shall be on 8 ½" x 11" paper and have a 2 ½" blank bottom margin on the first page for the use by the Clerk for file stamping. All pleadings, praecipes and correspondence shall contain the case number involved in addition to the information required by *Supreme Court Rule 111*. All pleadings shall be typed unless otherwise approved by the Court.
2. Designation of Counsel. Any pleading or other paper filed by an attorney in any action or proceeding shall contain in written or printed form the name and correct post office mailing address, telephone number, e-mail address of the attorney filing the same and shall clearly indicate the party or litigant represented by such attorney. The Clerk shall refuse to receive papers for filing where this rule is not complied with. The first pleading filed by a law firm or by multiple counsel shall designate the responsible local attorney for purposes of notice. Any change in designation shall be made to the Court and all other parties in writing. All pleadings or other papers filed by attorneys from other states, pursuant to *Supreme Court Rule 116*, must also be signed by the associated Kansas attorney of record. The signature of Kansas counsel shall be real and not conformed or signed by an agent. Pleadings not conforming to this rule shall be considered to be unsigned.
3. Necessary Copies. Counsel filing any petition, motion, notice, order, accusation in contempt, or other document to be served by the sheriff upon adverse parties to the action shall furnish to the Clerk sufficient copies of the same for each person to be served. At the time of filing motions, briefs or other supporting memoranda, counsel pursuant to *Supreme Court Rule 137* shall also provide a chambers copy of these documents to the judge of the district court handling the case.
4. Service of Pleadings on Opposing Counsel. Counsel filing motion or pleading or other paper subsequent to the petition shall, on the day the same is filed, or before, deliver or mail a signed copy thereof to counsel of record for all adverse parties or to all pro se litigants.
5. Proof of Service of Process. Every return or proof of service of summons or other process shall have attached to it a copy of the petition or other pleadings served, except that the officer making the return on the service of summons within the county shall not attach a copy of the petition or orders served therewith, but shall endorse thereon the facts relating to service as provided by law.

6. Service of Pleadings and Notices - - Duty of Counsel. It shall be the responsibility of counsel to furnish to the Clerk or to the sheriff the requisite directions and information for the preparation, issuance and/or taking of property or persons, or for the sale or other disposition of property including the correct amount of the judgment and interest accrued thereon. Counsel shall also be responsible for the preparation of all orders of sale and publication notices, including notices of suit and notices of sale, and shall prepare the sheriff's return for judicial sales. (See Supreme Court Rules 111 and 112; see K.S.A. 60-210 and 60-211.)

7. Service by Certified Mail. Except when personal or residential service is requested pursuant to K.S.A. 60-303(c), attorneys shall prepare the envelope, including addressee and address, and provide the cost of the postage, including the cost of the return receipt, to the sheriff, if the attorney desires the sheriff to effect service by certified mail pursuant to K.S.A. 60-303(b). The Court prefers that, where service is by certified mail, the service be effected by the attorney rather than requesting that the sheriff effect service. If service is effected by the attorney pursuant to K.S.A. 60-303(b), the attorney shall file the Receipt for Certified Mail (Postal Service Form 3800) within five (5) days of the date the attorney receives delivery of the return receipt from the postal service. The Clerks of the District Court shall not complete or prepare any of the forms used in connection with effecting service by certified mail.

RULE # 5

PHOTOCOPIES, CERTIFICATION FEES AND OTHER CHARGES

Photocopies of any papers in any non-confidential, open files may be obtained from the Clerk of the District Court for the charge of fifty cents (\$.50) for the first page and twenty-five cents (\$.25) per page thereafter. No charge shall be made for indigents or when waived by a judge. Certification fees by the Clerk of the District Court of such papers may be obtained at a cost of one dollar (\$1.00) for every certification.

There shall be a charge of two dollars (\$2.00) for sending the first page of any document by FAX, and one dollar (\$1.00) for following pages.

The Clerks shall have the right to charge fees for obtaining access to and searching public records as permitted by *K.S.A. 45-219(c)(4)*. The fees for such services shall be posted in the office of the Clerk of the District Court.

Unless otherwise ordered by the Court for good cause, no certified or attested copy shall be issued until the court costs have been paid in full. The Clerk shall have the right and discretion to waive a part or all of the charges for certified or faxed copies.

RULE # 6

POVERTY AFFIDAVITS

In all civil cases filed with a poverty affidavit, inquiry will be made into the ability of the plaintiff to make the deposit to secure costs before the case is tried. If a plaintiff has sufficient property or income from which to pay the cost deposit, the case will not be tried until the cost deposit has been made. Diligent inquiry by counsel shall be made before a client proceeds by poverty affidavit.

RULE # 7
FILING FOR EXTENSIONS OF TIME

An extension of time may be granted pursuant to *Supreme Court Rule 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 an extension shall be entitled to a hearing upon three (3) days' notice.

RULE # 8
TELEPHONE CASE MANAGEMENT CONFERENCES

Generally, a telephonic Case Management Conference will be set from thirty (30) to sixty (60) days after an answer has been filed. At the discovery conference, discovery deadlines will be set, a pretrial date selected and a trial date selected, if possible. Other matters relevant to the case will also be considered. The charge for the conference call will be assessed as court costs.

RULE # 9
CONTINUANCE OF HEARINGS

When a hearing date has been scheduled and a party or counsel requires a continuance or difference hearing date, and all parties agree thereto, and the Court grants the same, it shall be the responsibility of the requesting party to obtain a new setting from the Court to coordinate and confirm the new date with all interested parties, and to submit a proposed order of continuance to the judge. Said proposed order shall be submitted to the presiding judge prior to the originally scheduled hearing date, or counsel must appear and make oral application for the continuance. If a matter has been noticed for hearing, and the parties by agreement are unable to select an alternate date, the setting will be changed only upon an order of the Court after proper application for the continuance has been made.

RULE #10
SUMMARY JUDGMENT MOTIONS

Motions for summary judgment will not be heard until discovery is complete unless all issues to be considered can be determined as matters of law and unless such issues will not be affected by later discovered facts.

RULE #11
SUPPORTING MEMORANDA FOR MOTIONS

All motions, with the exceptions hereafter noted, must be accompanied by a memorandum suggesting the reasons and authorities supporting the same. Unless a different time is fixed by the Court, all parties opposed to the motion will be allowed a simultaneous period of twenty-one (21) days in which to respond in writing. If oral argument or a fact hearing is allowed by the Court, after request by counsel, the Court will set the matter for special hearing. At any time after the expiration of such twenty-one (21) day period when no request for hearing

or oral argument has been granted, counsel may certify in writing to the Court and opposing counsel that the motion is ready for ruling. When a motion is so certified, or on the Court's own motion in the absence of any such certification, such motion shall be deemed finally submitted for decision. The exceptions to the foregoing are:

1. Initial applications to the Court for additional time to plead which do not request extensions in excess of thirty (30) days will be ruled on instanter and without supporting memoranda and without awaiting responses from adverse parties.
2. Motions which show facts or authorities on their face to support the relief requested do not require additional memoranda. (Motion and supporting memoranda may be combined, and where combined should be so labeled.)
3. Motions accompanied by an agreed order will be ruled on without further supporting or responsive memoranda.
4. Preliminary domestic motions may be supported and opposed by affidavits in lieu of or in addition to other memoranda.
5. Contested motions for temporary or permanent change of custody.

Any motion may be dismissed by the Court for failure to comply with the requirements of this rule.

RULE #12 **HEARING ON MOTIONS**

Copies of all dispositive motions, supporting suggestions and briefs and those in opposition shall be provided by counsel to the assigned judge at the time of their filing in order to aid in the prompt adjudication of these matters.

Either before or at the time a motion is filed and oral argument is requested, the attorney filing the motion is required to obtain from the presiding judge, a time certain for hearing on the motion. Motions upon which oral argument is requested shall be accompanied by a Notice of Hearing and a showing of proper service being made on the opposing party or counsel. Motions which are not noticed for hearing at the time of filing will be deemed submitted, and oral argument will be deemed to have been waived, unless opposing counsel or the opposing party makes a request for oral argument pursuant to *Supreme Court Rule 133(c)*.

In the event opposing counsel or the opposing party requests oral argument, then they are required to obtain from the presiding judge a time certain for hearing on the motion and to notify opposing counsel of said hearing date. If such request is made but the notice of hearing isn't given, such request will be denied and the motion deemed to have been submitted for decision by the Court.

RULE #13 **NOTICE REQUIRED FOR HEARING ON ANNUAL ACCOUNTINGS**

Unless otherwise ordered by the Court, a Notice of Hearing on a Petition for Approval of Annual Accounting shall be given to all interested persons, in such manner and for such length of time as the Court considers reasonable.

RULE #14
PRE-TRIAL CONFERENCES

All discovery shall be completed by the time of the Pretrial Conference. Counsel shall file their pretrial questionnaires with the Clerk of the District Court and provide a copy to the Court in chambers at least seven (7) days prior to the pretrial conference. Counsel shall attend the pretrial conference prepared to comply in full with the procedure outlined in *Supreme Court Rule 140*. Additionally, counsel advancing any claim for relief shall be prepared to state and discuss the elements of proof necessary to sustain the claim. Should a party or attorney for the party fail to appear at a pretrial conference after notice, an ex parte hearing may be held and appropriate judgment entered.

RULE #15
SETTLEMENT CONFERENCES

Upon its own motion, or upon the motion of a party, the Court may require the parties, their representatives and attorneys, to appear before the Court for a settlement conference. The purpose of such a conference will be to explore the possibilities for settling the action and to propose suggestions to assist the parties in negotiation. The attorneys will initiate the scheduling of a settlement conference. Reasonable notice of the setting of the settlement conference shall be given to all parties at least seven (7) days in advance. Each attorney shall be prepared to discuss the current position or his or her client, with respect to settlement negotiations. No party shall be prejudiced at the trial of the action if settlement negotiations fail. Unless otherwise ordered, the pretrial order shall be filed prior to the settlement conference.

RULE #16
NOTICE OF BANKRUPTCY STAY

A party or attorney for a party in a civil case pending in the 22nd Judicial District who files a bankruptcy action shall file written notice thereof with the Clerk of the District Court wherein the civil proceeding is pending within ten (10) days of the filing of the bankruptcy petition.

The written notice shall be filled under the caption and number of the civil case and have attached thereto a file-stamped copy of the bankruptcy petition or other document evidencing the filing of the bankruptcy case. The party or attorney shall also mail a copy of the notice to all other interested parties in the civil action and to the presiding judge.

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.

RULE #17
JURY QUESTIONNAIRES

Jury questionnaires, in the form substantially in compliance with *Supreme Court Rule 167*, will be mailed to prospective jurors and held in proper files by the Clerk when returned. Except as otherwise ordered by the Court, for good cause shown, only a Judge, attorney or a party to the litigation to be heard by the jury will be permitted access to the questionnaires returned by the jurors. Except as otherwise permitted by the Court, for good cause shown, voir dire examination of jurors should not include questions which are asked and answered on the juror questionnaire.

Completed jury questionnaires will be available to counsel of record, parties and *pro se litigants* prior to trial. Copies may be checked out by counsel of record, but shall be returned to the Clerk at the conclusion of the trial or appeal, if any. *Pro se* litigants may review the questionnaires at the office of the Clerk. No counsel of record, party or anyone else shall make copies of any jury questionnaires without prior written permission of the judge presiding at the trial. Copies of the questionnaires shall remain in the possession and custody of the attorneys of record at all times.

RULE #18
JOURNAL ENTRIES AND ORDERS

Pursuant to Supreme Court Rule 170, if counsel fail to agree upon the appropriate form of journal entry, the party preparing the proposed journal entry shall obtain a hearing to settle the journal entry. In the event the Court finds one or more counsel to have been unreasonable in accepting the terms of the proposed journal entry, the costs of the prevailing party may be taxed as directed by the Court.

Unless otherwise ordered by the Court, the party initiating the action or motion which requires an order or journal entry shall prepare the same. The order or journal entry shall be prepared and submitted to the Court within ten (10) days from the hearing.

RULE #19
COURT COSTS AND REFUND OF COSTS

In all cases wherein the presiding Judge assesses costs against a party, said costs shall include all expenses allowed as set out in *K.S.A. 60-2001* and *K.S.A. 60-2003* and other costs (including attorney fees) ordered by the Court, unless specifically waived by the presiding Judge.

The Clerk of the District Court shall record in the case file any disbursements arising out of the case and shall furnish within (30) days of the filing of the Journal Entry of Judgment an itemized costs statement to the party ordered by the Court to pay costs. Any party who has advanced fees must notify the Clerk of the District Court of the amount to be reimbursed within fifteen (15) days of the Court's order assessing costs, or reimbursement is waived.

RULE #20
ORDER OF RESTITUTION IN CRIMINAL CASES

In the event restitution is ordered in criminal cases, the Journal Entry shall specify the amount of restitution ordered and the name and address of the individual to whom restitution is to be made. Restitution payments shall be paid to the victim within three days from receipt thereof unless it is necessary to delay payment in order for a check to clear.

RULE #21
STANDARD CONDITIONS OF APPEARANCE BONDS

The following shall be minimum conditions of all bonds pursuant to Chapter Eight (8), Twenty-One (21) and Twenty-Two (22) of the Kansas Statutes Annotated assuring the appearance of a criminal defendant in any case in the Twenty-Second Judicial District, to wit:

A. Defendant shall not possess or consume any alcohol, liquor, beer, wine, cereal malt beverage, intoxicant of any kind, non-prescribed drugs, toxic vapors or inhalants and/or drug paraphernalia.

B. Defendant shall be subject to random chemical testing of blood, breath, urine, hair, saliva, perspiration or a combination of such tests at the discretion and request of a law enforcement officer, Court Services officer, Community Corrections officer, County Attorney's office, or the Court. Defendant shall pay the all costs of such testing and confirmation testing, if any.

C. Defendant shall not possess, control or own any firearm, deadly weapons, ammunition, explosives or prohibited weapons.

D. Defendant shall be a law abiding citizen and obey all laws where defendant may be.

E. Defendant shall not have contact with endorsed witnesses, victims, victims' immediate families and co-defendants.

F. Defendant shall not leave the state of Kansas without permission of the Court of Court Services Office of the 22nd Judicial District. If permission is granted, a condition of leaving the jurisdiction shall be that Defendant shall execute a written waiver of extradition to voluntarily return to Kansas to answer pending or unresolved charges.

G. Any Defendant entitled to an attorney appointed pursuant to *K.S.A. 22-4503*, is required by law to pay a \$100.00 application fee to the Board of Indigent Defense Services, unless the fee is waived by the Court by a finding of manifest hardship to the defendant. The fee shall be paid to the Clerk of the District Court. Failure to pay the fee may be a violation of conditions of release and result in revocation of bond and/ or forfeiture of bond.

RULE #22
PRIOR DOMESTIC ACTIONS; COSTS AND CONSOLIDATION

No case for divorce or separate maintenance shall be filed when there is a record in the Clerk of the District Court's office of a prior case between the same parties which is not disposed 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 or the giving of security therefore as may be appropriate.

If a party has more than one domestic relations action pending in this jurisdiction, the parties shall inform the Judge of such fact so that consolidation may be considered.

RULE #23
**EX PARTE RESTRAINING ORDERS, EX PARTE TEMPORARY
SUPPORT ORDERS AND EX PARTE TEMPORARY CUSTODY ORDERS**

Ex parte restraining orders shall be mutual to both parties concerning financial and personal matters.

No ex parte orders shall be issued unless the Court finds notice to the adverse party is not practical and the adverse party is not represented by counsel.

In domestic cases, ex parte orders will be heard only upon verified application by either party, which application discloses facts deemed by the Court sufficient to justify such hearing and/or relief. Unless waived by the Court, relief different from that provided for in such orders may be had only upon notice to all interested parties and hearing, if necessary. Ex parte child support orders, barring unusual compelling circumstances, will generally follow the Court's published guidelines then in effect.

Requests to modify ex parte orders obtained under this rule shall be made upon verified application. Such application to modify shall be determined upon the verified pleadings, statements of counsel and such hearing, if any, as the Court shall require.

RULE #24
DOMESTIC INTERLOCUTORY ORDERS

Except as hereinafter provided, no petition for interlocutory orders in a domestic relations case shall be heard by any Judge of the 22nd Judicial District without notice being given to the party against whom the order is sought. Such notice of hearing shall be given in such manner and for such period of time as the Judge shall determine to be reasonable under all of the circumstances. No motion for temporary child support shall be granted until a Child Support Worksheet and Domestic Relations Affidavit are submitted to the Court. The Domestic Relations Affidavit shall be filed at least five (5) days prior to the hearing.

If the Judge finds that the party seeking the interlocutory order is in real and present danger of physical harm, or if other exigent circumstances are found to exist by the Judge, then the Judge may enter an appropriate order ex parte to deal with the emergency and the matter shall be set for hearing with reasonable notice to the other party. No such ex parte orders shall issue until sworn testimony has been taken from the moving party. If other relief is sought by the motion, the motion shall be set for hearing and reasonable notice shall be given.

RULE #25
REQUIRED DISCLOSURES IN DOMESTIC CASES

1. Uncontested Divorce or Separate Maintenance Proceedings. No final property or support orders shall be entered until a Domestic Relations Affidavit and a proposed Child Support Worksheet, if applicable, have been filed with the Court. Such documents shall be filed prior to the hearing.

2. Contested Divorce or Separate Maintenance Hearings. A Domestic Relations Affidavit and a proposed Child Support Worksheet are to be filed with the Clerk of the District Court and exchanged by counsel not less than seven (7) days prior to trial. A list of witnesses and exhibits shall be exchanged by counsel at least seven (7) days prior to trial.

3. Post-Divorce Proceeding. Any party moving to change custody or modify support shall file a Domestic Relations Affidavit and a proposed Child Support Worksheet with the filing of the motion.

4. Material Change of Circumstances. Counsel is under a continuing duty to the Court and opposing counsel, until the hearing, to promptly amend or supplement statements or worksheets if a material change of circumstances occurs.

RULE #26
CHILD CUSTODY INVESTIGATIONS

In domestic cases involving a dispute on child custody, a home study may be required by the Court to be performed by the Court Services Office and a report made available to counsel prior to the hearing. All expenses incurred for the home study shall be assessed as court costs.

RULE #27
DOMESTIC RELATIONS EVALUATIONS

In all domestic relations litigation relating to child custody or visitation rights, the Court may order appropriate investigations and evaluations as allowed by statute upon the joint application of the parties, the application of either party, or upon the Court's own motion.

RULE #28
**GUARDIAN AD LITEM AND ATTORNEY FOR MINORS;
INVESTIGATION REPORTS**

In domestic relations proceedings, the Judge, on the Judge's own motion, or on the motion of one of the parties, may appoint an attorney as guardian ad litem to represent the interests of minor children. The guardian ad litem shall enter his or her appearance in writing and shall be notified of all hearings, receive subsequent pleadings and actively participate in the action. The guardian ad litem fees shall be determined by the Court and will be assessed as costs in the action.

RULE #29
DIVORCE EDUCATION WORKSHOP

In domestic relations matters in which there are minor children, the parents of the minor children may be required to attend an educational workshop on the effects of divorce on children.

RULE #30
ALTERNATE DISPUTE RESOLUTION

In domestic relations proceedings, the Judge, on the Judge's own motion, or on the motion of one of the parties may, in any disputed child custody or parenting time matter, submit the parties to a Court approved alternate dispute resolution prior to an evidentiary hearing being held. District Magistrate Judges are considered approved mediators.

RULE #31
CHILD SUPPORT

The Kansas Child Support Guidelines adopted by the Kansas Supreme Court shall be used as a basis for establishing and reviewing child support orders in the 22nd Judicial District. No party directed to pay child support by court order shall be relieved of the obligation to pay child support during any visitation period unless such relief is expressly ordered by the Court.

RULE #32
DOMESTIC RELATIONS PRE-TRIAL CONFERENCES

Pre-trial conferences shall be held in all contested divorce and separate maintenance actions unless waived by the Court. Discovery, home studies and evaluations will be completed prior to the pre-trial conference. The Court will provide pre-trial questionnaires to counsel. Completed pre-trial questionnaires shall be filed with the Clerk of the District Court at least one (1) week prior to the scheduled pre-trial conference.

RULE #33
**DISTRICT COURT TRUSTEE AND EXPEDITED JUDICIAL
PROCESS FOR CHILD SUPPORT MATTERS**

A District Court Trustee Program and Expedited Judicial Process for child support matters have previously been established in this District, and the same are hereby re-established in order to provide for the continued enforcement and collection of child support.

A. Court Trustee.

1. The District Court Trustee for the 22nd Judicial District shall be appointed by and serve at the pleasure of the Chief Judge.
2. Powers of the District Court Trustee.

- a. The Court Trustee is empowered to pursue all civil remedies which would be available to an obligee in enforcing payment of child support. The Court Trustee may also file motions to modify the amount of support on behalf of any child or interested party.
- b. The Court Trustee shall have all of those additional powers and duties enumerated in *K.S.A. 23-494, et seq.*
- c. The Court Trustee, on assignment by the Chief Judge, may preside as a hearing officer at summary administrative hearings relating to the enforcement and modification of child support orders under laws pertaining to expedited judicial process for child support matters.
- d. In carrying out his duties, the Court Trustee and employees of the Court Trustee represent the state and the interests of the state in enforcing orders of support, visitation or custody. While performing the duties of the Trustee or the Trustee's employee, neither the Court Trustee nor any employee of the Court Trustee shall be considered to represent any party as an employee.

3. Collection of Child Support Payments.

The Kansas Payment Center (KPC) shall collect, disburse, and receive payments for child support and maintenance, maintain complete, accurate and clear records of all payments and their disbursements, and furnish to the District Court Trustee on such forms as are provided in the information to carry out and enforce the duties, obligations and responsibilities as required above. Until further order of this Court, KPC shall promptly furnish the necessary data concerning any obligor for child support or maintenance who is delinquent in paying such amounts.

4. Expenses of Operation.
 - a. To defray the expenses of the operations of the Court Trustee's office, the Court may charge an amount not to exceed five percent (5%) of the funds collected for child support in whose cases in which the Court Trustee has entered an appearance.
 - b. If charged, the Court Trustee percentage shall be withheld from all applicable child support payments made through the Clerk of the District Court or the KPC. Such withheld percentages shall then be paid by the Clerk to the Court/ KPC to the Court Trustee's Operations Fund.

B. Expedited Judicial Process.

1. Appointment of Hearing Officers.
 - a. The District Magistrate Judges are appointed as hearing officers to assist the District Judges in hearing expedited

enforcement of support matters in those cases referred to them by the Chief Judge. The Chief Judge, in special situations, may appoint the Court Trustee as a hearing officer. Such hearing officers may conduct hearings in any county in the District.

2. Powers of Hearing Officers.

a. Hearing officers are empowered to establish, modify and enforce orders of support pursuant to the *Kansas Parentage Act, K.S.A. 23-2201 et. seq.; K.S.A. 23-3001; K.S.A. 38-2243, 382243 and 38-2255b; Kansas Income Withholding Act, K.S.A. 23-3101 et. seq.; and Kansas Supreme Court Rule 172.*

b. The District Magistrate Judges are further empowered to enforce orders granting parenting time (formerly visitation) to a parent with his minor child pursuant to K.S.A. 23-701 *et. seq.*

c. Only a District Judge may address questions of child custody in domestic issues except in those instances where a District Magistrate Judge is acting in the absence of the District Judge as provided by law.

d. All recommended orders of the Court Trustee acting as a hearing officer shall be subject to approval by a District Judge. Any such order shall become final unless the obligor requests in writing a judicial hearing within ten (10) days from the date of the filing of the recommended order by the Court Trustee.

e. If, for any reason after commencing a hearing, a District Magistrate Judge or the Court Trustee determines that the case would be more appropriately heard by a District Judge, the hearing officer shall hear so much of the factual situation as necessary to support a decision either to issue a temporary child order *pendente lite* or not to issue such an order. Such case shall then be referred to the Chief Judge for further assignment.

3. Authority of Hearing Officers

a. The hearing officer's authority in expedited matters shall be those set forth in *Supreme Court Rule 172(c)*.

4. Mandatory Language in Support Orders.

a. Unless otherwise ordered by the Court, each child support order shall include language similar to the following:

“IT IS FURTHER ORDERED that all child support payments shall be made payable to the Kansas Payment Center, PO Box 758599, Topeka, KS 66675-8599. Each payment shall include the County 2-letter designation and case number for which payment is being made.

IT IS FURTHER ORDERED that all support and maintenance payments shall be made payable to the Kansas Payment Center, except for good cause shown and by specific order of the Court, and that each party shall inform the Clerk of the District Court, in writing, of any change of name, residence, and employer with business address within seven (7) days after such change.

IT IS FURTHER ORDERED that unless the Court makes findings in conformity with K.S.A. 23,4,107(j), income withholding shall take effect immediately to enforce the order of child support or child support and maintenance granted herein.

RULE #34
WITHDRAWAL OF COUNSEL

An attorney of record in a proceeding may withdraw upon compliance with the provisions of *Supreme Court Rule 117*. An Order for Withdrawal shall automatically enter unless written opposition thereto is filed within ten (10) days from the date the motion and proof of service thereof is filed with the Clerk.

RULE #35
**APPOINTMENT OF COUNSEL FOR INDIGENTS DEFENDANTS
AND CLAIMS FOR SERVICES**

Pursuant to the guidelines set forth in the Rules and Regulations adopted by the State Board of Indigents' Defense Services (Section 105-3-3), the Judges of the District Court shall make appointments of counsel in rotation from the panel except when the nature and/or gravity of the crime charged or other circumstances require variance from rotation.

Claims for payment for legal representation provided to an indigent defendant shall be submitted for payment not later than sixty (60) days after the termination of the services.

RULE #36
**REVIEW OR MODIFICATION OF APPEARANCE BOND
IN CRIMINAL CASES**

A hearing for the review or modification of an appearance bond, before arraignment or preliminary hearing, shall be heard by the Judge originally setting the bond, or the Judge to

whom the case has been assigned. If the Judge who originally set the conditions of the bond is not available, any other Judge in the District may review the conditions.

Notice of a hearing to modify conditions of a bond shall be given to the County Attorney and the defendant or his attorney.

RULE #37
JURY INSTRUCTIONS

Pursuant to *K.S.A. 60-251*, written requests for instructions made by a party shall be presented to the Court and served upon each adverse party no later than two (2) weeks prior to the opening of the trial. The Court may receive additional requests relating to questions arising during the trial at any time prior to the giving of final instructions.

RULE #38
PRE-SENTENCE REPORTS

Pursuant to *K.S.A. 21-6704*, the presiding Judge shall make available to counsel for the State and for the defendant the pre-sentence report, any report that may be received from the Kansas Diagnostic Center or the State Security Hospital, and/or other diagnostic reports and allow counsel a reasonable time to review the report or reports before sentencing a defendant.

The contents of such report(s) may be disclosed to a defendant. Copies of the report(s) shall not be provided to Defendant or anyone else by the parties or their attorney without the express approval of the presiding judge in the case or the Chief Judge of the 22nd Judicial District.

RULE #39
EXTENDED JUVENILE JURISDICTION PROSECUTION

This rule is adopted pursuant to the provisions of *K.S.A. Supp. 38-1636(f)*. The provisions hereof shall be effective for the processing of extended juvenile jurisdiction prosecutions filed in the 22nd Judicial District from and after this date.

a. The hearing officer's authority in expedited matters shall be those set forth in Supreme Court Rule 172(c).

1. A motion requesting the Court to designate a proceeding as an extended jurisdiction juvenile prosecution shall be filed by the County Attorney within thirty (30) days of the initial filing of charges against the respondent. The request to file the motion after the expiration of said thirty (30) day period may be granted by the Court for good cause shown.
2. Immediately upon the filing of a motion in felony cases, requesting the Court to designate the proceedings as an extended jurisdiction juvenile prosecution, the Clerk of the Court of the county in which the proceeding is filed shall forthwith notify the Chief Judge that the motion has been filed. The Chief Judge will thereupon assign such proceeding to a District Judge in the 22nd Judicial District for hearing. Upon such assignment, a hearing on such motion shall be scheduled

by the District Judge to whom the case has been assigned at the earliest possible date. Such Judge shall be responsible to inform the respondent of the right to a trial by jury, to the effective assistance of counsel, and to all other rights of a defendant pursuant to the Kansas Code of Criminal Procedure. Motions to designate the proceedings as an extended jurisdiction juvenile prosecution in misdemeanor cases shall be heard by the Magistrate Judge of the county in which the proceeding is filed.

3. All motions filed by a County Attorney requesting the Court designate a proceeding as an extended jurisdiction juvenile prosecution shall comply with the provisions of *K.S.A. 38-2347*
4. *The hearing on the motion requesting the Court designate the proceedings as an extended jurisdiction juvenile prosecution may also serve as a preliminary examination on the charges, as provided for in K.S.A. 22-2902 and as authorized by K.S.A. Supp.* In the event the Court intends for such hearing to also serve as a preliminary hearing, notice of such intent shall be given to the respondent and the attorneys of record at least five (5) days prior to the scheduled hearing on the motion.
5. Except as ordered by the District Judge to whom the motion to designate a proceeding as an extended jurisdiction juvenile prosecution has been assigned, no further hearings shall be held in the juvenile proceeding until such time as the motion for extended juvenile jurisdiction prosecution has been heard and ruled upon.

RULE #40 **RECORD OF PROCEEDINGS**

The Clerks of the District Court of the Twenty-Second Judicial District shall have the authority to recall any outstanding or active traffic warrant when payment in full has been received from violators of traffic rules and regulations.

1. A party in an action before a District Magistrate Judge, other than a criminal action, who intends to have a record of the proceedings made, shall be responsible to obtain a Court Reporter
2. A record of criminal proceedings before a District Magistrate Judge shall not be made unless a request for a Court Reporter is made to the Clerk of the District Court at least 48 hours prior to the time set for the hearing.
3. Electronic recording equipment shall not be used to make a record of a proceeding unless such equipment is available and a request to do so is made to the Clerk of the District Court at least five (5) days prior to the scheduled hearing. In the event the Clerk of the Court is requested to make a record of a proceeding by electronic recording equipment and is subsequently requested to prepare a transcript of the record, the Clerk shall not be required to complete the transcript until her regular work scheduled permits her to do so.

RULE #41
RECALL OF TRAFFIC WARRANTS

The Clerks of the District Court of the Twenty-Second Judicial District shall have the authority to recall any outstanding or active traffic warrant when payment in full has been received from violators of traffic rules and regulations.

RULE #42
INVESTMENT OF FUNDS IN SPECIAL ACCOUNT

A Judge of the District Court may order that any monies in actions pending before the Court be invested in any local federally insured financial institution for safe keeping. The Court order for investment of these funds must specify that the attorney holding the monies shall be responsible for opening an interest bearing account in such federally insured financial institution for deposit of said funds prior to determination of ownership by the Court. No withdrawals shall be made unless ordered by the Court. Proof of such investment shall be placed in and become 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 invested 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 the investment of these monies shall become the property of the person or persons found to be the owners of the monies by the Court unless otherwise ordered.

RULE #43
HOUSE ARREST

Judges of the District Court may order a defendant be sentenced to a House Arrest Program pursuant to *K.S.A. 21-6609*, as amended. The Chief Judge of the 22nd Judicial District shall establish rules, regulations and conditions for the establishment, monitoring and sanctioning of defendants on a House Arrest Program. The Chief Judge shall designate approved independent monitoring services and electronic monitoring devices to be employed during any House Arrest Program.

The above and foregoing Rules of the District Court are hereby adopted by order of the Judges of the District Court of the 22nd Judicial District this 20th day of June, 2012. Such Rules shall be effective upon filing in the offices of the Clerks of the Court of the 22nd Judicial District and the office of the Clerk of the Supreme Court of the State of Kansas.

James A. Patton
Chief Judge