



# Kansas Courts News Release

## *Office of Judicial Administration*

**FOR IMMEDIATE RELEASE**

October 3, 2018

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*Judge Kathryn Gardner*



*Judge G. Gordon Atcheson*



*Judge Anthony Powell*

### **Kansas Court of Appeals panel to hear oral arguments at Chanute High School**

TOPEKA—A three-judge panel of the Kansas Court of Appeals will hear [oral arguments](#) Tuesday, October 16, at the Chanute High School auditorium at 1501 W. 36th St. in Chanute.

Judges Kathryn Gardner, G. Gordon Atcheson, and Anthony Powell will hear oral arguments in four cases. Two will be heard starting at 9:30 a.m. with the remaining two starting at 1:30 p.m.

After each docket session, the judges will be available to answer questions from the public about the court and court procedures.

Additionally, the judges will speak to students at Chanute, Humboldt, and Erie high schools Monday, October 15.

Gardner, who is presiding judge of the panel, said she appreciated the work of Chief Judge Daniel Creitz and his staff of the 31st Judicial District to host the panel and superintendents and staff of the area school districts to host the judges' visits.

The 31st Judicial District is composed of Allen, Neosho, Wilson, and Woodson counties.

"We look forward to interacting with students, local judges, attorneys, and others during our stay in Chanute," she said.

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### Oral Arguments

Attorneys for each side will have an opportunity to present arguments to the judges, and the judges will have a chance to ask questions. The court will then take each case under consideration and will issue a written decision at a later date, usually within 60 days.

There are 14 judges on the [Court of Appeals](#), and they sit in three-judge panels to decide cases. In addition to the Court of Appeals panel hearing cases this week in Chanute, other three-judge panels of the Court of Appeals will be hearing cases in Olathe, Topeka, and Wichita. All hearings are open to the public.

In fiscal year 2017, the Court of Appeals resolved appeals in 1,833 cases, including 1,265 in which the court issued a formal written opinion.

The four cases to be heard at Chanute High School are summarized below. They arise from Butler, Cowley, Crawford, and Elk counties.

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**9:30 a.m. ♦ Tuesday, October 16, 2018**

**Appeal No. 119,155: *Aaron Nash v. Patrick T. Blatchford, M.D.***

Cowley County: Nash claims Blatchford was negligent in his medical care and treatment during surgery. He sued only Blatchford, who worked at South Central Kansas Medical Center, for medical malpractice. Blatchford responded Nash failed to give notice before he filed his lawsuit and moved for summary judgment before the trial began. The district court granted the motion, finding notice was required by statute but had not been given. Issues on appeal are whether: 1) the district court erred in finding notice was required; and 2) the notice statute is unconstitutional.

**Appeal No. 118,496: *State of Kansas v. Billy Jack Daniels***

Butler County: Officers found methamphetamine and drug paraphernalia in Daniels' car and charged him with possession. The facts were not disputed, and Daniels waived his right to a jury trial. The judge found Daniels guilty and sentenced him to 20 months in prison. Daniels

appealed, citing the search of his vehicle violated his Fourth Amendment rights. The State contends Daniels gave consent for the search. Issue on appeal is whether the search of Daniels' car was legal.

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1:30 p.m. ♦ Tuesday, October 16, 2018

**Appeal No. 117,736: Ashley Stephens, Special Administrator of the Estate of Randall D. Stephens, Deceased, v. Cindy L. Ainsworth, Executor of the Estate of William J. Lewis Jr., Deceased**

Elk County: Stephens and Lewis formed an oral partnership (High Plains Construction) to build steel structures. During that partnership, they built a cabin and bought land they used for hunting and other purposes. After the partnership dissolved and Stephens and Lewis died, their estates both claimed to own the cabin and land. After a trial, the district court found Lewis' estate owned the property because the property was not held by the partnership but was owned individually by the parties. The court found the property passed to Lewis when Stephens died by virtue of a deed to the property establishing joint tenancy with right of survivorship. Issue on appeal is whether the property was owned by the partnership or individually by the partners.

**Appeal No. 118,974: Meredith Vaughn v. United Services Automobile Association**

Crawford County: Vaughn claims USAA breached its car insurance policy by not completely paying personal injury protection benefits after a car accident. USAA paid only part of two medical bills, claiming the charges were excessive. Before the trial began, the district court granted USAA's motion for summary judgment, finding Vaughn had no claim against USAA because she had entered into a total settlement of her case with the driver at fault in the accident. Issue on appeal is whether the district court erred in finding that under Kansas law, Vaughn had no claim against USAA after she settled with the driver.

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Note: Reporters who want to cover the oral arguments using video, photo, or audio recording devices, as spelled out in [Supreme Court Rule 1001: Media Coverage of Judicial Proceedings](#), must contact Lisa Taylor at [taylorl@kscourts.org](mailto:taylorl@kscourts.org), no later than noon Monday, October 15.

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