

LOCAL COURT RULES OF THE

17th Judicial District

(Decatur, Graham, Norton, Osborne, Phillips and Smith Counties)

Adopted pursuant to Supreme Court Rule No. 105

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CLERK OF APPELLATE COURTS**

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LOCAL RULES

I

PREFATORY RULES

Rule #

- 101 EFFECT OF RULES: The following rules are hereby adopted for the administration of Courts in the 17th Judicial District of Kansas.
- 102 REPEAL OF FORMER RULES: All court rules of the 17th Judicial District of Kansas that are in effect immediately prior to the effective date of these rules are hereby repealed.
- 103 COPY IN CLERK'S OFFICE: Each clerk of the district court shall maintain an official copy of rules, which shall be available to the public during normal business hours of the court.
- 104 CONSIDERATION OF PROSPECTIVE PROPOSED RULES: Upon formation of a 17th

Judicial District Bench/Bar court rules committee, the committee may request the adoption, revision, or modification of a rule or rules of the District Court, in which event, the proposal shall be submitted to the Chief Judge for consideration. After consultation with the district magistrate judges the district judge may adopt, revise, or modify these local rules, either on the district judge's own initiative or upon request of the court rules committee.

- 105 APPLICATION: These rules shall apply to all matters pending before any Court in the District unless specifically superseded by statute, special rule, order or exception. Any Rules set forth herein may be modified by the Presiding Judge in any action as such Judge shall deem necessary to meet emergencies or to avoid injustice or great hardship.
- 106 REFERENCES: All references to statutes and other rules are to the Kansas Statutes Annotated or to the Kansas Supreme Court Rules relating to District Courts, unless otherwise indicated.
- 107 GEOGRAPHIC APPLICATION OF RULES: Rules adopted by the Court shall apply to any building occupied or used by the Court, and to the environs of any such building. The rules shall be in effect at all times judges or court personnel are present whether or not court proceedings are actively under way.
- 108 GOALS FOR OFFICERS OF THE COURT AND PROFESSIONAL COURTESY:
- (a) A lawyer shall avoid taking action adverse to the interests of a litigant known to be represented without timely notice to opposing counsel unless ex parte proceedings are permitted.
 - (b) A lawyer shall promptly return telephone calls and answer correspondence from other lawyers, judges, court personnel, and self-represented litigants.
 - (c) A lawyer shall respect opposing counsel's schedule by seeking agreement on deposition dates and court appearances (other than routine motions) rather than merely serving notice.
 - (d) A lawyer shall avoid making ill-considered accusations of unethical conduct toward an opponent.
 - (e) A lawyer shall not engage in intentionally discourteous behavior.
 - (f) A lawyer shall not intentionally embarrass another attorney, party or self-represented litigant, and shall avoid personal criticism of other counsel or self-represented litigant.
 - (g) A lawyer shall not seek sanctions against or disqualification of an attorney or judge unless necessary for the protection of a client and fully justified by the circumstances, not for the mere purpose of obtaining a tactical advantage.

- (h) A lawyer shall strive to maintain a courteous tone in correspondence, pleadings and other written communication.
- (i) A lawyer shall not intentionally mislead or deceive an adversary and should honor promises or commitments made.
- (j) A lawyer shall recognize that the conflicts within a legal matter are of a professional nature and not personal, and a lawyer shall endeavor to maintain a friendly and professional relationship with other attorneys in the matter. In other words, leave the argument in the courtroom.
- (k) A lawyer shall express professional courtesy to other lawyers, judges, court personnel, and self-represented litigants and has the right to expect professional courtesies in return.
- (l) In contested custody cases the lawyer shall be mindful that even though the lawyer should vigorously represent the interests of the parent he/she represents, the lawyer should do so with tact and respect for the opposing parent. The parents must continue to cooperate in raising the child even after the hearing is completed and/or the lawyer has withdrawn. How the lawyer handles the contested matter can have a dramatic effect on how the parents cooperate in the future, or their future lack of cooperation.

II

COURTROOM DECORUM, SAFETY & PROCEDURES

Rule

- 201 ADDRESSING THE COURT: Except when excused by the Court, attorneys or self-represented litigants shall rise when addressing the court (if physically able), and shall make all statements to the court from counsel table, the lectern facing the court or from such other location or locations as approved by the Court. They shall not approach the bench, except upon the permission of the court.
- 202 QUESTIONING WITNESSES: Except when the Court permits relaxation of the rules, while questioning witnesses, attorneys or self-represented litigants shall stand at counsel table (if physically able), the lectern facing the court or from such other location or locations as approved by the Court. They shall not approach the witness except with the court's permission. Only one attorney for each party may participate in the examination or crossexamination of a witness.
- 203 OBJECTIONS: Objections shall be to the Court. Attorneys and self-represented litigants will not be permitted to argue with each other during court proceedings. Objections shall be brief, concise and no longer than is necessary to state the nature of the objection. Normally one word stating the grounds for the objection is sufficient; ex. hearsay, relevance, etc. Argument or a "talking objection" is improper, unless the Court specifically asks for additional

information. A reply from opposing counsel is likewise improper unless specifically requested by the Court. Once the Court has ruled on an objection, there will be no additional argument.

- 204 HATS: No spectator, counsel or party shall wear a hat or other head covering in the courtroom unless expressly given permission to do so by the presiding judge.
- 205 FOOD AND BEVERAGES: Spectators will not be permitted to consume food or beverage in the courtroom.
- 206 SIGNS / MESSAGES: No spectator, counsel or party shall carry a sign or display clothing, bracelets, pins, buttons or other material that contains the name, picture or likeness of any party or victim, or that contains any message of any kind which might be interpreted as attempting to communicate a position or message on behalf of any party or victim.
- 207 OTHER ACTIVITIES: Spectators will not be permitted to engage in any activity that interferes with giving attention to the court proceedings. Spectators must turn off cell phones and other electronic devices while in the courtroom.
- 208 CONVERSATIONS: Spectators, counsel and parties shall have due respect for proceedings being conducted while court is in session, and toward that end shall exercise restraint in carrying on conversations with other spectators, counsel or parties.
- 209 PERSONS SUBJECT TO SEARCH: All persons seeking entry to a courtroom are subject to search by the Sheriff or other officers designated by the Sheriff or by the presiding judge. Such search may include briefcases, parcels, purses or other containers carried by persons seeking entry to a courtroom.
- 210 WEAPONS IN COURTROOM: Under K.S.A. 75-7c20(h), the chief judge has the ability to prohibit the carrying of a concealed handgun by any person into courtrooms or ancillary courtrooms within the district, provided other means of security are employed.

Within the 17th Judicial District the carrying of a concealed or unconcealed firearm of any kind by any person, except law enforcement officers and judges, into a courtroom or ancillary courtroom within the district shall be prohibited, provided other means of security are employed.

Within the 17th Judicial District “ancillary courtrooms” are defined to mean any area of court operation, including but not limited to: courtrooms, jury rooms, judge’s chambers, office of the Clerk of the District Court, Court Services offices, and other areas used for official court business, together with waiting areas, corridors, and hallways adjacent thereto.

Within the 17th Judicial District “other means of security” shall be determined on a case by case basis by the judge, clerk of the court, or court services officer. The judge, clerk of the court, or court services officer shall have authority to obtain, through local law enforcement

or otherwise, such other means of security as the judge, clerk of the court, or court services officer shall deem appropriate without further order or direction from the chief judge.

Other than as permitted above, no weapons other than exhibits shall be permitted in any courtroom. The presiding judge may require that any firearm intended for introduction as an exhibit be presented to the Sheriff or other personnel approved by the presiding judge for a safety check prior to its being brought into any courtroom; further, the presiding judge may require that any weapon intended for introduction as an exhibit be retained in the custody of the Sheriff or other person designated by the presiding judge before and after its introduction as an exhibit. Further, all weapons intended for introduction as an exhibit will be rendered inoperable as designated by the presiding judge.

211 EXHIBITS: No exhibits of any kind will be published to the jury, or be visible to the jury, until admitted and permission to publish is granted by the presiding judge. This includes exhibits, photographs, and documents on counsel table.

III

SELF REPRESENTED LITIGANTS

Rule

301 SELF-REPRESENTED LITIGANT ADVISORY: Due to the specialized knowledge and training necessary to conduct a trial, it is advisable for a litigant to have a lawyer. All self-represented litigants are required to follow the same standards, rules of procedure and rules of evidence as are binding upon litigants who are represented by counsel. Self-represented litigants should also be aware that the trial judge will not give or offer to give personal instruction regarding courtroom procedures, take over responsibilities that would ordinarily be attended to by trained legal counsel as a matter of course (e.g. preparation of motions, framing questions which comply with the rules of evidence, selecting a jury, preparing jury instructions and similar duties) or otherwise aid or assist the self-represented litigant in presenting his/her case. The court may and will terminate self-representation if a self-represented criminal litigant deliberately engages in serious and obstructionist misconduct or if it is determined the self-represented litigant is not competent to represent him/her self.

Within these local court rules references to “attorney” or “counsel” also apply to self-represented litigants.

302 LEGAL FORMS: Legal forms can be obtained at the Kansas Judicial Council website: www.kansasjudicialcouncil.org. Self-represented litigants are expected to take advantage of these forms to the extent possible.

IV
CLERK'S OFFICE

Rule #

- 401 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 the signed receipt of an attorney or an abstractor whose place of business is within Decatur, Graham, Norton, Phillips, Osborne or Smith County, as the case may be, and any such file 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 any 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 three (3) days prior to any trial or hearing. The file or record must be returned in its original condition.
- 402 PROCESS: Process, including but not limited to summonses, subpoenas, writs of attachments, writs of execution and orders of garnishment, shall be prepared by the party or attorney requesting the issuance of such documents; Clerks of the District Court shall not prepare those documents. Attorneys shall prepare a sufficient number of summonses, subpoenas, writs of attachments, writs of execution and orders of garnishment to facilitate service of the required number on all parties or persons.
- 403 SERVICE OF PROCESS: Where service is by certified mail the service shall be effected by the attorney rather than requesting the sheriff effect service. 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 court shall not complete or prepare any of the forms used in connection with effecting service by certified mail.
- 404 PUBLICATION COSTS: In all cases, the attorney or litigant shall pay publication costs directly to the newspaper(s), subject to reimbursement through the court if ordered by the presiding judge.
- 405 WITNESS FEES: Except in criminal cases, all witness fees and mileage shall be paid by the attorney or litigant directly to the witness(es), subject to reimbursement through the court if ordered by the presiding judge.
- 406 JUDGMENT PAYMENTS:
- (a) PAYMENT OF JUDGMENTS TO ATTORNEYS--The clerk of the district court is authorized to pay proceeds of a judgment to the party awarded the judgment or to the attorney of record. *Smith v. Ward*, 161 Kan. 453, 169 P. 2d 93 (1946).
 - (b) ENDORSEMENT WITHOUT RECOURSE--When payments of 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".

- 407 INVESTMENT OF FUNDS: Clerks of the District Court shall not be responsible for investing money paid or delivered to them by any person, firm or entity.
- 408 COURT 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 unless specifically waived by the presiding judge. The Clerk of the Court shall record in the case file any disbursements arising out of the case and, at the request of the prevailing party, shall furnish an itemized cost statement to the party ordered by the court to pay costs. Any party who has advanced fees must notify the Clerk of the Court of the amount to be reimbursed within fifteen (15) days of the court's order assessing costs; otherwise reimbursement is waived.
- 409 REFUND OF COSTS: The Clerk shall refund docket fees and court costs to the party or counsel of record advancing such monies after the party against whom costs and fees are assessed has paid the same.
- 410 RULE 139 FILINGS: All instruments filed pursuant to Supreme Court Rule No. 139 shall be stored in a separate locked file that is not available to the public. Attorneys of record and the parties shall be allowed access to these records. For the convenience of the presiding judge, the clerk shall place a note on the inside flap of the court file indicating that the Rule 139 filing has been made.
- 411 FAX FILINGS: The Clerk of the District Court will affix a pre-approved stamp identifying all documents that are to be filed as a FAX filing.
- 412 RESEARCHING JUDGMENTS: Clerks of District Court shall not research judgments or liens. Neither shall they provide opinions regarding the existence of judgments or liens.
- 413 E-MAIL COPIES: Clerks shall provide copies of requested documents by e-mail unless the person making the request prefers a hard copy, or unless an e-mail copy is not feasible. The person requesting the document may be responsible for the cost of copying and/or mailing of hard copies. Clerks shall provide the requested documents within a reasonable time, which will vary on a case by case basis.
- 414 OVERPAYMENT OF \$10 OR LESS: Overpayments of \$10 or less shall not be refunded.

501 NOTIFICATION TO THE COURT: (providing copies of documents to presiding Judge pursuant to Supreme Court rule no. 137).

- (a) Notices to District Judge. A) Copies of all pleadings, motions, briefs, memoranda, notices, and other documents for the attention of the district judge or requiring judicial action; and B) Originals of proposed orders, journal entries or decrees shall be hand-delivered or mailed to the district judge's chambers at the following address:

Hon. Preston A. Pratt Chief Judge P.O. Box 70 Norton KS 67654

- (b) Notices to District Magistrate Judges. A) Copies of all pleadings, motions, briefs, memoranda, notices, and other documents for the attention of respective district magistrate judges; and B) Originals of proposed orders, journal entries or decrees shall be hand-delivered or mailed to the district magistrate judge's chambers in the county where the action is pending at the following addresses:

Hon. Jay Tate
Magistrate Judge
P.O. Box 89
Oberlin, KS 67749

Hon. Jessie Thompson
Magistrate Judge
410 N. Pomeroy Ave., Ste. 9
Hill City, KS 67642

Hon. Debra S. Anderson
Magistrate Judge
P.O. Box 70
Norton, KS 67654

Hon. Renee Henke
Magistrate Judge
P.O. Box 160
Osborne, KS 67473

Hon. Paula D. Hofaker
Magistrate Judge
P.O. Box 564
Phillipsburg, KS 67661

Hon. Michael Kirchhoff
Magistrate Judge
P.O. Box 273
Smith Center, KS 66967

502 SCHEDULING HEARING ON MOTIONS: No matters are to be set for hearing without first contacting either the Court's Administrative Assistant (when the hearing will involve the District Judge) or the District Magistrate Judge in the county where the hearing will be conducted. It is generally the responsibility of all counsel and self-represented litigants to coordinate a convenient hearing date or dates before contacting the District Judge's Administrative Assistant or presiding magistrate judge to ask that the hearing be placed on the Court's calendar. A Notice of Hearing and a showing of proper service being made on the opposing party or counsel shall accompany motions upon which oral argument is requested. 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.

Notwithstanding a timely request for oral argument the court may deny such request by stating in the ruling or by separate communication that oral argument would not materially aid the court.

- 503 CONTINUANCES: Except in extraordinary circumstances, no continuance will be granted and no hearing or proceeding will be considered as continued unless a written motion for continuance has been filed and a written order has been approved by the presiding judge or the chief judge prior to the hearing or trial in question. The requirement of a written order may be waived orally by a judge in an emergency situation on condition that a written order be supplied by the attorney or party requesting the continuance as soon as practicable thereafter. **In criminal, juvenile offender, child in need of care, alcohol / mental illness cases, or protection from abuse / protection from stalking cases, if no continuance has been granted as specified above, and the prosecution or petitioner does not appear in court ready for the hearing with necessary witnesses available, the case will be dismissed without prejudice for lack of prosecution.** In the event a criminal defendant does not appear, his/her non-appearance will be considered a violation of bond conditions, and a bench warrant will be issued for arrest of the defendant. In the event neither party appears, the case will be dismissed without prejudice. Absent substantial and compelling reasons, no continuance will be granted on the day a hearing has been scheduled.

If witnesses were subpoenaed then the attorney that subpoenaed the witnesses shall be responsible to timely notify the witnesses of the continuance. The subpoenas shall continue in full force and effect to the continued hearing date.

- 504 HEARING – SCHEDULING CONTINUANCES OR DIFFERENT HEARING DATES: When a hearing date has been scheduled and a party or counsel requires a continuance or different hearing date, it shall be the responsibility of the requesting party to obtain a new setting from the Court's Administrative Assistant or presiding magistrate judge and coordinate and confirm a new date with all opposing parties and/or counsel. 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 Order of the Court after proper application for continuance has been made. This provision, however, does not revise the preceding rule relating to the granting of continuances, but is intended to expedite scheduling of continued hearings when counsel or parties believe circumstances exist that will support the need for the Court to grant a continuance.

- 505 TIMELY DISPOSITION OF CASES: In order to assist the court in complying with Kansas Supreme Court Standards relating to timely disposition of cases, the following shall apply.

Any case brought under Chapter 61 of the Kansas Statutes Annotated in which service of process upon a defendant or defendants has not been completed within 90 days of filing will be dismissed without prejudice. This period may be extended by timely application and written order of the court. The period will be extended for the time specified in the application and order.

The court will periodically review all cases, of whatever nature, to monitor compliance with Kansas Supreme Court Standards relating to timely disposition of cases. In the event no action or insufficient action, as determined by the presiding judge or chief judge, has been taken in any case, the court will notify the parties in writing that the court intends to dismiss the case after a period of time specified in the notice. The notice shall be sent to the attorneys of record, or if no attorney appears of record, the party or parties to such case, at the last known address of the attorney or the party appearing in the case file. In Chapter 59 proceedings, notice shall also be sent to all fiduciaries, heirs at law and creditors and to beneficiaries, legatees and devisees under the terms of any will or wills that have been filed with the court.

If no action or insufficient action is taken by the parties to expedite the resolution of the case within the time set forth in the notice, the court will dismiss the case without prejudice. As an alternative to dismissal, the court may take such action as it deems appropriate to expedite the case, after due notice to all interested parties.

VI

CASE MANAGEMENT & PRETRIAL CONFERENCES

(Also see K.S.A. 60-216 & Supreme Court Rule 140)

Rule

- 601 CASE MANAGEMENT CONFERENCES: Case Management conferences will be scheduled by the Court as necessary to ensure timely resolution of cases. When a case management conference has been scheduled, counsel or parties will complete and return Case Management Questionnaires as required by the Court. In no way is this rule intended to preclude counsel or parties from requesting the scheduling of a case management conference.
- 602 COMPLETION OF DISCOVERY: As a general rule, all discovery shall be completed by the time of the Pretrial Conference.
- 603 PRETRIAL CONFERENCES IN DOMESTIC RELATIONS CASES: Unless counsel feel a pretrial will only unnecessarily increase the costs of the proceedings and unless counsel receive special dispensation from the Court, pretrial conferences shall be held in all contested divorce and separate maintenance actions. (Contested means divorce, separate maintenance, spousal maintenance, child custody, child support, residency, parenting time matters in which evidence is to be presented to the court and the resolution of which will be by decision of the court rather than by agreement of the parties.) Discovery will be completed and any home studies or evaluations concluded prior to the Pretrial Conference, unless otherwise ordered by the Court. A proposed or suggested settlement agreement, Domestic Relations Affidavit and Child Support Worksheet as required by the Child Support Guidelines, as well as a Parenting Plan, either agreed upon or proposed, shall be presented to the Court and exchanged by the parties at the time of the pretrial conference, or if no pretrial is conducted, at least ten (10) days before the scheduled hearing.

VII
CRIMINAL PROCEEDINGS

Rule #

- 701 WITHDRAWAL: In all criminal cases where counsel has been retained, no Motion for Leave to Withdraw for Nonpayment of Fees will be heard following arraignment, unless replacement counsel has entered his or her appearance or unless extraordinary circumstances are shown.
- 702 MOTIONS: Motions to Dismiss or to Suppress Evidence or Confessions shall be made in writing at least twenty (20) days prior to the time of trial and Notice of Hearing thereof shall be given in writing by serving a copy of such Motion on the Prosecuting Attorney. The hearing on such Motion shall be at least ten (10) days prior to trial.
- 703 PRELIMINARY EXAMINATION HEARINGS: In the event both the State and the defendant wish to waive their right to a preliminary examination, both the prosecutor and defendant must either personally appear to enter such waiver in the presence of the presiding judge, or the prosecutor, the defendant, and the defendant's attorney (if defendant is represented) must have personally signed a written waiver.
- 704 REQUESTS FOR JURY TRIALS IN FELONY CASES: In most circumstances, felony trial dates will be set at the time of felony arraignments. To accomplish that, Counsel must have access to their calendars at arraignment.
- 705 REQUESTS FOR JURY TRIALS IN MISDEMEANOR CASES: All counsel representing criminal misdemeanor defendants who request a jury trial or who have appealed a conviction from Municipal Court or from the District Magistrate Judge, shall appear on the next motion day the Chief Judge will be sitting. It is the responsibility of counsel to secure the next court date and time of appearance from the Clerk of the District Court. The county and/or city

attorney shall also appear. Counsel shall bring their calendars because in most circumstances a trial date will be set at that time.

- 706 PROPOSED JURY INSTRUCTIONS: At least 10 days in advance of trial, proposed jury instructions shall be furnished in both written format and via an e-mail attachment as a "Word Document" to AA17th@ruraltel.net. Pattern Jury Instructions are to be clearly identified as such with the PIK number indicated on each instruction. For non-PIK instructions, legal authority for the same will be cited. The Court may receive additional requests relating to questions arising during the trial at any time prior to the giving of final instructions.
- 707 TRANSFERRING PRISONERS: When a prisoner is to be brought to Court, the County Attorney shall request the custodian of the prisoner to bring the prisoner to Court and shall be responsible for timely preparation of an order to transport, if necessary.
- 708 PRISONER RESTRAINTS DURING TRANSPORT: The officer in charge of the custody of the prisoner is free to use any restraint necessary and reasonable under the circumstances to prevent escape or harm to the officer or others while transporting the prisoner to and from Court.
- 709 ACCESS TO PRISONERS DURING TRANSPORT: At all times when a prisoner is being brought to court proceedings from jail/prison or is being returned to jail/prison from court proceedings, the officer in charge shall transport the prisoner forthwith and shall not allow any person except counsel to confer with the prisoner en route unless express permission of the presiding judge is given otherwise.
- 710 PRISONER RESTRAINTS AT TRIALS, HEARINGS OR COURT APPEARANCES: Unless specifically ordered by the presiding judge, no restraints are to be used on a prisoner when the jury is present. At the discretion of the transporting officer and as directed by the presiding judge, other than at jury trials prisoners may be brought into the Courtroom bound or shackled.
- 711 PRISONER CLOTHING: In all jury trials, the prisoner shall be allowed to wear suitable civilian clothes or shall be brought into court in unmarked garments and not in distinctive jail/prison attire.
- 712 PRESENCE OF LAW ENFORCEMENT: During trials and while a prisoner is in the Courtroom, at least one officer shall remain in the Courtroom continually. In all jury trials the officer shall sit in the spectator section unless the Judge orders otherwise.
- 713 ACCESS TO PRISONERS DURING TRIAL: Prisoners shall be taken to the hallway or holding cell at each recess and his/her counsel shall have access to the prisoner at all times. No other persons shall have access to or visit with a prisoner during recesses without express permission of the Judge.

714 SECURING PRISONERS AFTER CONVICTION: Upon conviction of the prisoner, the officer in charge may shackle the prisoner in the Courtroom if deemed necessary by the officer or by the Judge, but that shall occur outside the presence of the jury, if possible.

715 PRESENTENCE REPORTS: The presiding judge shall make available to counsel for the state and for the defendant the presentence report and any other reports used by the court in determining the sentence (or juvenile disposition) and shall allow counsel a reasonable time to review the report or reports before sentencing a defendant (or entering an order of disposition in a juvenile proceeding). Sentencing guidelines presentence reports are open to the public and they may be made available to the defendant. All other presentence reports and attachments thereto and attachments to sentencing guidelines presentence reports, such as victim impact statements, psychological reports and drug and alcohol evaluation reports, shall not be disclosed to the defendant unless counsel has obtained the prior express approval of the presiding judge.

716 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's Administrative Assistant or presiding magistrate judge 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. Petitioner shall provide copies of the proposed order of expungement to the county attorney and Court Services Office at least seven days before any scheduled expungement hearing. In the event no written objection to expungement is filed, it shall be presumed that the prosecutor's office and court service do not object to the expungement.

The 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.

717 PROBATION SUPERVISION: Within the 17th Judicial District the normal and standard conditions of probation shall be as set forth herein. The presiding judge may impose any conditions of probation the judge deems appropriate. If, however, the order for probation is silent regarding the conditions of probation, or if the order for probation states the probationer is subject to normal or standard conditions of probation then the following apply.

1. All required conditions of probation set forth in K.S.A. 21-6607;
2. Obey all laws of the USA, KS, and all jurisdictions. Report any contact with law enforcement to the supervising officer within 72 hours;
3. Pay restitution, costs, and fees in the amount and manner ordered by the Court or required by the supervising officer. The term of probation shall automatically continue without further court order as long as the amount of restitution ordered remains unpaid;
4. If supervision is with court services then pay the supervision fee as set forth by statute.

If supervision is with community corrections then pay all fees as set by Northwest Kansas Community Corrections;

5. Be subject to searches of the defendant's person, effects, vehicle, residence and property by the supervising officer or law enforcement based upon reasonable suspicion of defendant violating the conditions of probation or criminal activity;
6. Be subject to random but reasonable tests for drug and alcohol consumption, at the offender's expense, as required by the supervising officer, any law enforcement officer, or judge. The offender shall stipulate that the written results of any such test shall be admissible at any hearing to revoke or modify probation without the necessity of testimony of lab personnel or other foundation testimony;
7. Not possess or consume alcohol, liquor, beer or cereal malt beverage;
8. Not enter any place selling alcohol, liquor, beer or cereal malt beverage except a grocery or convenience store, or a restaurant that may serve alcohol but primarily serves food;
9. Not possess, consume, or traffic in any controlled substances, non-prescribed drugs, toxic vapors, or drug paraphernalia;
10. Not take any over the counter medication, drugs or substances that will elicit a positive drug or alcohol test;
11. Not abuse any prescription medication, over the counter medication, or any other substance whether or not it will elicit a positive drug or alcohol test;
12. Not submit a diluted or contaminated sample for testing for alcohol or drugs. A diluted or contaminated sample will be presumed to constitute a failed test;
13. Comply with all conditions established by the supervising officer;
14. Be truthful with the supervising officer in all matters;
15. Complete all programs deemed appropriate by the supervising officer and pay any costs of such programs;
16. Complete all community service work ordered by the Court or directed by the supervising officer;
17. Comply with all travel and curfew restrictions establish by the supervising officer;
18. Not leave the State of KS without permission of the supervising officer and sign any documents required by the supervising officer regarding travel outside of KS;
19. Report to the supervising officer as directed and allow him/her to visit you wherever you may be;
20. Sign a release of information form allowing the supervising officer access to any information the supervising officer may need to confirm the offender's compliance with the probation conditions, including but not limited to employment, health, and treatment information;
21. Obtain permission from the supervising officer prior to any change of employment, residence or telephone number;
22. Obtain or maintain gainful employment or be actively enrolled as a full-time student;
23. Not engage in any disorder, fight, assaultive activity, violence or threats of violence of any kind;

24. Not act as a confidential informant for any law enforcement agency;
25. Pay all costs of medical/dental treatment incurred while you were or are an inmate in the county jail and reimburse _____ County for any such expenses.

All individuals subject to supervision by Court Services of the 17th Judicial District shall pay an alcohol / drug testing fee of \$50. All drug testing fees shall be paid to the local Clerk of the District Court. At least quarterly such fees shall be remitted by the Clerk of the District Court for deposit to the Court Services / Drug Testing Fund administered by the County Treasurer in Norton County, Kansas.

- 718 APPOINTMENT OF ATTORNEY: When an attorney is being appointed to represent an indigent defendant in a felony criminal case, both the judge making the appointment and the attorney accepting the appointment shall ensure that the attorney is qualified under the Board of Indigent Defense Services (BIDS) regulations to accept the appointment.

Each magistrate judge shall, on an annual basis, update the list of qualified attorneys willing to take appointments in that county.

VIII

CIVIL JURY INSTRUCTIONS

Rule #

801 REQUESTED INSTRUCTIONS: Pursuant to K.S.A. 60-251 at least 10 days in advance of trial proposed jury instructions shall be furnished in both written format and submitted via e-mail attachment as a "Word Document" to AA17th@ruraltel.net. Pattern jury instructions are to be clearly identified as such with the PIK number indicated on each instruction. For non-PIK instructions legal authority for the same will be cited. The Court may receive additional requests relating to questions arising during the trial at any time prior to the giving of final instructions.

IX

INTERPRETERS

Rule #

901 APPOINTMENT OF INTERPRETER:

- (a) The Court, upon inquiry and interview of any person before the Court or upon motion or notice by counsel or a party, shall make a determination as to the necessity for an interpreter in accordance with K.S.A. 75-4351, et seq.
- (b) Any person in need of interpreter services shall, personally or through his or her attorney, make written request for an interpreter at least 72 hours prior to any hearing, proceeding or trial at which such services are necessary. The notice shall contain the caption of the case and the date and time of the trial, hearing or proceeding. It shall also specify the type of interpretation required.
- (c) The Language Access Coordinator (see Local Administrative Order No. 12) shall maintain a list of qualified interpreters. Upon receipt of the written notice, the Court shall secure a qualified interpreter from the list for the scheduled hearing. Any party objecting to the selected interpreter must file with the Court their objection prior to the hearing or trial.
- (d) Interpreters shall be paid for services, and mileage shall be reimbursed at a rate determined by the Chief Judge. Fees for interpreters paid by the state board of indigents defense services shall be in accordance with standards adopted by such board. Interpreter costs may be assessed to any party, person or entity as the Court deems appropriate, subject to any limitations provided by applicable law.

MOTION PRACTICE

Rule #

1001 FORM AND FILING: All substantive and dispositive motions, as distinguished from procedural motions, unless made during a hearing or at trial, shall be in writing, shall be filed with the clerk, and shall be accompanied by a brief or memorandum suggesting the reasons and authorities in support. (Also see 501, 502 and 504)

1002 RESPONSES AND REPLIES TO MOTIONS: A party opposing a motion other than one to dismiss or for summary judgment shall, within seven (7) days after service of the motion upon it, file an original with the clerk and serve upon all other parties a written response to the motion containing a short, concise statement in opposition to the motion, and if appropriate, a brief or memorandum in support thereof. A party shall have twenty-one (21) days to respond to a motion to dismiss or for summary judgment. The movant may, within seven (7) days after the service of such response in opposition, file an original with the clerk and serve upon all other parties a copy of a written reply memorandum. No surreplies will be allowed. (Also see 501, 502 & 504)

1003 EXCEPTIONS: The exceptions to 1001 and 1002 above are:

- (a) 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 instantly without supporting memoranda and without awaiting responses from adverse parties.
- (b) Motions that show on their face factual authorities sufficient to support the relief requested do not require additional memoranda. (Motions and supporting memoranda may be combined and where combined should be so labeled.)
- (c) Motions accompanied by an agreed order will be ruled on without further supporting or responsive memoranda.
- (d) When permitted by the court, preliminary domestic motions may be supported and opposed by affidavits in lieu of or in addition to other memoranda.

1004 COMPLIANCE: Failure to comply with the rules of this Court may result in dismissal of any motion.

1005 MOTION FOR SPECIAL PROCESS SERVER: All motions for special process server shall be accompanied by an order. Both the motion and order shall be on one page.

1006 MOTION FOR ENLARGEMENT OR EXTENSION OF TIME: Motions for enlargement of time shall state:

- (a) the current deadline;
- (b) good cause for the extension;
- (c) the position of opposing counsel or parties, and
- (d) the proposed new deadline.

All such motions shall be accompanied by a proposed order.

1007 LENGTH OF MOTIONS: Absent special allowance from the Court, motions and attached supporting memoranda, but excluding exhibits, shall be limited in length to twenty (20) pages.

1008 REQUEST FOR TRANSCRIPT: Whenever a request for an official transcript is made, the request must be delivered in writing to the stenographer who has responsibility to transcribe the proceedings. The official CSR in the 17th Judicial District is Susan K. Worcester, Official Court Reporter, P.O. Box 70, Hill City, KS 67642.

XI

ATTORNEY RESPONSIBILITIES

Rule #

1101 CONTINUANCES: In the event a hearing is continued, subpoenaed witnesses are to be notified of the continuance by the attorney who subpoenaed them.

1102 POVERTY AFFIDAVITS: Pursuant to K.S.A. 60-2001 (b), when a Poverty Affidavit is filed, the attorney for the plaintiff shall certify that no attorney fees will be accepted until the docket fee required by law has been paid. Exempted from this rule are referrals from Kansas Legal Services Corporation.

Poverty affidavits submitted by inmates must be accompanied by the statement required by KSA 60-2001(b) and must also be accompanied by the minimum fee of \$3 as required by KSA 60-2001(b).

1103 ORDERS TO JUDGMENT DEBTORS: A judgment debtor normally should not be ordered to appear for a hearing in aid of execution in a Chapter 60 or Chapter 61 case more than three (3) times in a one (1) year period. The presiding judge may waive this limitation upon a showing of good cause.

A judgment debtor who continues to make regular payments as agreed between the parties, or who is found to be disabled and otherwise unable to pay, shall not be required to return to court more frequently than yearly unless, upon motion and a showing of good cause, the presiding judge otherwise directs.

ORDER BACK PROCEDURE for hearings in aid of execution. Under the code of civil procedure for limited actions, courts are allowed to order a judgment debtor to return from time to time to furnish current information without the necessity of the judgment creditor repeatedly filing motions and serving process. The frequency of such "orders back" requiring the judgment debtor to personally appear cannot be more frequently than once every 60 days. The presiding judge may order a judgment debtor to appear more frequently if compelling circumstances so warrant and are stated in writing.

1104 EX PARTE ORDERS IN DOMESTIC RELATIONS ACTIONS: Except in extraordinary situations or as hereinafter provided, no petition for ex parte or interlocutory orders in a domestic relations case shall be heard by any judge of the 17th 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 or interlocutory child support shall be granted unless the party presenting the same shall have complied with Kansas Supreme Court Rule 139 and submitted a child support worksheet, pursuant to Kansas Child Support Guidelines, to the court. If possible, actual rather than estimated income shall be used in completing the Rule 139 statement and child support worksheet.

Further, if the presiding 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 by the judge to exist, 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.

No ex parte orders shall be entered for spousal maintenance of either party.

Except in extraordinary cases, no ex parte interlocutory order for support of a child shall take effect prior to the expiration of 14 days from its entry. The obligor under said order shall be entitled to an evidentiary hearing thereon within 14 days of a request for hearing.

- 1105 ACCEPTANCE OF COURT APPOINTMENT: When an attorney is being appointed to represent an indigent defendant in a felony criminal case, the attorney accepting the appointment shall ensure that the attorney is qualified under the Board of Indigent Defense Services (BIDS) regulations to accept the appointment.

When an attorney is being appointed as a guardian ad litem for a child in a Child In Need of Care case, or a Juvenile Offender case, or a Family Law case, the attorney accepting the appointment shall ensure that the attorney meets the requirements of Supreme Court Rule 110A unless waived by the appointing judge for good cause.

- 1106 SEQUESTRATION OF WITNESSES: In any case where witnesses are sequestered each attorney shall notify his/her witnesses as follows: 1) remain outside the courtroom for the entire course of proceedings; 2) do not discuss the case with other witnesses; 3) do not allow other witnesses to discuss the case with you; 4) do not listen to any other witnesses who may be discussing or attempting to discuss this case; 5) any violation or attempt to violate this order may subject the person to sanctions for contempt of court; 6) any violation or attempt to violate the sequestration order should be immediately reported to court personnel.

- 1107 RELEASE OF SUBPOENAED WITNESSES: Subpoenas are court orders subjecting the person served with penalty for contempt of court for failure to obey the subpoena. As a court order no party or attorney may unilaterally release the person from the requirements of the subpoena. If any party or attorney wishes to release the person from the requirements of the subpoena then he/she must notify all other parties or attorneys and if there is no objection then request release from the presiding judge. Absent good cause the presiding judge shall grant release upon request. Despite the above language, each party should subpoena his/her own witnesses and not rely upon subpoenas requested by other parties.

XII
REQUIRED DISCLOSURES IN DOMESTIC RELATIONS
CASES

Rule #

- 1201 DIVORCE OR SEPARATE MAINTENANCE PROCEEDINGS: Unless the case is bifurcated, no divorce decree or separate maintenance order shall be filed by the clerk of the court until all applicable documents are completed and submitted to the clerk for filing; ex: property settlement agreement, parenting plan, domestic relations affidavit, child support worksheets, Kansas Payment Center information form. If the case is bifurcated then no final property, parenting time, or support orders shall be entered until all applicable documents as stated above are completed and submitted to the court.

The failure of a party to file a S.Ct. Rule 139 factual statement/domestic relations affidavit shall constitute a presumption that the Court may accept the content of the opposing party's S.Ct. Rule 139 factual statement/domestic relations affidavit as true and uncontested.

In an effort to aid the parties during negotiation of their domestic relations case, the District Judge of the 17th Judicial District will generally follow the Johnson County Guidelines regarding both parenting and property issues, keeping in mind such are guidelines only, are not binding upon the Court, have not been adopted by the Court, and are not a substitute for critical analysis of each individual case. This statement is made only in an effort to provide some framework to help to the parties in reaching an agreed resolution.

- 1202 VITAL STATISTICS WORKSHEET: The vital statistics worksheet shall be completed online by plaintiff's attorney within 24 hours of the divorce being granted.
- 1203 POST-DIVORCE PROCEEDING: Any party moving to change custody or residential placement shall submit a proposed parenting plan with the motion. Any party moving to modify child support shall file a Domestic Relations Affidavit and child support worksheet with the motion. Further, as applicable, all parties shall pay particular attention to the requirements of K.S.A. 23-3219.
- 1204 CHANGE OF CIRCUMSTANCES: Counsel are under a continuing duty to the court and opposing counsel until hearing to promptly amend or supplement affidavits, statements, plans or work sheets if a significant change of circumstances occurs.

1205 REQUIREMENTS FOR JOURNAL ENTRIES OR DECREES:

All Journal Entries or Decrees shall contain the following. Even if such Journal Entry or Decree does not contain the following then the appropriate sections of this rule shall be incorporated therein and shall be the order of the Court:

A. All Journal Entries or Decrees of divorce or separate maintenance shall contain the following:

_____ "IT IS FURTHER ORDERED that any designation previously made by either party that names the other as a beneficiary of any individual or group life insurance or annuity policy, trust instrument, transfer-on-death account, or payable-on-death account, is terminated and may be renewed only by designation made after entry of this decree. Both parties shall make any necessary changes to beneficiary designations by filing the changes according to the terms of the policy, trust, or account."

B. All Journal Entries or Decrees that provide for legal custody, residency, or parenting time shall contain the following:

_____ "IT IS FURTHER ORDERED that any parent entitled to legal custody or residency of or parenting time with a child shall give written notice to the other parent not less than 30 days prior to: 1) changing the residence of the child; or 2) removing the child from this state for a period of time exceeding 90 days. Such notice shall be sent by restricted mail, return receipt requested, to the last known address of the other parent."

_____ "IT IS FURTHER ORDERED that each parent is to refrain from engaging in conduct or conversation with or in the presence of the child which is intended to, or which tends to, alienate the affection of the child toward the other parent."

C. All Journal Entries or Decrees that provide for child support shall contain the following:

_____ "IT IS FURTHER ORDERED that all support payments shall be made payable to the order of the Kansas Payment Center, P.O. Box 758599, Topeka, Kansas 666758599; and that each party shall inform the Clerk of the District Court and all other parties, 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 an Income Withholding Order shall be issued without further notice to the parties, specifying an amount sufficient to satisfy the order of child support and to defray any arrearage. The Income Withholding Order shall be issued regardless of whether a payor can be identified."

_____ "IT IS FURTHER ORDERED that all necessary medical expenses for the child not covered by health insurance shall be assessed to the parties according to their proportionate share of combined income for child support."

_____ "IT IS FURTHER ORDERED that the parent (Parent A) receiving a bill for necessary medical expenses for the child not covered by health insurance (unreimbursed expense) shall submit a copy of the bill showing the final insurance payment to the other parent (Parent B) within 30 days of receipt. Parent B shall then have 30 days to review the bill and notify Parent A if Parent B has an objection to paying his/her proportionate share of the unreimbursed expense. If there is no objection Parent B shall then have 30 days to reimburse Parent A or to directly pay the provider for Parent B's share of the unreimbursed expense. A motion for reimbursement of uninsured medical expenses must be filed no later than one year after Parent A receives the bill showing the final insurance payment."

_____ "IT IS FURTHER ORDERED that a parent shall notify the other parent of any change in financial circumstances including but not necessarily limited to income, work related child care costs and health insurance premiums which could constitute a material change in circumstances."

_____ "IT IS THE CONTINUING ORDER of this court that upon receipt of a written request for financial information, a parent shall have 30 days within which to provide the requested information in writing to the other parent. Refusal to provide the requested information may make the non-complying parent responsible for the costs and expenses, including attorney fees, incurred in obtaining the requested information."

1206 ADDITIONAL REQUIREMENTS FOR CHILD SUPPORT ORDERS:

Every support order shall specify the payment period and the date or dates of the month on which the payment shall become due. If not otherwise specified the payment shall be due the last day of the month.

All child support orders shall provide for level periodic payment of support, unless otherwise ordered by the court. Allowances shall be made for abatements or temporary reductions in child support as a result of each case's custody and visitation order. Annual child support shall be determined by finding the monthly child support under the Child Support Guidelines and then multiplying by 12. Any abatements or temporary reductions shall be subtracted from the annual child support. The result shall then be divided by 12 months to arrive at monthly child support.

Example #1: Child support is \$300.00 per month and the court orders a two month abatement of support for summer visitation pursuant to the Child Support Guidelines. Twelve months at \$300.00 equals \$3,600.00 annual child support. Ten months of \$300.00 per month actual child support equals \$3,000.00. The difference is between \$3,600.00 - \$3,000.00 equals \$600.00. \$600.00 divided by 12 equals \$50.00 monthly adjustment for Time Spent with Noncustodial Parent. The monthly support is \$300.00 minus \$50.00 = \$250.00.

Example #2: Child support is \$300.00 per month and the court orders a three month temporary reduction of support to \$100.00 for summer visitation. Twelve months at \$300.00 per month equals \$3,600.00 annual child support. Nine months of \$300.00 per month actual child support plus the three-month reduction to \$100.00 equals \$3,000.00 (\$2,700.00 + \$300.00). The difference is between \$3,600.00 - \$3,000.00 equals \$600.00. \$600.00 divided by 12 equals \$50.00 monthly adjustment for Time Spent with Noncustodial Parent. The monthly support is \$300.00 minus \$50.00 = \$250.00.

The Court may approve other methods of arriving at a level periodic child support payment schedule, if the method is found to be equitable and in the best interest of the child, the obligee and obligor.

1207 PARENTING PLANS: All counsel and self-represented litigants shall use temporary and permanent parenting plans as developed by the Kansas Supreme Court Parenting Plan Committee. Legal forms can be obtained at the Kansas Judicial Council website:
www.kansasjudicialcouncil.org

1208 HOLIDAY PARENTING TIME SCHEDULE:

The following schedule will generally be followed by the Court when dividing holidays in structured visitation orders. The parents may agree on an arrangement which is more suitable to the needs of the parents and their children.

LOCAL COURT RULE #1208

HOLIDAY PARENTING TIME SCHEDULE FOR CHILDREN WHO TRAVEL 90 MILES OR LESS ONE WAY:

	<u>FATHER</u>	<u>MOTHER</u>
<u>Labor Day:</u> From Friday at 6:00 pm until Monday at 6:00 pm	Even years	Odd years
<u>Halloween:</u> Evening at 6:00 pm until 9:00 pm	Even years	Odd years
<u>Thanksgiving:</u> From Wednesday at 6:00 pm until Sunday at 6:00 pm	Odd years	Even years
<u>Winter Break:</u> 1 st half from 6:00 pm the day school is dismissed for vacation until 6:00 pm of the day that is the midpoint of the break (includes all of Christmas Eve & Day)	Even years	Odd years
2 nd half from 6:00 pm of the day that is the midpoint of the break until 6:00 pm of the day before school resumes	Odd years	Even years
<u>Spring Break:</u> From 6:00 pm day school is dismissed until 6:00 pm of the day before school resumes	Odd years	Even years
<u>Easter:</u> From Friday at 6:00 pm to Sunday at 6:00 pm	Even years	Odd years
<u>Memorial Day:</u> From Friday at 6:00 pm to Monday at 6:00 pm	Odd years	Even years
<u>4th of July:</u> From 6:00 pm July 3 to 9:00 am July 5	Even years	Odd years
<u>Child's Birthday:</u> (parents should take into consideration school schedules and try to arrange for the child to have some time with each parent)	Odd years	Even years
<u>Summer Break:</u> Summer break will be determined on a case by case basis.		

Conflict Between Weekend and Holiday: Where there is a conflict between a weekend and a holiday, the holiday schedule shall apply. There will be no adjustment for “missed” weekends due to interruption by the holiday parenting time schedule, however the parents are encouraged to compensate for missed parenting time so that the non-custodial parent will not go for three weekends without seeing the child.

If the parents follow other religious holidays, there should be a sharing of time with the child similar to those designated for Christian holidays.

LOCAL COURT RULE #1208

HOLIDAY PARENTING TIME SCHEDULE FOR CHILDREN WHO TRAVEL MORE THAN 90 MILES ONE WAY:

	<u>FATHER</u>	<u>MOTHER</u>
<u>Thanksgiving:</u> From Wednesday at 6:00 pm until Sunday at 6:00 pm	Odd years	Even years
<u>Winter Break:</u> From 6:00 pm the day school is dismissed for vacation until 6:00 pm of the evening before school starts	Even years	Odd years
<u>Spring Break:</u> From 6:00 pm day school is dismissed until 6:00 pm evening before school starts	Odd years	Even years

Summer Break: Summer break will be determined on a case by case basis.

Conflict Between Weekend and Holiday: Where there is a conflict between a weekend and a holiday, the holiday schedule shall apply. There will be no adjustment for “missed” weekends due to interruption by the holiday parenting time schedule, however the parents are encouraged to compensate for missed parenting time so that the non-custodial parent will not go for three weekends without seeing the child.

If the parents follow other religious holidays, there should be a sharing of time with the child similar to those designated for Christian holidays.

XIII
JURY PROCEDURES

Rule #

- 1301 SELECTION OF JURIES: In cases where not enough of jurors appear or a panel is exhausted by challenge or otherwise before the jury is sworn, the Court may order the sheriff or the jury coordinator to summon a sufficient number of other persons to complete the jury.

If a juror, not excused by the court, fails to appear at the time and place specified in the notice given in accordance with these rules, a judge may cause the Sheriff to deliver the juror before the Court. Failure of a person summoned to appear, unless reasonable cause for such nonattendance is shown to the satisfaction of the court, shall be punished by the imposition of a fine not exceeding one hundred dollars (\$100) for each day of unexcused absence, pursuant to K.S.A. 43-165.

- 1302 JURY PANELS AND SUMMONS: Pursuant to K.S.A. 43-166, this Court adopts the following rule concerning jury panels and summons:

The jury commissioner will draw, on order of the Court, a sufficient panel of jurors to serve for such period as is specified by the Court.

Jurors will be summoned by First Class mail and shall be required to answer a questionnaire regarding their qualifications, as provided by K.S.A. 43-161. Those not responding shall be personally summoned by the sheriff.

Jurors who have been summoned shall be required to report at a time and place specified upon notice, which notice may be by telephone or mail, at least one week in advance of the date when the juror is to appear.

- 1303 VOIR DIRE EXAMINATION OF JURORS: Attorneys are expected to familiarize themselves with the factual information contained in the juror questionnaire returned by each member of a jury panel. Voir Dire examination will not be permitted to be unduly extended by asking questions designed to elicit the same information as contained in the juror questionnaire. Questions shall be limited to those that touch upon the potential juror's qualifications to serve.

- 1304 EXHIBITS: No exhibits, photographs, or other documents shall be on counsel table or otherwise within view of the jury prior to admission.
- 1305 PROXIMITY TO JURY: Counsel shall be mindful that many courtrooms within the district have the jury and counsel table within close proximity. Counsel shall be careful that his/her actions or the actions of his/her client are not disruptive to the jury. Counsel shall also be mindful so that conversations between counsel and client cannot be overheard by any juror.
- 1306 ACTIONS TOWARD WITNESSES: Counsel shall be mindful of his/her actions toward a witness while the jury is present, including consoling a witness in the presence of the jury.
Also see Rules 704, 705, 706, and 801

XIV
UNIFORM CHILD CUSTODY JURISDICTION ACT

Rule #

1401 UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT: The Uniform Child Custody Jurisdiction and Enforcement Act provides that litigation concerning the custody of a child (custody, change of custody, visitation rights, etc.) may take place in any court in any state where the child and his/her family have the closest connection, so that significant evidence is readily available to the court where the hearing takes place. The provisions of this law require each Clerk of the District Court to maintain a registry of uniform child custody jurisdiction actions. In compliance with K.S.A. 23-37,101 et seq., the appearance docket and its cross-index will serve as the registry, thus avoiding duplication of filing.

EXTENDED JURISDICTION IN JUVENILE CASES

Rule #

- 1501 EXTENDED JURISDICTION IN JUVENILE CASE: In consideration of K.S.A. 38-2347, when a District Magistrate Judge either authorizes the prosecution of a respondent as an adult in a juvenile offender case pursuant to K.S.A. 38-2347(f)(1) or designates any juvenile offender case an extended jurisdiction juvenile prosecution pursuant to K.S.A. 38-2347(f)(2) & (3), the proceedings shall be transferred forthwith to the Chief Judge for assignment and scheduling in due course within the adult criminal process.

The District Judge shall schedule a pretrial and such further hearings as necessary to facilitate trial by jury and timely prosecution of the pending charges. Upon conviction the District Judge shall impose sentence in accordance with K.S.A. 38-2364 and other appropriate statutes.

XVI
COURT TRUSTEE

Rule #

1601 ESTABLISHMENT, APPOINTMENT & AUTHORITY OF DISTRICT COURT TRUSTEE

- (a) As allowed by K.S.A. 20-375 et. seq., the office of the District Court Trustee for the 17th Judicial District is hereby established effective January 1, 1995.
- (b) The chief judge shall appoint the court trustee by administrative order, which shall be on file in the offices of each of the clerks of the district court of this district and may be amended from time to time as deemed necessary by the chief judge.
- (c) The court trustee shall be authorized and empowered to pursue all civil remedies which would be available to the obligee or obligor in establishing and enforcing payment of support.
- (d) The court trustee may also file motions for an increase or decrease of the amount of support on behalf of any child. Any such motion to modify the amount of support shall not be heard until notice has been given to the obligee, the obligor, and their attorneys of record, if any.
- (e) The court trustee shall have the following additional powers and duties:
 - 1. To issue summonses, administrative subpoenas and subpoenas duces tecum to obligors, obligees and other witnesses who possess knowledge or books and records relating to enforcement of support to appear in the office of the trustee or before the district court for examination;
 - 2. To administer oaths and take sworn testimony on the record or by affidavit;
 - 3. To appoint special process servers as required to carry out the court trustee's responsibilities under this section;
 - 4. To enter into stipulations, acknowledgments, agreements and journal entries, subject to approval of the court;
 - 5. If an obligor desires to contest an order of income withholding, the court trustee shall set a hearing to permit the obligor to assert any affirmative defenses authorized by K.S.A. 23-3106;
 - 6. To act as "support enforcement agency" in Uniform Interstate Family Support Act pursuant to K.S.A. 23-36,101 et seq.

XVII

7. To sit as a hearing officer, pursuant to K.S.A. 23-3401 in matters of requests for enforcement of court ordered child visitation rights and parenting time.

- (f) The court trustee shall also be responsible for insuring that the income withholding order is served on the appropriate employer at the time the income withholding order is issued and for monitoring the income withholding order and initiating the request to serve the income withholding order on future employers, unless the case has been exempted from the court trustee program. If the case is NOT under the jurisdiction of the court trustee then the attorney of record for the obligee shall be responsible for insuring that the income withholding order is issued and for monitoring the income withholding order and initiating the request to serve the income withholding order on future employers. If there is no attorney of record for the obligee then the obligee shall be responsible for initiating appropriate pro se action, applying for court trustee program services, or retaining private counsel should the support payments cease.
- (g) To defray the expenses of the operation of the office of the Court Trustee of the 17th Judicial District, a 4% fee shall be charged on the funds collected from all obligors for support, after January 1, 1995, unless good cause is claimed by one of the parties and determined to be valid by the chief judge. All such amounts collected shall be withheld from support payments made through the Kansas Payment Center and shall be paid to the court trustee operations fund of the county where collected. The court trustee fee of 4% will not be withheld in Title IV-D cases or other cases as agreed upon in the federal reimbursement contract between the Office of Judicial Administration (OJA) and the Kansas Department of Children and Families (DCF). The 4% fee will only be charged on spousal maintenance cases that require enforcement.

1602 EXEMPTION FROM COURT TRUSTEE PROGRAM:

Written requests by the parties in a support case, to be exempted from monitoring and enforcement by the District Court Trustee, shall be sent to the Chief Judge and the District Court Trustee. The Chief Judge shall make a determination whether a support case should be exempted from the District Court Trustee program and therefore removed from the District Court Trustee office. **In no event, however, will an exemption be granted for a IV-D case.** An exemption will only be granted in exceptional circumstances, to be determined on a case by case basis. Factors to be considered shall include, but not be limited to, the following:

1. A detailed written agreement signed by all interested parties or their attorneys.
2. A high degree of probability that the support payments will be made in compliance with the court order. The factors considered and the rationale for granting the exemption shall be documented on the record. Factors indicating such probability include, but are not limited to:
 - (a) an automatic withdrawal authorization to the obligor's bank, or the existence of a military allotment,
 - (b) an automatic payment from another source such as a trust fund or escrow account,

- (c) the posting of a performance bond equal to the amount of support ordered for six months or more,
 - (d) whether or not the obligor has an income withholding order which has been served on an employer or payor and the income withholding order is being monitored and modified by a private attorney,
 - (e) the obligor's payment history,
 - (f) any other factor considered by the Court to be indicative of the obligor's ability and willingness to comply with the court order.
3. A history exists of the obligor having made or the obligee having accepted direct payments in conflict with the order of the Court and K.S.A. 23-3004 within the past twelve (12) months.
 4. Both parents work and wage history.
 5. The age of the children and the possibility that child support should be modified in the future even without any change in the parents income due to a child moving up in age brackets or a child emancipating.

1603 PAYMENTS TO BE MADE THROUGH KANSAS PAYMENT CENTER

Unless otherwise specifically ordered by the Court, all support payments shall be sent to the Kansas Payment Center, P.O. Box 758599, Topeka, Kansas 66675-8599 and shall reflect the county and case number on the payment. The Kansas Payment Center shall receive and disburse payments for support and maintain complete, accurate and clear records of all payments and their disbursements.

1604 (REPEALED)

XVII
CASA

Rule #

1701 ORGANIZATION: As permitted by Supreme Court Rule 110, CASA of the 17th Judicial District, Inc. shall serve as an umbrella organization for all of the CASA efforts in this district. The representatives shall be appointed by the board of county commissioners for each county.

Such corporation shall establish uniform standards throughout the district that comply with the standards promulgated by the Judicial Administrator. The corporation shall (either by district or by county) recruit, screen, train and supervise volunteers for the court to appoint as CASAs.

The corporation shall further coordinate CASA activities and strive to avoid duplication of expenses.

1702 COURT ASSISTANCE: The 17th Judicial District will provide assistance according to the written agreement between the district and the CASA program.

1703 CASA ASSIGNMENTS:

1. The Court will order the appointment of the CASA program for child in need of care, juvenile offender, or domestic cases if the Court views such an assignment is warranted and the CASA Executive Director is in agreement with appointment;
2. Appointments may be made at any stage of the court process where deemed appropriate by the Court;
3. If an order of appointment is warranted, the Court will appoint the CASA program to a case by court order;
4. The Court will notify the CASA Executive Director of the CASA appointment. If it is determined that an appropriate match is available, then the CASA Executive Director and/or his/her designee will assign a specific volunteer who has executed an oath to the court;
5. Any attorney mailing notices of hearings relating to that case must send a copy of the notice of hearing to the CASA Executive Director who shall be responsible to notify the CASA volunteer. The address of the CASA Executive Director is as follows:

Tony A. Miller, Executive Director
CASA of the 17th Judicial District, Inc.
P.O. Box 160
Osborne KS 67473

6. The Court shall remove the CASA program by court order from cases where the program services are no longer necessary. The CASA volunteer's involvement will automatically be terminated when the case has been terminated by the Court.

MISCELLANEOUS

Rule

- 1801 HEARING OFFICER: Pursuant to Kansas Supreme Court Rule 172, the Chief Judge of the Seventeenth Judicial District may appoint hearing officers. The Chief Judge shall do so by Administrative Order, which shall be on file in the offices of each of the Clerks of the District Court of this district and may be amended from time to time as deemed necessary by the Chief Judge.
- 1802 MEDIA COORDINATOR UNDER KANSAS SUPREME COURT RULE 1001: Pursuant to Supreme Court Rule 1001, the Chief Judge shall appoint a media coordinator whose powers and responsibilities are set forth in said rule. The Chief Judge shall do so by Administrative Order, which shall be on file in the offices of each of the Clerks of the District Court of this district and may be amended from time to time as deemed necessary by the Chief Judge.
- 1803 PENALTIES AND REMEDIES FOR VIOLATION OF LOCAL RULES: Penalties or remedies for violation of these local rules shall include, but not be limited to, the penalties or remedies provided herein. The Court may impose any other penalty or remedy for violation of these rules as may be provided by law or be inherent in the powers of the court.

IN THE 17TH JUDICIAL DISTRICT OF KANSAS

The above rules are found to be necessary for the administration of affairs of the 17th Judicial District and are effective upon filing with the Clerk of the Appellate Courts. All local rules or orders in effect immediately prior to the effective date of these rules are hereby repealed.

BY ORDER OF THE COURT this 1st day of January, 2017.



Preston A. Pratt, Chief Judge
17th Judicial District

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