TABLE OF CONTENTS - LOCAL RULES
23RD JUDICIAL DISTRICT
ELLIS, GOVE, ROOKS AND TREGO COUNTIES

FILED
OCT 03 2011
CAROL G. GREEN
CLERK OF APPELLATE COURTS

I. Filing and Related Matters

Rule 101 Summons, Subpoenas and Garnishments

II. Pre-Trial Matters

Rule 201 Publication Costs
Rule 202 Witness Fees
Rule 203 Appointed Attorneys (Non-felony)
Rule 204 Continuances in Criminal, Juvenile, Mental Illness and Alcohol/Drug Cases
Rule 205 Procedure for Waiver of Preliminary Hearing
Rule 206 Preliminary Hearing Record
Rule 207 Dismissal of Cases for Failure to Expedite; Automatic Dismissal of Chapter 61 Cases
Rule 208 Appointment of Interpreters
Rule 209A Pretrial Conference Procedure — revision filed 1-25-2016
Rule 209B Mediation, Pretrial Hearing Procedure and Time Estimates in Domestic Relations Cases
Rule 209C Pretrial Hearing in Juvenile Matters
Rule 210 Ex Parte Orders in Divorce and Separate Maintenance Actions
Rule 211 Child Support - Final Orders
Rule 212 Mandatory Attendance - Seminar on Children's Adjustment to Divorce
Rule 213 Interviewing Health Care Providers
Rule 214 Required Procedure to Withdraw as Attorney of Record
Rule 215 Plea Agreement Required To Be In Writing Before Presented To Court
Rule 216. Extended Jurisdiction Juvenile Prosecution.
Rule 217. Motions to Suppress Evidence In Criminal and Juvenile Offender Cases Motions Not Timely Filed and Set for Hearing Deemed Waived
Rule 218. Requests for and Subpoenas of Privileged Treatment Information
Rule 219. Pretrial Release in Criminal Cases Prior to Court Appearance
Rule 220. Release of Bond and Bond Conditions When Charges Not Timely Filed

III. Trial Related Matters

Rule 301 Jury Panels, Summons
Rule 302 Notice to Jurors of Continuance or Cancellation of Jury Trial - Ellis County
Rule 303 Non-attendance of Jurors
Rule 304. Decorum in and About the Courtroom

Rule 305. Form of Objections

IV. Post Judgment and Post Trial Matters

Rule 401 Judgment Checks
Rule 402 Garnishments
Rule 403 Procedure For Revocation of Probation Hearings

V. Administrative Matters

Rule 501 Fiscal Officer
Rule 502 File Checkout
Rule 503 Facsimile Charges
Rule 504 Hearing Officers Under Kansas Supreme Court Rule 172
Rule 505 Media Coordinator Under Kansas Supreme Court Rule 1001
Rule 506 Assignment of Cases to Judges - Motion Days
Rule 507 Method of Payment for Child Support and Spousal Maintenance
Rule 508 Court Trustee - Establishment by Administrative Rule
Rule 509 Placement of Cases for Trustee Services
Rule 510. Cash Bond - Return After 90 days - Information Required When Submitted
Rule 511 Billing to Court or County for Appointed Attorney Services - Time Limits
Rule 512 Local Rules - Copies to be Maintained by Clerks in Each County

VI. Enforcement of Local Rule Provisions

Rule 601. Repealed

VII. Repeal or Amendment of Prior Rules

Rule 701. Repeal or Amendment of Prior Local Rules.

LOCAL RULES

I. FILING AND RELATED MATTERS

Rule 101. Summons, Subpoenas and Garnishments

The following procedures and requirements will apply to the filing of the various pleadings mentioned herein in the offices of the Clerks of the District Court of this district.

(a) All petitions and other pleadings which require the issuance of a summons shall be accompanied by the completed summons to be served, together with sufficient copies for service upon the party or parties to whom the summons is directed and for return of service of the summons by the process server.

(b) All requests for subpoenas in cases other than criminal cases shall be accompanied by the completed subpoena to be served together with sufficient copies to allow service upon the person to whom the subpoena is directed and return of service by the process server. If requested by the court or clerk in any case, a written praecipe for subpoena shall be filed prior to issuance of the subpoena or subpoenas.

(c) All requests for writs of execution or garnishment shall be accompanied by the writ of execution or garnishment, completed to the extent possible, and copies thereof for service and return of service by the Sheriff or process server.

(d) Requests for issuance of warrants, summonses or subpoenas in criminal cases shall be accompanied by the warrant, summons or subpoena to be served, completed to the extent possible, together with sufficient copies thereof for service upon the person to whom such documents are directed and for return of service of the documents by the process server.

(e) Case numbers for new case filings shall not be furnished by the Clerk of the District Court to any person or party in advance of filing of the case. Case numbers will be assigned to new cases by the Clerk of the District Court upon proper filing of the case.

(f) All orders to pay funds held by garnishees to the Clerk of the District Court shall be mailed or otherwise served upon the garnishee by the attorney or party seeking payment of the funds.

II. PRETRIAL MATTERS

Rule 201. Publication Costs

(a) Publication costs in all cases shall be paid by the attorney or litigant directly to the newspaper(s), subject to reimbursement through the court.

Rule 202. Witness Fees

(a) 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. Payments to witnesses by check, money order or similar method may be attached to the summons for delivery to the witness by the process server.

Rule 203. Appointed Attorneys (Non-felony)

(a) Attorneys will be appointed as counsel for indigent misdemeanor defendants, and in juvenile, mental illness, alcohol and drug and other cases for which the counties of the district are responsible on a rotation basis from the list of attorneys maintained in each county except in counties within the District who have contracted for those attorney services, and in those counties, contract attorneys will be appointed.

(b) Counties within the District may elect to contract with a sufficient number of attorneys to provide indigent defense and other attorney services for which the county is responsible.

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

(d) The Chief Judge shall provide, by Administrative Order, a schedule of reimbursement amounts to be assessed to defendants in non-felony cases, based upon reasonable categories of services rendered with reasonable amounts assessed for each category of service. These amounts will be used to determine the amount of reimbursement ordered under subsection (c) of this rule. This schedule may be amended from time to time as the Chief Judge may deem appropriate.

Rule 204. Continuances

(a) 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 assigned judge or, in the absence of the assigned judge, 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 the condition that a written order be supplied by the attorney or party requesting the continuance as soon as practicable thereafter.

(b) In criminal, juvenile, alcohol or mental illness cases, if no continuance has been granted as specified in the above paragraph, and the prosecution or petitioner does not appear in court ready for the hearing with necessary witnesses available, the case will be dismissed for lack of prosecution. In the event a criminal defendant does not appear, it will be considered a violation of bond conditions, and a bench warrant will be issued for the defendant. In the event neither party appears, the case will be dismissed.

(c) No continuance will be granted on the day the hearing is scheduled in the absence of compelling cause for such continuance.

Rule 205. Procedure for Waiver of Preliminary Hearing.

(a) In the event a defendant wishes to waive his or her right to a preliminary hearing, the defendant must appear at the time scheduled for the preliminary hearing to enter such waiver on the record.

(b) The judge assigned to the case, or in such judge's absence, the Chief Judge, may, for good cause shown, issue a written order allowing a defendant to waive his or her right to a preliminary hearing in writing. An example of good cause which may form the basis for such order is the necessity for the defendant to travel a substantial distance to appear to enter his or her waiver.

(c) Any written waiver of preliminary hearing shall be signed by the defendant.

Rule 206. Preliminary Hearing Record

(a) A written request for a record of testimony at a preliminary hearing must be filed with the court at least 48 hours prior to the scheduled hearing. The court may make a record without such request but will not be compelled to do so.

Rule 207. Dismissal of Cases for Failure to Expedite; Automatic Dismissal of Chapter 61 Cases

In order to assist our district court in complying with Kansas Supreme Court Standards relating to the timely resolution of cases, the following shall apply:

(a) 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.

(b) The court will periodically review all cases, of whatever nature, pending in this court to monitor compliance with Kansas Supreme Court standards for timely resolution of cases. In the event no action, or insufficient action, has been taken in such 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 party appearing in the case file.

(c) 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 other action as it deems appropriate to expedite the case after due notice to the parties.

Rule 208. Appointment of Interpreters

(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 Clerk of the District Court shall maintain a list of qualified interpreters in accordance with K.S.A. 75-4353. Upon receipt of the written notice, the Clerk 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 objections prior to the hearing or trial.

(d) Interpreters shall be paid for services and milage shall be reimbursed at a rate determined by the Chief Judge. Fees for interpreters paid by the state board of indigent 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.

FILED

JAN 25 2016

HEATHER L. SMITH
CLERK OF APPELLATE COURTS

23rd JUDICIAL DISTRICT
AMENDMENT OF LOCAL RULE

Rule 209A Final Pretrial Conference Procedure – Court's Scheduling Order

This rule supplements K.S.A. 60-216, as amended from time to time, and Kansas Supreme Court Rule 140. In all K.S.A. Chapter 60 civil cases, including domestic relations cases, the following additional procedures and requirements shall apply:

(a) As soon as practicable after filing of a K.S.A. Chapter 60 case, the court shall evaluate the case to determine its complexity and how best to bring the case through the litigation process and to final hearing. The court will make an order scheduling hearings, such as a case management conference, a discovery conference and preliminary and final pretrial conferences, to expedite handling of the case. The court may also establish a preliminary trial date. Any pretrial conference not designated a preliminary conference in the order shall be considered a final pretrial conference. The court will, except in unusual circumstances, not schedule a final pretrial earlier than 21 days prior to trial.

(b) The names of witnesses, and their addresses, shall be listed in the pretrial questionnaire, which shall be filed with the court, and copies served on other parties to the case, at or before the time of the pretrial conference. Ordinarily, the court will not allow additional time after pretrial to list witnesses. General references to witnesses, without a witness's name and address, such as "Records Custodian for Acme Corporation," are unacceptable. Any witness not identified as required herein will not be allowed to testify at trial except in rebuttal, or to avoid manifest injustice.

(c) At the pretrial conference, each party shall furnish actual copies of all exhibits that party intends to introduce into evidence at trial to the other party or parties to the case. The court will, upon proper request, make appropriate orders concerning exhibits not reasonably amenable to reproduction. This procedure is intended to give each party the opportunity to review the exhibits of other parties at the pretrial conference, and thus to promote stipulations, waivers of foundation, and similar time saving procedures and to eliminate later arguments at trial as to whether exhibits have been properly provided in discovery to opposing counsel.

(d) Each party shall prepare, in either PDF, WordPerfect or

Microsoft Word format, and for audio, photographic or video exhibits, appropriate formats, such as .jpg and .mp3. copies of all exhibits the party intends to introduce at trial. These exhibits shall be recorded on standard digital media, such as CD, DVD or USB flash drive (thumb drive). Other suitable formats or media may be used with prior approval of the court. The court may waive this requirement concerning, and make necessary orders or provisions for, exhibits not reasonably amenable to reproduction. These digital copies of intended exhibits shall be provided to the court at or before the final pretrial conference.

(e) **IMPORTANT NOTE**: For trial, each party shall prepare two trial notebooks containing all exhibits the party intends to introduce at trial. These exhibits shall be given exhibit numbers or letters, with the identity of the sponsoring party shown as part of the exhibit number. (Examples: Plaintiff's Exhibit 1, Respondent's Exhibit A) One notebook shall contain original exhibits for the official record. The second notebook shall be prepared for use by the judge. This procedure is adopted for clarity of the record, to save time at trial, and to allow the judge to mark upon the judge's copy of the exhibits for later reference. An index shall be prepared and placed as the first page or pages in the exhibit notebooks. The index shall contain a brief description of each exhibit opposite the exhibit number, and a place for the judge to indicate whether each exhibit was offered for evidence, and a place to indicate whether the exhibit was admitted.

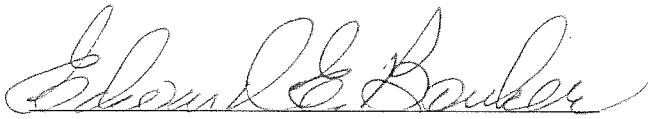
(f) At pretrial, each party shall be prepared to designate the portion or portions of voluminous documentary exhibits, or of lengthy audio or video recordings, the party intends to introduce as evidence at trial. Upon request of any party at the pretrial conference, the court may require such designation by the party who intends to sponsor the exhibit at trial if such designation is reasonably practicable.

(g) While stipulations, waivers of foundation and similar time saving procedures are encouraged, and may apply to any or all exhibits offered or intended to be offered as evidence by a party, the judge retains the right to admit only exhibits and other evidence referred to in testimony or argument, or which are otherwise relevant to the issues tried. Exhibits which do not meet these standards may be excluded by the judge from the record, and removed from the exhibit notebook containing exhibits for the

official record.

Any exhibit not filed with the court and served on other parties to the case in accordance with this rule, shall not be admissible at trial except in rebuttal, or to avoid manifest injustice.
(Adopted 09/01/06; Amended 01/19/2016)

Adopted by the 23rd Judicial District on January 19, 2016.



Edward E. Bouker
Chief Judge

Rule 209B. Domestic Relations Cases – Mediation, Pretrial Hearing Procedure

(a) **Definition of Contested Domestic Relations Case.** As used in this rule, the term "contested domestic relations case" shall mean actions for divorce and separate maintenance or child custody and post judgment motions for change in child custody, support or visitation, in which evidence is to be presented to the court, and the resolution of all or part of the issues is to be by decision of the court rather than by agreement of the parties.

(b) **Contested Domestic Relations Cases, Necessity for Pretrial Conference Prior to Trial Setting, Exceptions.** In all contested domestic relations cases a party wishing to schedule a trial or other contested hearing in which some or all of the issues presented in the case will be before the court for final disposition shall schedule a pretrial conference with the court, the pretrial conference to be held no less than seven days prior to the trial or hearing. No trial or final hearing shall be conducted by the court unless there has first been a pretrial conference, or an order of the court is entered excusing the requirement for a pretrial conference for good cause shown. A pretrial conference may also be scheduled by the court.

(c) **Pretrial Conference, Presence of Parties Required; Exceptions.** All party litigants in any contested domestic relations case shall be personally present at the pretrial conference, except that any party who resides 100 or more miles from the court house where the pretrial conference is to be held shall not be required to attend so long as that party is available for contact by telephone by the court or counsel at the time of the pretrial conference, and at all times during the pretrial conference. For good cause shown, the court may excuse the personal presence of a party or the requirement that a party be available for telephone contact.

(d) **Pretrial Questionnaire Required; Form.** Each party, personally or by their attorney of record, shall, at or before the time of the pretrial conference, supply the court and all other parties in the case a completed and signed pretrial questionnaire in substantial conformity with the form set forth in Appendix A of these rules.

(e) **Mediation Required in Disputed Child Custody or Visitation Matters; Exceptions.** The parties to any contested domestic relations case in which child custody or visitation is disputed shall, prior to any trial or hearing in which these issues are to be finally decided by the court, submit the disputed issues of custody and/or visitation to mediation. This requirement may be excused by the court for good cause shown. This provision does not apply to interlocutory orders.

(Revised - New Rule No. - 09/01/06)

Rule 209C. Pretrial Conference Required In Certain Child In Need Of Care and Juvenile Offender Proceedings.

(a) Unless waived by the court, a pretrial conference shall be held in all Child in Need of Care and Juvenile Offender Proceedings prior to any hearing, such as a hearing for temporary orders, adjudication or disposition, or for review, which hearing is scheduled for two hours or more on the court's calendar. The pretrial shall be scheduled by the party requesting the setting for the hearing.

(b) The pretrial procedure specified in Rule 209A(b) and (c) hereof shall apply, except that the parties may, prior to the pretrial, request an alternate method of listing witnesses or exhibits, and request alternate or additional pretrial procedures.

(Adopted 09/01/06)

Rule 210. Ex Parte Orders in Divorce and Separate Maintenance Actions

(a) No ex parte or interlocutory order shall be entered unless the party presenting same shall have complied with Kansas Supreme Court Rule 139 and shall have completed a Child Support Worksheet pursuant to the Kansas Child Support Guidelines. If possible, actual rather than estimated income shall be used in completing the Rule 139 statement and the Child Support Worksheet.

(b) No ex parte orders shall be entered for the spousal maintenance of either party.

(c) 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 10 days of its entry.

Rule 211. Child Support - Final Orders

(a) A compromise settlement must be shown to be acceptable in law or fact. If such compromise is less than suggested in the child support guidelines, the law or facts supporting such compromise must be stated to the court and set forth in the journal entry.

Rule 212. Mandatory Attendance - Seminar on Children's Adjustment to Divorce

Repealed. *(04/30/2011)*

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CAROL G. GREEN
CLERK OF APPELLATE COURTS

LOCAL RULES
23RD JUDICIAL DISTRICT
ELLIS, GOVE, ROOKS AND TREGO COUNTIES

Local Rule 213, entitled Interviewing Health Care Providers, is hereby repealed, effective on the date shown below.

April 17, 2014

Edward E. Bouker
Chief Judge

Rule 214. Required Procedure to Withdraw as Attorney of Record

(a) Any motion to withdraw as attorney of record shall have attached thereto a **NOTICE OF INTENT TO WITHDRAW AS ATTORNEY** in substantial conformity with the form set forth in Appendix C to these rules. The movant attorney shall place all required information into the Notice form specific to the case and client to which the motion is applicable.

(b) The motion shall contain the following statement:

"If you have objection to this motion, you must state your objection in a written document which must be filed with the court no later than the ____ day of _____, 20__. A copy of the written objection should be sent to the undersigned at the address for the undersigned set forth on this motion. If you fail to timely file your written objection, the court may grant this motion without further notice. If you file your written objection, the court will set a time and date for a hearing on the motion and your objection thereto and you will be notified of the time and date at your address set forth in the Notice of Intent to Withdraw as Attorney attached hereto. If this is not your correct address, you must include your correct address in your written objection to the motion filed with the court."

The movant attorney shall, in the blanks provided, set a date not less than 7 days from the date of service of the motion for the client's written objection to be filed with the court. If such objection is received by the court, the court will set a hearing on the motion and the objection and notify the movant attorney, the client or clients and any other party or parties to the case of the time and date thereof.

(c) The motion shall, as specifically as possible without violating client confidentiality or other ethical or legal rules, set forth the reasons the movant attorney desires to be relieved of his or her responsibility to the court and the client.

(d) No order allowing counsel to withdraw shall be granted by the court unless and until there has been substantial compliance with the provisions of this rule. The court retains the discretion to deny any such motion if appropriate, even if unopposed by the client.

(e) This rule does not apply if another attorney authorized to practice law in this state has entered his or her appearance of record to represent the client, or if the attorney makes motion on the record to withdraw, and the client states his or her consent on the record to the withdrawal. *Adopted 11/03/00.*

Rule 215. Plea Agreement Required To Be In Writing Before Presented To Court

(a) When a plea of guilty or no contest is to be entered by a defendant pursuant to an agreement with the prosecutor, the agreement must be reduced to writing, must be signed by the prosecutor, the defendant and the defendant's attorney and filed of record prior to the appearance of the defendant before the judge for plea. The written agreement shall state in detail all provisions of the agreement between the parties, including, but not limited to, charges to be dismissed, charges to be amended, restitution to be paid by the defendant, recommendations to be made by the prosecutor or defense, and any agreement of the prosecutor or defendant not to oppose motions or requests by the other party in any hearing or hearings.

(b) This rule shall also apply to juvenile offender proceedings.

(c) The court will not conduct a hearing to accept a plea until the provisions of this rule have been complied with.

(d) The provisions of this rule may be waived by the court for good cause shown.

Rule 216. Extended Jurisdiction Juvenile Prosecution.

(a) In any hearing in which a proceeding has been designated an extended jurisdiction juvenile proceeding, the judge presiding shall cause a preliminary hearing date to be set. If the respondent is bound over for arraignment after preliminary hearing, or if a preliminary hearing is waived by the respondent, the judge presiding shall cause an arraignment date to be set.

(b) Thereafter, proceedings shall be governed by the law, rules and policies applicable to the adult criminal process. The respondent shall be entitled to the full protections of the Kansas Code of Criminal Procedure.

(c) If the extended jurisdiction juvenile prosecution results in a guilty plea or a finding of guilt, the presiding judge shall, in due course, enter both a juvenile and an adult sentence in compliance with the provisions of K.S.A. 38-16,126 as it may, from time to time, be amended.

(Adopted 02/11/2003)

Rule 217. Motions To Suppress Evidence In Criminal And Juvenile Offender Cases - Motions Not Timely Filed And Set For Hearing Deemed Waived.

(a) Unless additional time is granted by the court for good cause shown, motions to suppress evidence shall be filed, at the latest, within ten (10) days after arraignment or trial setting, whichever first occurs.

(b) When a motion to suppress evidence is filed, it shall be the responsibility of the movant to set the motion for hearing within 48 hours after filing the motion. Additional time to set the motion for hearing may be granted by the court for good cause shown.

(c) Motions to suppress evidence not filed and set for hearing in compliance with this rule shall be deemed to have been waived.

(Adopted 09/05/2003)

Rule 218. Requests for and Subpoenas of Privileged Treatment Information

(a) Whenever a party requests or seeks to obtain by subpoena, the disclosure of a patient's privileged information or records, as defined in K.S.A. 65-5601, *et seq.*, HIPPA or other applicable law, the requesting party shall file a motion with the district court. The motion shall specify the applicable exception or exceptions to the privilege as provided in K.S.A. 65-5603, HIPPA, or other applicable law which the requesting party contends will permit the disclosure of otherwise privileged information or records.

(b) A copy of the motion shall be served, with the subpoena requiring their attendance in court, upon the treatment facility, treatment personnel, or ancillary personnel from whom the requested information or records are sought. Except as provided in subsection d. of this rule, the treatment facility, treatment personnel or ancillary personnel shall comply with the subpoena by appearing at the time and place specified in the subpoena, with the records or information contained therein.

However, if the facility or personnel have objection to disclosure of the records or information, such facility or personnel may file such objection in writing prior to or at the time of the court hearing for which the subpoena was issued, or may do so orally at the hearing for which the subpoena was issued. Such facility or personnel may be represented by counsel at the hearing strictly on the issue of compliance with the subpoena and the issue of privilege. The court shall, at the time and place specified in the subpoena, determine whether the privilege applies and whether the information or records should be disclosed.

(c) In the event a business records subpoena or similar subpoena is issued for the information or records, which subpoena does not require attendance at a hearing by any employee or agent of the facility, or by other personnel, the motion specifying the exception or exceptions to the privilege which may apply shall be served with the subpoena. The subpoena shall be served at least ten (10) days prior to the date for compliance with the subpoena, unless excused for good cause by the court as shown in an order which shall also be attached to the subpoena.

The facility, treatment personnel or ancillary personnel to whom the subpoena is directed shall have up to ten (10) days or to the date specified by the court order referred to in the preceding sentence, to file a written objection to the subpoena. If such objection is filed, the party who caused the subpoena to be issued shall set the issue for hearing and notify all other parties to the case and the facility or personnel to whom the subpoena was issued of the time and place of said hearing. At the hearing the court shall determine if the privilege applies and whether the information or records should be disclosed.

(d) The treatment facility, treatment personnel or ancillary personnel shall not be required to comply with a subpoena or written request for records or information where the requesting party has failed to attach to the subpoena the motion setting forth the applicable exception or exceptions to the privilege as provided in K.S.A. 65-5603, HIPPA, or other applicable law which the requesting party contends will permit the disclosure of otherwise privileged information or records.

(Adopted 01/30/2008)

Rule 219. Pretrial Release in Criminal Cases Prior to Court Appearance

(a) When the District Court is not open for business, and persons are taken into custody for criminal offenses prior to filing of charges in the appropriate court of this judicial district, law enforcement officers in this judicial district are authorized to accept cash or commercial surety bonds in the amount or amounts specified in the Automatic Bond Schedule, which shall be placed on file in the office of each Sheriff and each Clerk of the District Court of this judicial district by the Chief Judge or Court Administrator. The term "cash" as used in this rule means United States currency, a money order, or a bank draft or certified check drawn on a Kansas banking or savings and loan institution.

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CAROL G. GREEN
CLERK OF APPELLATE COURTS

(b) The Automatic Bond Schedule shall be signed by the Chief Judge, and may be amended from time to time.

(c) Notwithstanding any other provision of this rule, or the Automatic Bond Schedule, persons in custody are not entitled to release under the Automatic Bond Schedule if such persons:

1. have been extradited to this jurisdiction, or are awaiting extradition to another state or jurisdiction, or

2. are subject to a detainer or hold from other states, federal authorities or another jurisdiction in this state, or

3. are being detained on an arrest letter or "power of arrest" for violation of probation, parole or a condition of bond, or

4. are believed, in good faith, by the arresting law enforcement authority or officers of the Sheriff having custody of such person, to pose a danger to themselves or to public safety, to be a flight risk, or to lack positive identification, or

5. are being held pending charges which constitute Level I or II crimes on the drug grid, or Level I, II, III or IV crimes on the non-drug grid of the Kansas Sentencing Guidelines, or any person felony, or

6. are charged with or are being held pending charges of felony level violation of K.S.A. 8-1567 (felony DUI), or

7. **are charged with or are being held pending charges of a crime for which the notation is "Must see judge" on the Automatic Bond Schedule or any other document or order signed by a judge.**

(d) Any person held on charges or potential charges, the most serious of which is a non-person misdemeanor, EXCEPT Driving While Under the Influence of Alcohol or Drugs (K.S.A. 8-1567) may be released on his or her own recognizance ("OR" bond) if he or she meets one of the following criteria:

1. Owns real estate in his or her own name in Kansas, or

2. Satisfies any three of the following five conditions:

- Has been a resident of Kansas for six (6) months or more,

- Has a valid Kansas driver's license,

- Is and has been employed within the State of Kansas for the immediately preceding three (3) months or more,

- Has current telephone service in his or her own name,

- Is enrolled as a student in the State of Kansas.

The above factors shall be determined upon a sworn statement made under penalty of perjury by the person in custody seeking to post an OR bond. Sheriff's officers are authorized to require further verification of any of the above items before permitting a person in custody to post an OR bond.

(e) Any person posting bond pursuant to this Rule and the Automatic Bond Schedule shall be subject to the following bond conditions:

The person:

1. Shall obey all laws of any jurisdiction applicable to the person,

2. Shall give, at the time of release from custody, a correct address, telephone number, employer, and/or school in which the person is enrolled,

3. Shall, within three (3) days of changing address, telephone number, employer or school of enrollment notify the County Attorney's office of such change and any applicable new contact information,

4. Shall not have contact, direct or indirect, with any victim or co-accused. Any victim or co-accused known to law enforcement shall be listed on the Notice required by the next section of this Rule,

5. Shall not partake of any alcoholic beverage or illegal drugs, and shall be subject to having random samples of breath, blood or urine taken by law enforcement or by officers of the Court to determine whether this condition of bond has been violated,

6. Shall not leave the State of Kansas for more than three (3) days without notifying the County Attorney's office of the destination of any trip exceeding the time limit specified, the anticipated duration of the trip, and contact information allowing contact with the person while the person is on the trip.

7. Shall appear in court as ordered, or as stated in any summons, warrant or similar instrument served upon the person in compliance with the law or rules regarding service thereof.

(f) Before his or her release on bond under this Rule and the Automatic Bond Schedule, any person held in custody shall fully and truthfully complete a form in substantial compliance with the form in Appendix D to these local rules. After completion, a copy of the statement shall be given to the person who is seeking release under this Rule. The original shall be given to the Clerk of the District Court with the bond.

(g) Any person released on bond prior to formal charges being filed, or prior to having an appearance upon formal charges before a judge of this court shall be given a court date and time to appear in the appropriate court of this district. The date of such appearance shall be in accordance with an appearance date calendar supplied to the Sheriff by the court, and shall be a date approximately sixty (60) days from the date of release on bond.

(Adopted 05/14/2010; Amended 09/29/2011))

Rule 220. Release of Bond and Bond Conditions When Charges Not Timely Filed

(a) If a person has been taken into custody for violation of criminal laws prior to a complaint having been filed in the appropriate court of this judicial district, and such person has been released pursuant to Local Rule 219 and the Automatic Bond Schedule, or pursuant to bond and/or bond conditions set by order of a judge, the following shall apply, unless a specific order by a judge shall provide otherwise:

1. **Person Supervised by Community Corrections or Court Services.** If a complaint has not been filed by the County Attorney or other prosecuting authority within seven (7) days of the date the person was placed on bond supervised by Community Corrections or Court Services, or the expiration of an extended period of time established by specific court order for good cause shown, such supervision shall terminate. However, the person theretofore supervised shall remain on bond, and shall remain subject to any bond conditions imposed by law, local rule or court order other than the order for supervision. Thereafter, the following paragraph shall apply to such person.

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CLERK OF APPELLATE COURTS

2. **Person Not Supervised by Community Corrections or Court Services.** If a complaint has not been filed by the County Attorney or other prosecuting authority at or before the time and date for such person's appearance as given to the person at the time of his or her release pursuant to Local Rule 219(g), or any substitute date established by court order, the person shall no longer be under the jurisdiction of the court by reason of the detention, and shall be free from any bond, conditions of bond, or further obligation to the court arising from the detention. The time for filing of charges as specified above may be extended by court order for good cause shown.

   This rule shall not prejudice the right of the County Attorney or other prosecuting attorney to file charges as allowed by law, nor shall it prevent the court, upon filing of charges, from requiring bond or imposing bond conditions.

(Adopted 05/14/2010; Amended 09/15/2011)

Appendix D. (to Rule 219) Revised 09/29/2011

Information Submitted
and
Acknowledgment of Bond Conditions
For Bond Under Rule 219 of
the 23rd Judicial District

I wish to post bond under Rule 219 of the Local Rules of the 23rd Judicial District. In order to comply with that Rule and bond conditions under that Rule, I hereby state, under penalty of perjury, that the following information is true:

1. PERSONAL INFORMATION:

My Full Name: _____ Address: _____

Telephone No: _____ _____

_____

Employer: _____ Address: _____

Employer Telephone: _____ _____

_____

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CLERK OF APPELLATE COURTS

School in which I am enrolled: _____ (if any)

2. I HEREBY ACKNOWLEDGE THAT I AM SUBJECT TO THE FOLLOWING BOND CONDITIONS:

(A) I must obey all laws of any jurisdiction which apply to me,

(B) I must give, above in this document, my correct address, telephone number, employer, and/or school in which I am enrolled,

(C) I must, within three (3) days of changing address, telephone number, employer or school of enrollment notify the County Attorney's office of such change and any applicable new contact information,

(D) Must not have any contact, direct or indirect, with: _____

_____

_____

who are alleged to be co-defendants or victims in my case.

(E) I am prohibited from using or taking any alcoholic beverage or illegal drugs, and I will be subject to having random samples of my breath, blood or urine taken by law enforcement or by officers of the Court, at my own expense, to determine whether this condition of bond has been violated,

(F) I may not leave the State of Kansas for more than three (3) days without notifying the County Attorney's office of the destination of any trip exceeding three (3) days, the anticipated duration of the trip, and contact information allowing contact with me while I am on the trip.

(G) Intimidation of a witness or a potential witness is a crime. It is also a violation of my bond. See K.S.A. 21-3831, et seq.

(H) I must appear in court at any time and place I am ordered to do so by Summons, Warrant or other notice properly served upon me in accordance with the requirements of the law or rules of the State of Kansas and the Court. If the following box is checked, and the date, time and place of appearance is entered in the following blanks, I must appear as indicated therein. If the following blanks are not completed, I will be notified of the date and time of my appearance.

☐ I must appear in the District Court of _____ County, Kansas on the _____ day of _____, 20_____ at _____ o'clock ____.m.

3. **RELEASE ON MY OWN RECOGNIZANCE:**

If I qualify for, and am being released upon, my own recognizance under Local Rule 217, I understand that this document shall constitute my bond and my recognizance, in the amount of $_____.

If applying for bond on your own recognizance (OR bond) complete the following:

☐ I own real estate in my own name in Kansas. The real estate is located at:

_____

_____

_____

OR

At least three of the following five conditions apply to me:

☐ I have been a resident of Kansas for 6 months or more,

☐ I have a valid Kansas driver's license,

☐ I am employed, and have been employed within Kansas for the immediately preceding 3 months or more. My employer is:

_____

☐ I have current telephone or cell phone service in my own name. My telephone number is:

_____

☐ I am enrolled as a student in the State of Kansas. I am enrolled in the following school:

_____

_____

I hereby declare, under penalty of perjury, that the information I have given above is true and correct, and that I accept the above conditions of bond.

_____
(Signature)

_____
(Printed Name)

State of Kansas, County of _____, ss:

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public

(Seal)

III. TRIAL AND RELATED MATTERS

Rule 301. Jury Panels, Summons.

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

(b) 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 and amendments thereto. Those not responding shall be personally summoned by the Sheriff upon request of the court.

(c) Jurors summoned shall be on the jury panel for the entire term or period specified in the summons; however, a juror shall only be required to appear in court in a single case, and whether chosen to serve on a jury or excused for cause or after peremptory challenge, shall not again be required to appear or serve during the jury term.

(d) 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. The court will make every reasonable effort to issue such notice at least one week in advance of the date and time the juror is to appear.

Rule 302. Notice to Jurors of Continuance or Cancellation of Jury Trial

(a) In Ellis County, jurors are required to place a call to the automated message system maintained by the court after 5:00 p.m. on the day prior to the date jurors have been notified to appear in court.

(b) The court will inform jurors of the requirement in subsection (a) above, and of the telephone number for the automated message system, at the time they are summoned and also at the time notice is given to them to appear in court.

(c) Any juror who appears after notice of continuance or cancellation of a trial has been posted on the automated message system shall not be entitled to payment of the juror fee or milage, and shall not be released from juror summons.

Rule 303. Non-Attendance of Jurors

(a) If a juror, not excused therefrom 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 un excused absence, pursuant to K.S.A. 43-165.

Rule 304. Decorum In and About The Courtroom.

(a) No spectator, counsel or party shall wear a hat or similar head covering in the courtroom unless given permission to do so by the presiding judge for health or other compelling reason shown.

(b) No spectator, counsel or party shall carry a sign or display pins, buttons or other materials designed to communicate a position or message to others while a trial or hearing or proceeding is taking place.

(c) No spectator, counsel or party shall carry on a conversation with another person or persons or engage in any other distracting activity while court is in session.

(d) **Persons Subject to Search.** All persons seeking entry to a courtroom are subject to search by the Sheriff, Bailiff, or other officers designated by the Sheriff or the court. Such searches may include briefcases, parcels, purses or other containers carried by persons seeking entry to a courtroom.

(e) **Weapons.** With the exception of weapons carried by law enforcement personnel, no weapons other than exhibits shall be permitted in any courtroom. No person shall bring a weapon other than an exhibit into any courtroom except as specifically permitted by this rule. The court may require that any weapon intended for introduction as an exhibit be presented to the Sheriff or other person designated by the court for a safety check before it is brought into any courtroom, and the court may further require than any weapon intended for introduction as an exhibit be retained in the custody of the Sheriff or other person designated by the court before and after its introduction as an exhibit.

Rule 305. Form of Objections.

Repealed. (04/30/2011)

IV. POST JUDGMENT MATTERS

Rule 401. Judgment Checks

(a) Judgments paid to the Clerk of the District Court by check may be endorsed without recourse and forwarded to the recipient.

Rule 402. Garnishments

(a) No exemptions to Supreme Court Rule 185 shall be granted, except upon written motion and order entered by the assigned judge. The motion shall comply with Supreme Court Rule 185.

Rule 403. Procedure For Revocation of Probation Hearings

(a) The following procedure shall be used in scheduling motions for revocation of probation.

(1) No motion for revocation of probation case shall be heard on a Motion Day unless the defendant has stipulated in writing that he or she has violated the terms of his or her probation, which writing shall be filed with the court prior to the hearing on the motion. The signature of the defendant is required. The signature of defendant's attorney is insufficient.

(2) No motion for revocation of probation shall be heard on a Motion Day if either party intends to call a witness or witnesses or the hearing is expected to last, or in fact lasts longer than 15 minutes.

(3) Any hearing on a motion for revocation of probation which, under the previous provisions, may not be heard on motion day shall be specially set by the court or by counsel.

(4) The court may, for good cause shown, waive the provisions of this rule.

V. ADMINISTRATIVE MATTERS

Rule 501. Fiscal Officer

(a) The respective Clerk of the District Court in each county of the 23rd Judicial District is hereby designated as fiscal officer for his or her county. Duties of the fiscal officer shall include: maintaining accounts concerning all monetary and budgetary matters, monthly reporting of budget status to the Court Administrator and preparation and submission of vouchers or purchase orders to the respective Boards of County Commissioners with approval of the Chief Judge as specified by the Chief Judge.

(04/30/2011)

Rule 502. File Checkout

(a) Official court files may be checked out only to attorneys and licensed abstractors with a place of business within the county where the files are maintained. Files may be checked out for a period of fifteen (15) days and may be recalled at any time by any judge of the district court or Clerk of the District Court.

(b) Depositions and exhibits may be checked out only to attorneys of record in the applicable case. Care and custody of those records shall be in accordance with the rules of the Kansas Supreme Court.

(c) No file shall be removed from the Clerk's Office under these rules until notice is given to the Clerk of the Court, and a written checkout slip has been completed, containing a case caption, the name, address and telephone number of the person removing the file, and the date of removal.

(d) The Clerk shall maintain an index of files removed from the Clerk's office, and shall retain the completed checkout slip until the file has been returned to the court.

Rule 503. Facsimile Charges

Repealed. (04/30/2011)

Rule 504. Hearing Officer Under Kansas Supreme Court Rule 172

(a) Pursuant to Kansas Supreme Court Rule 172, the Chief Judge of the Twenty-third 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.

Rule 505. Media Coordinator Under Kansas Supreme Court Rule 1001

(a) Pursuant to Supreme Court Rule 1001, the Chief Judge may 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.

(*Amended* 04/30/2011)

Rule 506. Assignment of Cases to Judges - Motion Days

Pursuant to his or her duties under Kansas Supreme Court Rule 107, the Chief Judge shall:

(a) Establish dates for motion days in the counties of this district and shall assign a judge or judges to preside over motion day dockets. The Chief Judge shall cause motion day calendars to be prepared and distributed to the bar and the public in each of the counties on or before December 1 of each year, the calendar to set forth dates for motion days for the following year. The Chief Judge may reschedule motion days if necessary throughout the year.

(b's) Devise, adopt, and when necessary revise, a method or methods to apportion cases among the judges of the district as equally as possible.

Rule 507. Method of Payment for Child Support and Spousal Maintenance

Repealed. (04/30/2011)

Rule 508. Court Trustee - Establishment by Administrative Rule

(a) The Chief Judge shall establish a Court Trustee under the provisions of the applicable statutes and Supreme Court Rules. The establishment of the Court Trustees and Trustee office shall be by Administrative Order, which may be amended from time to time. Any such rule in effect on the date this rule is adopted shall continue in effect until amended by the Chief Judge by Administrative Rule.

Rule 509. Placement of Cases for Trustee Services

(a) Unless exempted by law or as hereinafter provided, all orders for support of a child or spousal support, except interlocutory orders, shall be placed with the Trustee for trustee services.

(b) Written requests by the parties in a support case for exemption from Trustee services, including monitoring, establishment, modification or enforcement by the Trustee shall be sent to the Trustee or the Chief Judge of the 23rd Judicial District. The Chief Judge, or another District Judge designated by the Chief Judge, shall make the determination and shall send written notification thereof to the parties, their attorneys and the Court Trustee. The Chief Judge's determination shall be based upon the totality of the circumstances for the best interests of the child or children. The factors to be considered in making the determination shall include, but not be limited to, the following:

(i) A written agreement exists which has been signed by all interested parties or their attorneys. IV-D cases from the Kansas Department of Social and Rehabilitation Services cannot be exempted from the Trustee program.

(ii) A high degree of probability exists that the support payments will be made in compliance with the court order.

(c) A history exists of the obligor having made or the obligee having accepted direct payments in violation of an order of the court or K.S.A. 60-1610(a)(1) within the last twelve months.

(d) No single factor listed herein shall be determinative of the outcome of the request for exemption.

(*Amended* 04/30/2011)

Rule 510. Cash Bond - Return after forty-five (45) days - Information Required When Submitted

(a) Cash bonds from persons against whom charges have not yet been filed will not be accepted by the court from any person, including the Sheriff unless the information on the attached form (Appendix B) has been furnished to the court.

(b) If charges have not been filed against the person or persons for whom the cash bond was posted within forty-five (45) days from the date said cash bond was posted, it shall be returned to the owner of the cash bond at the address furnished to the court.

(c) It is the responsibility of the person posting the cash bond to inform the court of any change in his or her address or residence. The court will attempt to return the cash bond to the address furnished to the court. If the court is unable to do so because the address has changed, or the cash bond cannot be delivered by U.S. Mail, the cash bond will be paid over to the unclaimed property fund maintained by the Kansas State Treasurer.

(Amended 04/30/2011)

Rule 511. Billing to Court or County for Appointed Attorney Services - Time Limits

(a) Billing must be submitted within forty-five (45) days after final order in a case for fees for attorney services in case in which the county or the court is responsible for payment of such fees. The bill must be submitted to the Clerk of the District Court of the appropriate county. Any bill not submitted within the time limits herein established may be rejected by the court or county. This rule is necessary to meet budgetary requirements.

(b) The court may request an interim bill for services for cases mentioned in subsection (a) at any time after due notice to the attorney involved.

(b) This rule is not applicable to attorney fees payable by the Kansas Indigent Defense Fund, which is governed by its own rules.

Rule 512. Local Rules - Copies to be Maintained by Clerks in Each County

(a) The Clerk of the District Court in each county will maintain a complete set of district court rules. Copies of any or all rules will be provided at the standard charge for copies.

VI. ENFORCEMENT OF LOCAL RULE PROVISIONS

Rule 601. Penalties and Remedies for Violation of Local Rules

(*Repealed*. 04/30/2011)

VII. REPEAL OF PRIOR RULES

Rule 701. Repeal of All Prior Local Rules.

(a) All Local Rules of the 23rd Judicial District adopted prior to the date of the adoption hereof, shown below, are hereby repealed or amended as set forth herein. Repeal or amendment of prior local rules shall not have the effect of repealing Administrative Rules or Orders heretofore promulgated by a Chief Judge.

THESE LOCAL RULES ARE ADOPTED BY THE 23RD JUDICIAL DISTRICT THIS 30th DAY OF APRIL, 2011 BY ALL OF THE JUDGES OF THIS DISTRICT.

_____

Edward E. Bouker
Chief Judge

APPENDICES

Appendix A (Domestic Pretrial Questionnaire Form)

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

_____,

Petitioner

and Case No. _____.

_____,

Respondent.

DOMESTIC RELATIONS PRE-TRIAL QUESTIONNAIRE

Pretrial Questionnaire of (Petitioner/Respondent):

Your name:

Date:

List the issues you believe will be presented to the Court for decision in the trial of this matter:

State any requests for admission or stipulations you desire from the opposing party:

List all exhibits you intend to present at trial:

List all witnesses you intend to call at trial:

Are there any rulings which you desire the Court to make prior to trial, or which you believe would expedite the trial of this case?

Is discovery complete? If not, state discovery which you desire to complete, and an estimate of the time for completion of this discovery.

Is there any need for special reports from psychologists, psychiatrists, schools, etc.? If so, specify.

Is mediation appropriate for any or all of the issues in this case?

If this is a motion for change of child custody, support or visitation, state what facts constitute a change in circumstances justifying a new order, or state why it is unnecessary to show a change of circumstances:

NOTE: A COMPLETED STATEMENT UNDER RULE 164 OF THE KANSAS SUPREME COURT MUST BE SUBMITTED WITH THIS QUESTIONNAIRE.

_____

Attorney for Petitioner/Respondent

CERTIFICATE OF SERVICE

Appendix B (Form for Cash Bond)

Please Print

Name of person being bonded:

_____

Charge(s):

_____

Date of Arrest :

_____

Person Posting
Bond:_____

Address:

_____

_____

Phone Nos.

_____

Amount of Bond
Posted:_____

Read and Sign:

If no case has been filed against the person being bonded out of jail within forty-five (45) days, this bond will be refunded.

It will be mailed only to the person who posted the bond, at the address on this envelope. If you change your address, it is your responsibility to notify the Court. If it is mailed but not claimed or is returned as undeliverable, it will be forwarded to the state as unclaimed property.

(X)_____
Signature of Person Posting Bond

(Amended 04/30/2011)

Appendix C (Notice of Intent to Withdraw as Attorney)

IN THE DISTRICT COURT OF _____ COUNTY, KANSAS

_____, **Plaintiff,**	
vs.	**Case No.** _____
_____, **Defendant.**	

NOTICE OF INTENT TO WITHDRAW AS ATTORNEY

To: _____

_____

_____

You are hereby notified by the undersigned attorney that __he intends to withdraw as your attorney of record in the above captioned and numbered matter in accordance with the motion to which this Notice is attached. As a result, it is critical you should pay heed to the following:

You may object to the motion of the undersigned to withdraw in the manner set forth in the motion to which this Notice is attached. If you do not object or if you do object and, after hearing, the court enters its order allowing the undersigned to withdraw as your attorney of record, the following apply:

1. The above named court in which this action is filed retains jurisdiction over you and the subject matter of this action.

2. You must keep the court and opposing parties informed in writing of the address to which notices, pleadings and other papers may be served upon you.

3. You have the obligation to prepare for and appear at all further hearings scheduled, if any, and to retain counsel for such hearings if you desire. [In a case where is or might be entitled to appointed counsel, add the following: If you desire to have the court appoint counsel for you, you should immediately contact the court and make a request for appointed counsel.]

4. If you fail to meet your obligations described above, [judgment by default may be entered against you] (or) [a bench warrant may be issued for your arrest] (and/or) [the court may impose sanctions upon you.]

5. Your case is on file in the Court under the caption and case number stated above and the following matters are presently set for hearing before the court:

_____ on the ___ day of _____, 20__ at _____ o'clock ___.m.

[6. Other critical dates and matters of which you should be aware are as follows:

_____]

(6. or 7.) Your file will be made available to you or your new attorney at my office upon request.

_____

, Attorney at Law

Information Submitted
and
Acknowledgment of Bond Conditions
For Bond Under Rule 219 of
the 23rd Judicial District

I wish to post bond under Rule 219 of the Local Rules of the 23rd Judicial District. In order to comply with that Rule and bond conditions under that Rule, I hereby state, under penalty of perjury, that the following information is true:

1. PERSONAL INFORMATION:

My Full Name: _____ Address: _____

Telephone No: _____ _____

_____

Employer: _____ Address: _____

Employer Telephone: _____ _____

_____

School in which I am enrolled: _____ (if any)

2. I HEREBY ACKNOWLEDGE THAT I AM SUBJECT TO THE FOLLOWING BOND CONDITIONS:

(A) I must obey all laws of any jurisdiction which apply to me,

(B) I must give, above in this document, my correct address, telephone number, employer, and/or school in which I am enrolled,

(C) I must, within three (3) days of changing address, telephone number, employer or school of enrollment notify the County Attorney's office of such change and any applicable new contact information,

(D) Must not have any contact, direct or indirect, with: _____

_____

_____

who are alleged to be co-defendants or victims in my case.

(E) I am prohibited from using or taking any alcoholic beverage or illegal drugs, and I will be subject to having random samples of my breath, blood or urine taken by law enforcement or by officers of the Court, at my own expense, to determine whether this condition of bond has been violated,

(F) I may not leave the State of Kansas for more than three (3) days without notifying the County Attorney's office of the destination of any trip exceeding three (3) days, the anticipated duration of the trip, and contact information allowing contact with me while I am on the trip.

(G) Intimidation of a witness or a potential witness is a crime. It is also a violation of my bond. See K.S.A. 21-3831, et seq.

(H) I must appear in court at any time and place I am ordered to do so by Summons, Warrant or other notice properly served upon me in accordance with the requirements of the law or rules of the State of Kansas and the Court. If the following box is checked, and the date, time and place of appearance is entered in the following blanks, I must appear as indicated therein. If the following blanks are not completed, I will be notified of the date and time of my appearance.

☐ I must appear in the District Court of _____ County, Kansas on the _____ day of _____, 20_____ at _____ o'clock _____.m.

3. RELEASE ON MY OWN RECOGNIZANCE:

If I qualify for, and am being released upon, my own recognizance under Local Rule 217, I understand that this document shall constitute my bond and my recognizance, in the amount of $_____.

If applying for bond on your own recognizance (OR bond) complete the following:

☐ I own real estate in my own name in Kansas. The real estate is located at:

_____

_____

_____

OR

At least three of the following five conditions apply to me:

☐ I have been a resident of Kansas for 6 months or more,

☐ I have a valid Kansas driver's license,

☐ I am employed, and have been employed within Kansas for the immediately preceding 3 months or more. My employer is:

_____

☐ I have current telephone or cell phone service in my own name. My telephone number is:

_____

☐ I am enrolled as a student in the State of Kansas. I am enrolled in the following school:

_____

_____

I hereby declare, under penalty of perjury, that the information I have given above is true and correct, and that I accept the above conditions of bond.

_____
(Signature)

_____
(Printed Name)

State of Kansas, County of _____, ss:

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public

(Seal)