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CLERK DIST. COURT
by

R U L E S O F C O U R T

F O R T H E

T H I R T I E T H

J U D I C I A L D I S T R I C T

Revised - October, 19, 1984

Revised - January 12, 1987

Revised - July 1, 1989

Revised - May 18, 1992

Revised - July, 1993

Revised - April, 1996

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Revised - August, 2015

RULES OF COURT FOR THE THIRTIETH JUDICIAL DISTRICT

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RULES OF COURT

FOR THE THIRTIETH JUDICIAL DISTRICT OF KANSAS

P R E F A C E

These rules are designed to reduce uncertainty, to provide for uniformity and to expedite litigation so far as uniformity and dispatch will aid the administration of justice. They are authorized by K.S.A. 60-627 and Kansas Supreme Court Rule No. 105 and should be read in conjunction with related statues and "Rules of the Supreme Court Relating to District Courts", K.S.A. 60-270a. New or revised rules will be promulgated from time to time as necessary. Current copies of the rules will be maintained for reference of counsel by the Clerk of the District Court in each county. Nothing herein is intended to contravene any statute or Supreme Court Rule.

R U L E N O . 1

APPLICATION OF RULES

These rules shall apply to all matters pending before any Court in this Judicial District, except as they shall be modified as deemed necessary by the presiding Judge in any action to meet emergencies or to avoid injustice or great hardship.

R U L E N O . 2

ADMINISTRATIVE ORDERS

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

R U L E N O . 3

PLEADINGS

Pleadings. All pleadings and other papers in any case or proceeding filed with the Clerk of the Court shall have a 2 ½ inch blank top margin for use by the Clerk for stamp filing. All pleadings shall comply with Supreme Court Rule 111.

All divorce decrees wherein title to real estate located in this Judicial District is involved shall have prominently displayed on the left margin of the first page of the Journal Entry the notation in capital letters, **"REAL ESTATE INVOLVED"**, so that the Clerk of the District Court can have notice to comply with K.S.A. 58-22242(a). Further, counsel shall file with said original one copy of the Journal Entry for certification to the County Clerk pursuant to said statute.

In all cases in which title to real property is affected by the decree of the Court, the legal description shall be set forth in full in the Journal Entry.

Certificate of Title. *A party submitting a Journal Entry or Decree, which will enter a final judgment affecting or changing the ownership of title to real estate, shall submit therewith a Certificate of Title in the following form:

CERTIFICATE OF TITLE

In the _____ Court of _____ County, Kansas,

_____
Petitioner

Case No. _____

_____
Respondent

In the Matter of _____

This is to certify that _____has acquired title to the following property: _____ pursuant to the decree or judgment of the District Court entered _____ _____, _____. **NOTE:** This Certificate is not intended to warrant merchantable title.

_____
Judge of the District Court

The above form shall be properly filled out reflecting the name or names of the parties in whom the titled property has been vested as a result of the judicial proceeding and the legal

description of the property and reflecting the date of the judgment.

Upon filing of the Journal Entry and the Certificate, the Clerk of the District Court shall, incompliance with Senate Bill 268 of the 1989 Session Laws, provide the certified copies of the Decree or judgment to the County Clerk's office and shall cause the Certificate to be recorded with the Register of Deeds Office.

No Journal Entry or Decree shall be filed in the District Court, which affects a change in title of real property unless the party submits with it the above described Certificate of Title.

*Pursuant to and supplementing Supreme Court Rule 111, (Revised 1988) effective January 1, 1990, all pleadings shall be prepared by attorneys or litigants on standard size (8-1/2 X 11") sheets.

The Clerk of the District Court shall not file any pleadings in any case unless there has been a compliance with this rule.

*Denotes amendments made July 1, 1989.

R U L E N O . 3 (a)

PLEADINGS

Conforming the District Court Rules of practice to K.S.A. 20-355 and certification by the Kansas Supreme Court dated May 14, 1992, Division 1 of the 30th Judicial District is hereby eliminated effective **July 15, 1992**, and the remaining Divisions, 2 through 5, are re-designated 1 through 4 as follows:

Francis E. Meisenheimer .. Division No. 1

William R. Mott ..... Division No. 2

R. Scott McQuin ..... Division No. 3

Larry T. Solomon ..... Division No. 4

On the effective date, all pleadings shall be entitled as follows:

IN THE THIRTIETH JUDICIAL DISTRICT
DISTRICT COURT, _____ COUNTY, KANSAS
DIVISION NO. ___

Where the Division number is known prior to the time of filing, it will be so indicated.

Amended June, 2015

R U L E N O . 4

CONFORMED COPIES OF PLEADINGS TO ADVSERSE PARTY

Sufficient conformed copies of every petition shall be filed to supply copies for defendants. Conformed copies of all subsequent motions and pleadings shall be delivered or mailed to all counsel of record with proper certificate thereon and filed and served in accordance with K.S.A. 60-205 and 60-211, as amended.

R U L E N O . 5

MOTIONS: DISCOVERY: PRETRIAL PROCEDURE

Motions. Request for oral argument upon a motion as provided for in Supreme Court Rule No. 133 shall be unnecessary, and oral argument shall be afforded every movant and respondent as a matter of course, provided that, upon the filing of any motion, the movant shall obtain from the Court or the Clerk a date for hearing of the motion and shall endorse notice of the same upon the motion. The notice of hearing shall be served not later than five (5) days before the time specified for the hearing. (See K.S.A. 60-206[d]). (See K.S.A. 60-268 Form 19 for "Form for Notice".) Compliance shall be made with the requirements of Supreme Court Rule No. 133 with regard to memoranda of authority, and oral argument shall not be considered an alternative procedure. Motions for which notice of oral argument is not given and motions seeking a ruling on some part of the merits of an action which are not accompanied by memoranda of authorities when required by Supreme Court Rule No. 133 may be summarily overruled.

R U L E N O . 6

PRETRIAL CONFERENCE

1. Pretrial Conference Upon Request or Court's Motion; Exception. A pretrial conference shall be held when called by the Judge upon the request of any party or upon his own motion, unless the Court approves an agreed pretrial order to be submitted by counsel containing the information required by subsection H hereof and such pretrial order is approved by the Judge to which the case is assigned.

2. Notice. Reasonable notice of the time of setting for a pretrial conference shall be given to counsel of record or to the parties.

3. Effect of Notice; Duty of Counsel. On or before a pretrial conference, counsel shall:

   A. Exchange lists of the names and addresses of witnesses who may be called upon to testify at the trial;

   B. Exhibit to each other all photographs, documents, maps, or other tangible things which may be offered in evidence at the trial, and a good faith effort shall be made to eliminate the need to call witnesses to lay a purely formal foundation for the admission in evidence thereof, or if possible to agree that such exhibits may

go in evidence without prejudice if there is no controversy concerning the same;

C. Stipulate in writing as to all material facts not in controversy;

D. Make a full and good faith disclosure of their respective positions, both factually and legally. In damage actions based upon a claim of negligence, the plaintiff shall specifically set forth in writing the grounds of negligence relied upon, and the defendant shall specifically set forth the grounds of negligence, if any, relied upon by defendant as a defense. In such actions, where a counterclaim is filed, defendant shall set forth in writing the nature and extent of injuries and damages sustained for which he claims recovery;

E. Make every effort to agree upon issues of fact and law remaining for trial;

F. If agreement is reached on the triable issues, prepare a proposed pretrial order for submission to the Court.

4. Full Use of Discovery Encouraged. Attorneys should make full use of all discovery procedures as provided in K.S.A. 60-226 through K.S.A. 60-237, instead of seeking information by admissions at the pretrial conference.

5. Pretrial Questionnaires; Time for Submission. Counsel shall prepare and mail copies to the Clerk of the District

Court, the Judge and all other counsel at least one (1) week prior to the pretrial conference. All questions must either be answered or indicated as not applicable.

6. Pretrial Briefs; Time for Submission. Counsel shall prepare and file with the Court, at least three (3) days prior to the time of the pretrial conference, a brief covering any anticipated disputed questions of law.

7. Procedure; Procedure at Pretrial Conference.

   A. The official court reporter shall be present at and shall record each pretrial conference if requested by the parties or ordered by the Court.

   B. The order of procedure to be followed in the pretrial conference shall be as set forth in Supreme Court Rule No. 140(g), (1)-(17).

8. Pretrial Order; Preparation by Counsel. At the close of the pretrial conference, the Court shall direct that a pretrial order be prepared by counsel. The Court shall designate the attorney who will be required to prepare and submit a proposed pretrial order to opposing counsel and obtain written approval thereon and file the same with the Clerk within fifteen (15) days of the pretrial conference. The Clerk or counsel shall submit the same to the Judge who held the pretrial conference for his signature. In the event counsel are unable to agree on the form of the pretrial

order within the fifteen (15) days, each of the parties shall file with the Clerk a suggested pretrial order within five (5) days thereafter.

9. Pretrial Order; Contents. The pretrial order may include any or all of the following:

   A. A brief statement of the amendments to pleadings which were allowed.

   B. A statement of controverted material issues of fact.

   C. A statement of controverted issues of law.

   D. A statement of agreed material facts.

   E. A statement that exhibits were produced and marked by the reporter and may be received into evidence, if otherwise admissible, without further authentication, unless a bona fide dispute exists with reference to such authentication. Exhibits not offered at this conference will not be received into evidence at the trial, except in proper rebuttal or by consent of all affected parties, or by order of the Court to prevent manifest injustice.

   F. If discovery has not been completed, a statement that each party shall complete all discovery within a specified period of time.

   G. A statement that each party shall furnish each other party, within a specified period of time, the names and

addresses of witnesses who may be called to testify at the trial. A copy of such lists shall be filed with the Clerk as part of the case. The order shall further contain the statement that witnesses not so listed will not be permitted to testify, except in proper rebuttal or by consent of all affected parties, or by order of the Court to prevent manifest injustice.

H. Rulings of the Court on disputed questions of law and such motions determined at the pretrial conference.

I. Limitations, if any, on the number of expert witnesses that may be called by each party.

J. Whether the case is to be tried to a jury, the court, or to a master to be appointed by the Court.

K. A statement of the issues of material fact to be determined by the jury or the Court sitting without a jury.

L. A statement of the issues of law to be determined by the Court.

10. Pretrial Order; Weight and Effect. The pretrial order, when entered, shall control the subsequent course of the action and shall not be modified, except by order of the Court on its own motion, or a motion of a party to prevent manifest injustice.

11. Evidence or Witnesses Discovered After Pretrial; Procedure; Effect of Failure to Comply with Rule. If additional exhibits or writings are discovered after the pretrial conference is held, the party intending to use such exhibits or writings shall immediately furnish copies to opposing counsel and submit such exhibits to the reporter to be marked for identification. If additional witnesses are discovered, opposing counsel shall be notified immediately and furnished their names, addresses and the nature of their testimony. Such notification shall be in writing and filed with the Clerk. Failure to comply with the requirements of this rule shall make such exhibits and writings inadmissible and any such witnesses incompetent to testify.

12. Failure to Appear at Pretrial Conference. Should a party or his attorney fail to appear at a pretrial conference after notice, an ex-parte hearing may be held and appropriate judgment entered.

13. Failure to Comply with Pretrial Rules. If a party or his attorney fails to comply with the pretrial rules as promulgated, the Court may enter an order dismissing the action, tax attorney's fees incurred as costs as provided by law, or enter an appropriate judgment.

R U L E N O . 7

EX-PARTE ORDER

In domestic relations cases, all ex-parte orders will be heard only upon verified application by either party.

All ex-parte motions shall contain the parties' application in a single pleading, and all ex-parte orders shall be contained in a single pleading.

Requests to modify ex-parte orders obtained under this rule shall be made upon verified application and shall comply with Supreme Court Rule No. 139, where applicable. Such application to modify may be determined upon the verified pleadings, statements of counsel and such hearing, if any, as the Court shall require.

Agreed orders providing temporary custody, support and/or agreed orders of restraint shall not be subject to the requirements of this rule.

See also K.S.A. 60-1607 and
K.S.A. 60-206(d)

R U L E N O . 8

EXCHANGE OF SUPREME COURT RULE 164 AFFIDAVITS AND PROPERTY SETTLEMENT REQUESTS

In all domestic cases set for pretrial conference or contested hearing, counsel for the parties shall prepare, file and exchange with opposing counsel a **Child Support Worksheet** and **Domestic Relations Affidavit** pursuant to Supreme Court Rule 164 at least **FOURTEEN** (14) days prior to the scheduled pretrial conference or contested hearing. If appropriate, a **Permanent Parenting Plan** proposal shall also be filed, with copies to opposing counsel and the Judge. Additionally, in cases set for pretrial or contested hearing, counsel for the parties shall prepare, file and exchange with opposing counsel a **Property Settlement Request** setting forth the parties' request with regard to division of property, allocation of debts, child custody, support and visitation, and maintenance at least **FOURTEEN** (14) days prior thereto.

All Property Settlement Requests shall set forth the specific value of all real and personal property to be divided; the method and source of said valuation and a specific listing of all known issues of fact and law remaining to be determined by the trial court (including but not limited to: grounds for divorce, custody of the minor children, visitation, parenting

plan, child support, maintenance, property valuations, equitable division of parties' property and/or debts, health insurance/ income tax issues, etc.).

This rule shall be effective for all cases scheduled for pretrial conference or set for contested hearing on or after **August 1, 2000.**

Amended April, 1996.
Amended August, 2000.
Amended August, 2015.

R U L E N O . 9

SEPARATION AGREEMENTS

Any **Separation Agreement** entered into by the parties may be attached to the Journal Entry of divorce and by reference made a part thereof as though written in full.

In every case, however, the description of real estate and the division thereof to the parties shall be fully set forth in the Journal Entry of Divorce.

For good cause shown, the parties may, by agreement and with the approval of the court, file the Separation Agreement at any time during the proceedings.

R U L E N O . 1 0

TEMPORARY CUSTODY ORDERS

In making an application for temporary custody during the pendency of the action, the party shall state, under oath, that the temporary order does not change or modify the custody of the minor child or children from the parent who has had the sole de facto custody. This rule is adopted in compliance with K.S.A. 60-1607(b).

R U L E N O . 1 1

JURY QUESTIONNAIRES

At the time the jury commissioner determines the panel, subject to summons for duty as jurors, she may mail to each member of the panel a questionnaire, in the form adopted by the Court substantially in compliance with Supreme Court Rule 167, and such questionnaire, when returned, shall be available in the Office of the Clerk of the Court for inspection by any attorney having cases set for jury trial.

Jury lists and copies of the jurors' questionnaires will be sent to the attorneys **ONLY** upon request and at a cost of $.25 per copy.

R U L E N O . 1 2

JOURNAL ENTRIES

JOURNAL ENTRIES. Unless otherwise ordered by the Judge, a Journal Entry shall be prepared within **FOURTEEN** (14) days by the prevailing party for all judgments, orders, and decisions of the Court and submitted to opposing counsel and delivered to the Court within said time, unless extended by the Judge for good cause shown. In the event counsel are unable to agree on the form of the Journal Entry within the **FOURTEEN** (14) day period, Counsel shall comply with Kansas Supreme Court Rule 170.

JOURNAL ENTRIES OF DISMISSAL. Upon dismissal of any action upon motion of the plaintiff, counsel for plaintiff shall prepare and furnish to the court a Journal Entry of Dismissal within **FOURTEEN** (14) days after the motion has been sustained.

Amended January, 2011.

R U L E N O . 1 3

MAKING OF THE RECORD AND THE FURNISHING OF TRANSCRIPTS BEFORE DISTRICT MAGISTRATE

CRIMINAL CASES:

Requests for records in preliminary hearings must be made in compliance with K.S.A. 22-2904. If the party requesting the record is an indigent defendant, the Court will arrange for a record and the costs. Non-indigent defendants will be responsible for arranging for court reporters and for payment of all costs and expenses in connection with providing the court reporter.

Transcripts of a preliminary hearing will **ONLY** be provided to indigent defendants upon order of the Court and the order will only be entered upon a finding by the court that good cause exists for supplying a transcript.

Records in misdemeanor and juvenile cases must be requested in writing at least **TEN** days in advance and the party requesting will be responsible for arranging for the court reporter and attending to the costs and expenses involved.

CIVIL MATTERS - CHAPTER 61:

Records in Chapter 61 cases must be requested at least **TEN** days in advance and the party requesting shall have the

responsibility of providing the court reporter and attending to the costs and expenses involved.

R U L E N O . 1 4

PROBATION FEES

Upon the Court's granting of probation to a defendant in a criminal action, the Court shall assess the probation fees - $60 for misdemeanor cases and $120 for felony cases - to the defendant. The Journal Entry shall reflect the assessment in order that the same may be properly collected by the Clerk, unless the same has specifically been waived by the Court.

K.S.A. 21-4610

Amended July, 2010.

R U L E N O . 1 5

FORMALITY AND DIGNITY OF PROCEDURE RULES

1. Court shall be formally opened.
2. The opening formality shall be: immediately before the scheduled time, the Bailiff shall proceed from the Judge's chambers and direct all court officers and spectators to their seats. As the Judge enters the courtroom, the Bailiff shall require all present to arise and stand. When the Judge has been seated upon the bench, the Bailiff shall say:

   "I declare the District Court of _____ County, Kansas, now in session. The Honorable _____ presiding. Please be seated."

   All may then be seated and the business of the Court proceeded with.
3. In recessing, the Bailiff shall announce: "The Court is now in Recess (as may be directed by the Judge)".
4. In reconvening after recess, the Bailiff shall give warning that the Court is about to reconvene and, as the Judge enters, cause all to stand until the Judge is seated.
5. When trial is to a jury, the jurors shall take their places in the jury box before the Judge enters the courtroom for reconvening.

6. The flag of the United States shall, at all times while Court is in session, be displayed at, or in close proximity to the bench.
7. Lawyers shall arise and remain standing addressing the Court or Jury.
8. Lawyers shall address the Court from the lectern or a position at the counsel table.
9. Lawyers may not approach the bench without permission nor appear to engage the Court in a confidential manner.
10. Lawyers shall stand at the lectern or counsel table while examining witnesses, except when handling exhibits. In those courtrooms equipped with sound amplification or recording systems, lawyers shall address the Court and jury and examine witnesses from a position in effective proximity to the microphone.
11. Lawyers in examination of jurors on *voir dire* should, insofar as possible, use collective questions, avoid repetition and seek only material information and never unethical advantage.
12. Lawyers, during trial, shall not exhibit familiarity with witnesses, jurors, or opposing counsel and the use of first names shall be avoided. In jury arguments, no juror shall be addressed individually or by name.

13. All lawyers and court officers shall wear coats while in attendance upon the Court, provided judicial discretion may be exercised otherwise.
14. Lawyers shall advise their clients and witnesses of the formalities of the Court and seek their full cooperation therewith, thereby avoiding embarrassment to Courts and laymen as well.
15. Witnesses are usually in attendance under compulsion of Court process. They shall, therefore, be examined with courtesy and respect and their good faith presumed until the contrary clearly appears.
16. The swearing of witnesses should be an impressive ceremony and not a mere formality. They shall be sworn individually near the bench and never in the audience section.
17. Exhibits to be offered should first be handed to the reporter and numbered and then submitted to opposing counsel. They should thereafter be offered and referred to by number only.
18. In jury cases, in sustaining a Motion to Dismiss at the close of the plaintiff's evidence or otherwise disposing of the case before verdict, the Judge, in dismissing the jury, should briefly explain the procedure and why a verdict was unnecessary.

19. In criminal cases, the defendant shall stand with his attorney before the bench in waiving arraignment or entering a plea and at the time of passing sentence.
20. Smoking shall not be permitted in the courtroom at any time.
21. The official reporter shall, pursuant to these rules, attend each session of the Court and report verbatim: (1) all proceedings in criminal cases had in open Court; (2) all proceedings in all other cases had in open Court, unless the parties, with the approval of the Judge, shall specifically agree otherwise.
22. The taking of photographs or broadcasting of judicial proceedings in or from any courtroom or so close thereto as to disturb the order and decorum thereof, either while Court is in session or recess, shall be done in accordance with the Supreme Court Rules.

R U L E N O . 1 6

CHAPTER 61 "ORDER OF GARNISHMENT" FORM

All Chapter 61 Order of Garnishment forms tendered to the Clerk of the District Court for filing shall contain a signature line for the Clerk of the District Court. The Clerk of the District Court shall sign the Order of Garnishment prior to the Order of Garnishment form being served on the Garnishee.

R U L E N O . 1 7

CHAPTER 60 "ORDER OF GARNISHMENT" FORM

All Chapter 60 Order of Garnishment forms tendered to the Clerk of the District Court for filing shall contain a signature line for the Clerk of the District Court. The Clerk of the District Court shall sign the Order of Garnishment prior to the Order of Garnishment form being served on the Garnishee.

R U L E N O . 1 8

PROSECUTION OF JUVENILE AS ADULT/EXTENDED JURISDICTION JUVENILE PROCEEDING

Any case involving a request for prosecution of a juvenile as an adult, or extended jurisdiction juvenile prosecution SHALL be assigned to and heard by a District Judge. The proceedings shall be conducted in accordance with K.S.A. (2009 Supp.) 38-2347 and the Respondent shall be entitled to the full protection of the Kansas Code of Criminal Procedure.