

IN THE SUPREME COURT OF THE STATE OF KANSAS  
RULES RELATING TO DISTRICT COURTS

**Rule 140**

**FILED**

**FEB 12 2010**

**FINAL PRETRIAL CONFERENCE**

**CAROL G. GREEN  
CLERK OF APPELLATE COURTS**

Supreme Court Rule 140 is hereby amended, effective the date of this order.

(a) The final pretrial conference contemplated by K.S.A. 60-216 shall be held before a judge with court participation throughout. The final pretrial conference shall be held at least two (2) weeks prior to trial.

(b) The final pretrial conference is predicated upon discovery being completed and the parties being prepared to complete the procedural steps recited herein. If additional witnesses or evidence is discovered after the final pretrial conference, the discovering party shall immediately make this known to all parties and the court in writing.

(c) Parties may be present at the final pretrial conference and shall be present when ordered by the court.

(d) The final pretrial conference will be conducted by an attorney who will participate in the trial of the case.

(e) The court shall prepare the pretrial order or designate counsel to do so.

(f) Should counsel object to the pretrial order, counsel shall state his or her objections in writing and forward the objections and the pretrial order to the court within ten (10) days.

(g) The final pretrial conference will be conducted substantially in conformity with the following procedural steps:

- (1) Plaintiff will state concisely his factual contentions and the theory of his action.
- (2) Defendant will state concisely his factual contentions and the theories of his defenses and claims for relief.
- (3) The court will rule upon any proposed amendments.
- (4) Court and counsel will confer as to matters not disputed and request will be made for admissions and stipulations.
- (5) Names and addresses of witnesses who will be called will be submitted in writing and counsel will be prepared to state the essence of their testimony.
- (6) All exhibits which parties intend to use at the trial shall be known to the court and opposing counsel and may be marked for identification and admitted into evidence.
- (7) The court may rule on any motions for dismissal, judgment on the pleadings, or summary judgment.
- (8) Counsel will state if a jury is requested, if a jury of less than twelve (12) will be accepted, and time required for trial.
- (9) A guardian *ad litem* will be appointed if advisable.
- (10) Limitations upon the number of expert and cumulative witnesses for each side will be considered and ruled upon.
- (11) The issues of fact will be stated by the court.
- (12) The questions of law will be stated and the court will rule thereon.
- (13) Questions of evidence will be stated and the court will rule thereon.
- (14) Problems relative to jury instructions will be stated and the court will rule thereon.

(15) The position of parties relative to settlement shall be considered and the possibility of settlement explored.

(16) If the court authorizes the filing of briefs the time of filing shall be specified.

(17) Any procedures that may aid in the disposition of the case will be determined, including submission on special verdict or general verdict and interrogatories, consolidated or split trials, reference to a master, less than twelve (12) jurors and less than unanimous verdict.

(h) In a condemnation case, the following additional matters shall be considered and determined:

\_\_\_\_\_ (1) Date of the taking.

\_\_\_\_\_ (2) Any inconsistencies between the appraisers' report and the description of the taking stated in the petition.

\_\_\_\_\_ (3) Legal description and size of the original tract before the taking.

\_\_\_\_\_ (4) Legal description and size of the tract taken.

\_\_\_\_\_ (5) Size of the tract or parcel remaining after the taking.

\_\_\_\_\_ (6) The nature of the taking, whether a fee simple interest or an easement, and any limitations on the taking established in the condemnation petition and/or appraisers' reports.

\_\_\_\_\_ (7) Access rights taken.

\_\_\_\_\_ (8) Any other factors to be considered in ascertaining compensation, i.e., K.S.A. 26-513(d).

\_\_\_\_\_ (9) Positions of the parties regarding highest and best use.

\_\_\_\_\_ (10) Requests for other admissions and stipulations.

\_\_\_\_\_ (11) Exhibits, plats or demonstrative evidence to be introduced.

\_\_\_\_\_ (12) View of the premises.

(13) Witness – appraisers. For each witness who will testify as to value or damage, each party shall state the witness' valuation of the entire property or interest immediately before the taking and, where appropriate, the valuation of that portion of the tract or interest remaining immediately after the taking.

(14) Any special instructions needed.

(15) In the case of temporary takings, the duration of the taking.

(16) Any motions in limine not previously ruled upon.

BY ORDER OF THE COURT, this 12th day of February, 2010.

  
for ROBERT E. DAVIS, Chief Justice