

**DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
29TH JUDICIAL DISTRICT**

LOCAL RULES

TABLE OF CONTENTS

RULE		PAGE
1	Prefatory Rule	1
CIVIL (CHAPTER 60) RULES		2
101	Duty Judge	3
102	Case Assignment	4
103	Interviewing Experts	5
104	Motions and Notices	6
105	Hearing Officer	8
106	Actions Involving Title to Real Estate	9
107	Actions Involving Support and Court Trustee	10
108	Stays Against Debtors in Bankruptcy	11
109	Changes in Attorney Information	13
110	Use of Counsel Table or Podium	14
111	Courtroom Decorum and Attire	15
112	Those Permitted Within Bar of Court	16
113	Examination of Witness and Conduct of Counsel	17
114	Facsimile Transmissions	18
115	Miscellaneous Administrative Orders	19
116	Requested Jury Instructions	20
117	Copies of Petitions	21
118	Investment of Funds in Special Accounts	22
119	Poverty Affidavits and Court Cost Refunds	23
120	Communication with Counsel Prior to Discovery Motions	24
121	Pleadings and Discovery Material	25
122	Standard Interrogatories	26
123	Selection of Juries	27
124	Pretrial Matters	28
125	Withdrawal of Attorneys	30
126	<i>Ex Parte</i> Orders and Contempts	31
127	Courts Records	32

APPENDICES TO CIVIL (CHAPTER 60) RULES

		PAGE
Notice of Service of Discovery	Appendix to Rule 121(e)	33
Opening Interrogatories	Appendix to Rule 122	34
Pretrial Questionnaire	Appendix to Rule 124(b)	45
Pretrial Order	Appendix to Rule 124(g)	48
Case Management Conference Order	Appendix to Rule 124(i)	52
Motion for Withdrawal of Counsel and Order Permitting Withdrawal	Appendix to Rule 125	54

FAMILY LAW RULES 56

RULE

201	Assignment of Cases	57
202	Execution of <i>Ex Parte</i> Orders	58
203	Affidavits and Worksheets for Support Orders	59
204	Issuance of Summons/Service of Certain Orders	60
205	Standard Temporary Order	61
206	Default or Uncontested Hearings	65
207	Motion Schedule	66
208	Hearing Officer Motion Schedule	67
209	Appeal from Hearing Officer's Order	68
210	<i>Ex Parte</i> Orders Changing Legal or <i>de facto</i> Custody	69

CRIMINAL RULES 70

RULE

301	Establishment of Criminal Department and Assignment of Cases	71
302	First Appearances	72
303	Separation of Cases	73
304	Felony Arraignments	74
305	Pre-Trial Conference	75
306	Required Appearances	76
307	Withdrawal of Counsel	77
308	Setting and Modifying Bond	78

309	Motions	79
310	Municipal and Traffic Appeals	80
	Request for Jury Trial	
311	Reassignment of Cases	81
312	Multiple Cases - Same Defendant	82
313	Dismissals	83
314	Amended Charges	84
315	Unavailability of Judge	85

JUVENILE OFFENDER RULES 86

401	Court Services Officer Reports and Other Confidential Reports	87
402	Procedures for Extended Jurisdiction Juvenile Prosecution	88

RULE 1 - PREFATORY RULES

- (a) Rules Adopted. The following rules of the Twenty-Ninth Judicial District are hereby adopted effective August 8, 2007. Rules adopted in the future will bear their effective date.
- (b) Application of Rules. These rules shall apply to all matters pending before any court in this district unless specifically superseded by statute or special rule governing proceedings in specialized divisions of this court.
- (c) Repeal of Former Rules. All rules of the Twenty-Ninth Judicial District which are in effect immediately prior to the effective date of these rules are hereby repealed.
- (d) Modification of Rules. Any of the rules of this District may be modified by the presiding judge in any action as such judge shall deem necessary to meet emergencies or to avoid injustice or great hardship.
- (e) Statutory References. In these rules, wherever there is a reference to a section of a rule of the Supreme Court by number, it shall be deemed a reference to the Kansas Court Rules relating to the District Courts, as amended, unless a different rule is indicated.

CIVIL (CHAPTER 60) RULES

RULE 101 - DUTY JUDGE

Designation - Duties: Prior to the commencement of each month, a duty judge shall be designated, whose duty shall be to make preliminary orders in all cases. If the duty judge is absent or otherwise engaged, any judge may make such preliminary orders when the judge to whom the case is assigned is unavailable.

RULE 102 - ASSIGNMENT OF CASES

- (a) Notice of Assignment. All civil cases filed under Chapter 60 shall be randomly assigned by computer at the time of filing to the various divisions. If companion cases are filed, all cases shall be assigned to the division having the lowest case number. All civil case assignments shall be permanent unless a judge excuses him or herself or is disqualified pursuant to statute. Any case dismissed and refiled, shall be assigned to the judge of the same division to whom it was previously assigned.
- (b) Conduct After Assignment. After a case has been assigned, the judge of the division to which it is assigned shall have full charge of the case, and all further hearings and proceedings shall be before such judge.
- (c) Illness or Absence of Judge, Effect. When the judge of any division is on vacation or ill, any case assigned to such division may be tried in any other division by agreement of the attorneys and the judge before whom it is to be tried.
- (d) Absence of Assigned Judge; Default Judgment. In the event a judge to whom a case has been assigned is absent or otherwise engaged, any judge may enter a default judgment in said case, but any post-trial motions in such cases, or proceedings to modify or set the same aside shall be heard by the judge to whom the case was originally assigned.
- (e) Change of Judge. Whenever a change of judge is granted pursuant to K.S.A. 20-311d *et seq.*, the case shall be reassigned by the Chief Judge at random.

RULE 103 - INTERVIEWING EXPERTS

- (a) Physicians. Lawyers have a right to interview a treating physician once the physician-patient privilege is waived by the filing of a lawsuit, provided the physician is supplied with a written consent waiving the privilege by the person holding the privilege or by order of the Court. A treating physician may be interviewed outside the presence of parties or other counsel provided the treating physician consents to the interview.

- (b) Experts Other Than Treating Physicians. Lawyers may not interview any opposing expert witness who has been retained or specifically employed by another party in anticipation of litigation or preparation for trial, without either consent of counsel or order of the Court.

RULE 104 - MOTIONS AND NOTICES

- (a) Hearing Officer Child Support Matters.
- URESAs - Motion & Contempts - Monday Mornings- 9:00 a.m.
URESAs - Establishment - Monday Mornings - 10:00 a.m.
Monday Afternoon -1:30 p.m.- Court Trustee & S.R.S. - A thru L
Tuesday Morning - 9:00 a.m. - Private Attorneys - A thru L
Tuesday Afternoon-1:30 p.m. - Private Attorneys - K thru Z
Thursday Morning- 9:00 a.m. - Court Trustee & S.R.S. - M thru Z
- (b) Motion Days. Each District Judge will have one regular motion day each month for all actions pending in each division, including post-trial motions in domestic relations cases, as follows:
- | | |
|-----------------|--|
| Div. 1 | Fourth Friday of the month - 9:30 a.m. |
| Div. 2,7 | Third Friday of the month - 9:30 a.m. |
| Div. 5 | Fourth Friday of the month - 9:00 a.m. |
| Div. 3, 6 | Second Friday of the month -9:00 p.m. |
| Div. 10 | Second Monday of the month -1:30 p.m. |
| Div. 11, 12, 13 | First Monday of the month - 1:30 p.m. |
- (c) Notice. Notice of all settings on regular motion dockets will be given by publication in *The Wyandotte Echo* and by mailing a copy of *The Wyandotte Echo* to all attorneys of the Wyandotte County Bar. Any attorney not a member of the Wyandotte County Bar, upon written request, will be placed on the mailing list of *The Wyandotte Echo*. Attorneys shall in all events comply with Kansas Supreme Court Rule 131.
- (d) Special Motions. Any motion requiring a special setting, and motions where oral evidence is to be offered, shall be specially set by the judge of the division to which the case has been assigned, and notice of such setting shall be given by the attorney obtaining the setting as required by Kansas Supreme Court Rule 131.
- (e) Bill of Particulars. A motion for a bill of particulars is unnecessary. A demand for a bill of particulars, pursuant to K.S.A. 60-1604(d), if filed within the statutory time for answer, will be complied with automatically and within 20 days after demand.
- (f) Attorneys' Entries of Appearance. It shall be the responsibility of every attorney representing any party (other than the plaintiff) in an action to properly register or enter his or her appearance at the time of his or her entry into the case by listing his or her name, address, phone number, fax number, e-mail address, and Kansas

Supreme Court registration number, and also to register any change in any such information thereafter, by filing with the Clerk of the Court an Entry of Appearance, forms for which may be made available by the Clerk. No document shall be accepted by the Clerk for filing unless the lawyer also filed such Entry of Appearance in the case in which he or she submits a document or other matter for filing.

- (g) Telephone Argument. The Court may, in its discretion, hear oral argument on any motion by telephone conference, provided all conversations of all parties are audible to all persons present. Upon request of any party, such oral argument may be recorded by a court reporter under such conditions as the judge shall deem practical. Counsel shall schedule such telephone calls at a time mutually agreeable to all parties and the judge. The court may direct which party will pay the cost of the telephone calls.
- (h) Family Law. In all domestic cases in which child support is to be established or modified, the parties shall file their respective Child Support Worksheet and Domestic Relations Affidavit, as contemplated by Kansas Supreme Court Rule 164, contemporaneously with their Affidavit for Use in Connection with Support Orders required by Kansas Supreme Court Rule 139, both of which shall be issued contemporaneously with the *ex parte* orders or motions.

RULE 105 - POSITION OF HEARING OFFICER

- (a) Establishment. The position of Hearing Officer is established for the purpose of providing expedited process in establishment, enforcement, and modification of support orders and expedited motions regarding enforcement of parenting time and visitation. The Hearing Officer shall be full time, licensed to practice law in Kansas and shall be appointed by and serve at the pleasure of the Chief Judge as a *pro tempore* judge of the Wyandotte County District Court.
- (b) Duties. The Hearing Officer shall be responsible for hearing the following motions:
- To modify support;
 - For requested income withholding;
 - To show cause on contempt actions for support;
 - To determine arrearages;
 - To stay income withholding;
 - To establish support;
 - To terminate support;
 - URESAs and UIFSAs actions;
 - Protection from Abuse/Stalking Cases;
 - To enforce visitation or parenting time.
- (c) Scheduling. The hearing officer shall conduct the hearings at the Wyandotte County Courthouse pursuant to a schedule set by the Chief Judge.

**RULE 106 -PROCEDURES FOR ACTIONS INVOLVING A
CHANGE IN OWNERSHIP OR TITLE TO REAL ESTATE**

All journal entries and decrees wherein a change of ownership or title to real estate is involved shall have displayed on the margin of the first page the notation "Real Estate Involved" and shall list any foreign counties where the property may be located.

**RULE 107 - PROCEDURES IN ACTIONS INVOLVING
CHILD SUPPORT AND COURT TRUSTEE**

In any case in which child support is ordered and the district court trustee will be asked to enforce the order, the left margin of the first page of the Journal Entry, Decree or Order including such order shall include the legend "CHILD SUPPORT ORDER INCLUDED."

RULE 108 - STAYS OF ACTIONS AGAINST DEBTORS IN BANKRUPTCY

- (a) Automatic Stays. The automatic stays of certain actions against debtors are recognized in the District Court pursuant to 11 U.S.C. Section 362.
- (b) Notice by Debtor. Every debtor in a proceeding under 11 U.S.C. Section 101 *et seq.*, having knowledge that any case or proceeding potentially subject to the automatic stays set out in 11 U.S.C. 362 or 1301 (a) is pending in the District Court at the time a bankruptcy petition is filed, shall notify the court clerk's office in writing of the filing of the bankruptcy petition. The notice shall contain the District Court case number and style of the case. A copy of such written notice shall also be sent to the attorney of record for the adverse party in each such case, or, if there is no such attorney of record, to the adverse party.
- (c) Creditor's Responsibility. Judgment creditors are solely responsible for determining the effect of a bankruptcy on a District Court judgment and particular enforcement activity, and for directing the court clerk's office, according to the procedures set forth below, to cease enforcement activity. The court clerk's office shall not stay enforcement activity upon notice of a judgment debtor's bankruptcy without written authorization from the judgment creditor.
- (d) Stay of Levy. A levy requested by a judgment creditor on property located within Wyandotte County will not be stayed despite notice of the judgment debtor's bankruptcy unless one of the following occurs, at which time enforcement activity will cease:
 - 1. Judgment creditor must give written notice to the Director of Civil Process and Court Clerk to halt the specific enforcement activity; or
 - 2. Judgment debtor must provide to the Director of Civil Process and Court Clerk an attested order of the United States Bankruptcy Court, which specifically identifies the particular case file, judgment creditor, and execution activity in progress, and enjoins further enforcement activity.
- (e) Out of County Executions. For writs of execution directed to out of county jurisdictions, the judgment creditors and judgment debtors are responsible for providing directions as to contacting the levying officer in such jurisdiction with instructions to cease enforcement activity.

- (f) Funds to bankruptcy trustee, when. If directed to cease enforcement, the court clerk's office shall forward any monies or property received pursuant to execution to the appropriate trustee in the bankruptcy case.

**RULE 109 - CHANGE OF NAME, FIRM AFFILIATION OR NAME,
OFFICE ADDRESS, FACSIMILE NUMBER, PHONE NUMBER
OR E-MAIL ADDRESS**

Whenever an attorney changes his or her name, the location of his or her office or firm, firm affiliation or name, facsimile number, phone number or e-mail address, he or she shall immediately file an appropriate pleading, in each of the cases in which he or she is the attorney of record, showing his or her current name, the location of his or her office or firm, firm affiliation or name, facsimile number, phone number or e-mail address, and Kansas Supreme Court registration number.

RULE 110 -USE OF COUNSEL TABLE OR PODIUM

- (a) Examining Witnesses. While examining witnesses, counsel will stand or sit at the counsel table, or stand at the podium, and when addressing the Court they will stand at the counsel table.

- (b) Objections. Objections will ordinarily be made by standing at either the counsel table or podium. Attorneys will not come to the bench to make objections without permission of the Court.

RULE 111 -COURTROOM DECORUM AND DRESS

- (a) Attorneys. All attorneys and court officials shall wear appropriate attire while in attendance upon the Court.
- (b) Clients, witnesses, laypersons. Attorneys will advise their clients and witnesses of the formalities of the Court, including proper attire, and seek their full cooperation therewith, thereby avoiding embarrassment to the Court and laymen as well.

RULE 112 -THOSE PERMITTED WITHIN BAR OF COURT

During the trial of any case, or the presentation of any matter to the Court, no person, including members of litigant's families, shall be permitted within the bar of the courtroom proper, other than attorneys, court personnel, litigants and witnesses called to the stand. Persons without the bar shall not disturb the order of the Court.

RULE 113 -EXAMINATION OF WITNESSES AND CONDUCT OF COUNSEL

- (a) Witness Examination. Only one attorney shall examine a witness in chief and only one cross examine a witness for the other side unless the defendants answer separately and plead separate and distinct defenses. This rule shall also apply in cases in which there are several defendants represented by different counsel.
- (b) Appearance of Familiarity with the Court. Attorneys shall not lean upon the bench nor appear to engage the Court in a confidential manner.
- (c) Spoken Formality. Attorneys, during trial, shall not exhibit familiarity with witnesses, jurors, or opposing attorneys, and the use of first names shall be avoided. In jury argument, jurors shall be addressed neither individually, nor by name.
- (d) Procedure for Swearing of Witnesses. The swearing of witnesses shall be an impressive ceremony and not a mere formality. They shall be sworn individually near the bench.

RULE 114 - FACSIMILE TRANSMISSIONS

- (a) Applicability of Supreme Court Rule 119. Facsimile transmission of petitions and other necessary pleadings are authorized in accordance with Supreme Court Rule 119. These facsimile filings shall have the same effect as the filing of the original, verified documents.
- (b) Facsimile signature, effect. A facsimile signature shall have the same force and effect as an original signature for purposes of pleadings and other documents.
- (c) Deemed filed, when. Facsimile transmitted pleadings shall be deemed filed on the date and at the time the last page of the document is actually received at the office of the clerk. If the entire document is not received or is illegible, it is not deemed filed. Risk of loss in transmission, receipt or illegibility is upon the party transmitting and filing by facsimile transmission.
- (d) Retained original. The person filing a pleading or sending an order or other document by fax shall retain the original and make it available upon order of the court.

RULE 115 - MISCELLANEOUS ADMINISTRATIVE ORDERS

All District Court Miscellaneous Orders will be filed with the Clerk of the District Court. Copies of such orders will be furnished to the Wyandotte County Law Library.

RULE 116 - REQUESTED JURY INSTRUCTIONS

- (a) When presented to court and counsel. Unless otherwise ordered by the Judge, any request for jury instructions shall be presented in writing to the court and served upon each adverse party no later than the opening of the trial and before the taking of evidence. However, the court may receive additional requests relating to questions arising during the trial at any time prior to the giving of final instructions.
- (b) Pattern instructions. Pattern jury instructions may be requested by title and number. Pattern instructions which include alternatives which must be selected or “blanks” which must be completed must be presented in writing.
- (c) Modifications to Pattern Instructions. Requested instructions altering pattern jury instructions shall show the deleted text, and the new language requested shall be underlined.
- (d) Instructions based on statutes or case law. Jury instructions based upon statutes or case law shall include the citation of authority at the end of the requested instruction.

RULE 117 - COPIES OF PETITIONS TO CLERK

Sufficient conformed copies of every petition shall be filed with the clerk, with which to supply a copy for service upon each defendant.

RULE 118 - INVESTMENT OF FUNDS IN SPECIAL ACCOUNTS

A Judge of the District Court may order that any monies in actions pending before the Court, the ownership of which is contested, be invested in any local financial institution for safekeeping. The court order for investment of these funds must specify that the attorney holding the monies will be responsible for opening an interest-bearing account in such financial institution for deposit of said funds prior to determination of ownership by the court. No withdrawals will be made unless ordered by the court. Proof of such investment must be placed in and become a part of the court record and be retained by the Clerk of the District Court. Upon final determination by the Court as to the ownership of such invested funds, an order must be drawn directing the attorney who made the original investment to payout all proceeds to the designated parties. Interest received from the investment of these monies will become the property of the person or persons found to be the owners of the monies by the Court, unless otherwise ordered.

**RULE 119 - POVERTY AFFIDAVITS
AND COURT COSTS REFUNDS**

- (a) Good faith belief by counsel. A civil action will be filed on poverty affidavits only when counsel believes in good faith the plaintiff is unable to pay a docket fee.

- (b) Refund of court costs and docket fees. Court costs and docket fees will be refunded by the clerk to the party or counsel of record advancing such monies after the party against whom costs and fees are assessed has paid the same.

**RULE 120 - COMMUNICATION WITH OPPOSING COUNSEL
PRIOR TO FILING DISCOVERY MOTIONS**

Conference Prior to Discovery Motions. Any motions made pursuant to, or to enforce the provisions of, K.S.A. 60-233 through K.S.A. 60-237 will not be considered by the Court unless the movant files with such motion an affidavit of movant or his counsel stating:

- (1) that counsel has communicated in writing with the opposing party or his counsel in a sincere attempt to resolve the differences relating to such motion, but without reaching an agreement, or
- (2) that counsel has made a sincere attempt to communicate in writing with the opposing party or his counsel without success, setting forth in detail the particulars of such communication. A copy of the written communications relied upon shall be attached to the affidavit.

Failure to comply with this Rule shall be sufficient grounds, in the discretion of the Court, for overruling the motion so filed.

RULE 121 - PLEADINGS AND DISCOVERY MATERIAL

- (a) Paper Top Margin. All pleadings and other papers filed with the Clerk of the Court shall have a 2.5 inch blank top margin for use by the Clerk for file-stamping.
- (b) Divorce Decrees involving Real Estate. All divorce decrees wherein title to real estate located in this judicial district is involved should have prominently displayed on the margin of the first page of the decree the notation in capital letters “REAL ESTATE INVOLVED” so the Clerk of the District Court may have notice to comply with K.S.A. 58-2242a. Counsel should file with said original one copy of the journal entry for certification to the county clerk pursuant to said statute.
- (c) Citations, orders to appear, and bench warrants. Citations, orders to appear, and bench warrants should contain the same information so that when the respondent/defendant appears or is produced, the court may readily contact the attorney representing the party who filed/ requested the same.
- (d) Registration information. The name, address ,telephone and facsimile numbers, and e-mail addresses of pro se litigants, and in addition the Supreme Court Registration numbers of attorneys, shall be typed or printed under all signatures on pleadings, motions, and other papers. Attorneys and pro se litigants shall maintain with the Clerk's office their current information regarding these matters.
- (e) Depositions, Interrogatories, Requests for Production and Admissions. Original depositions, interrogatories and their answers, requests for admission and their responses, and requests for production and their responses, shall be delivered to the party propounding the same and shall not be filed with the court clerk or the court absent a specific order so allowing or commanding. Notices to take depositions may be filed with the court clerk. A notice that interrogatories, requests for admissions, or requests for production have been propounded and served, or answered and served, shall be filed with the court clerk, in substantially the form appended to these rules.
- (f) Refiled Cases. All civil jury cases to be filed which have previously been filed and dismissed for reasons other than on the merits shall contain the following language below the caption of the case: “This is a refile of Case No. _____.”

RULE 122 - STANDARD INTERROGATORIES

The Court has approved standard sets of opening interrogatories (see appendix) which may be used if either party elects to propound interrogatories in an automobile negligence case. The Court recommends they be submitted to the opposing party prior to the taking of depositions. Substantially the same interrogatories may be used in other personal injury actions.

RULE 123 - SELECTION OF JURIES

The following procedures shall be used for the selection of juries:

(a) Adequate number. Prospective jurors will be summoned by the jury clerk in sufficient numbers to provide adequate jury panels for jury trials scheduled by the judges of the district court. Jury panels shall be randomly selected using an automated system which contains the county voter's registration records and the Department of Motor Vehicle drivers' license list (K.S.A. 43-162).

(b) Summons date. At least twenty (20) days before the attendance date of a jury panel, the jury clerk will summon the selected persons by mailing a written notice to each person by first class mail, postage prepaid.

(c) Insufficient number. In cases where an insufficient number of jurors appear or if a panel is exhausted by challenge or otherwise before the jury is sworn, the court may order the sheriff or jury clerk to summon a sufficient number of other persons to complete the jury.

RULE 124 - PRETRIAL MATTERS

(a) Pretrial Conference Required - Exceptions. There shall be a pretrial conference in every civil jury case unless counsel for the parties stipulate in writing that no useful purpose would be served by the pretrial conference and such stipulation is approved by the judge of the division to which the case is assigned.

(b) Notice of Pretrial Conference. Reasonable notice of the time set for a pretrial conference shall be given by the Court by mail, facsimile or e-mail to counsel of record, or to the parties. Upon receipt of notice of setting for a pretrial conference, counsel for each party shall complete the pretrial questionnaire as set out in the appendix to these rules and distribute the same to opposing counsel and the court at least one week prior to the conference.

(c) Full Use of Discovery Encouraged. Attorneys shall make full use of all discovery procedures provided in K.S.A. 60-226 through 60-237, instead of seeking information or admissions at the pretrial conference.

(d) Presence of Trial Counsel Required. The attorney who will actually conduct the trial shall appear and conduct the pretrial conference. If there is good cause shown why the actual trial attorney cannot appear, the court may proceed, and the appearing attorneys should be familiar with the matter so that a meaningful pretrial may be conducted. Local counsel will also be present.

(e) Procedure. See Kansas Supreme Court Rule 140.

(f) 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 the time fixed by the judge. If the parties cannot agree on the language thereof, each of the parties shall file with the judge's administrative assistant a suggested pretrial order within five (5) days thereafter, and the judge shall settle the order on notice.

(g) Pretrial Order - Contents. A suggested form of the pretrial order is appended to these rules and its use is recommended to the bar.

(h) Failure to Appear at Pretrial Conferences. Should a party or his or her attorney fail to appear at a pretrial conference after notice, an "*ex parte*" hearing may be held and appropriate action taken.

(i) Case Management Conference. Case management conferences shall be held pursuant to K.S.A. 60-216(b). A suggested form of order memorializing the results of such conference appears in the appendix to these rules.

RULE 125 - WITHDRAWAL OF ATTORNEYS

A suggested form of motion and order accomplishing withdrawal of attorneys from cases, and complying with Kansas Supreme Court Rule 117, is appended to these rules.

RULE 126 - *EX PARTE* ORDERS AND CONTEMPTS

(a) *Ex Parte Orders Where Other Party Has Appeared.* No *ex parte* order, except in cases of emergency, shall be entered in any case in which an attorney for the other party has appeared of record. Counsel shall make a good faith effort to contact opposing counsel prior to requesting the Court to issue such an *ex parte* emergency order. This rule shall not apply, however, to an order granting leave to file out of time endorsed on the pleading or document to be filed at the time it is filed, orders of dismissal, or show cause orders for contempt of court.

(b) *Contempts.* No process shall issue for a proceeding in indirect civil contempt of court except upon the filing of a written accusation setting forth succinctly and clearly the facts alleged to constitute such contempt, a copy of which shall be served upon the accused or his counsel together with an order fixing the time and place for a hearing on the matter, as provided by K.S.A. 20-1204a. If the accused shall fail to appear as ordered, an attachment for his or her arrest may be issued. No attachment shall otherwise issue for his or her arrest except upon a showing to the judge of the division to which the case is assigned that the accused is not amendable to other process or other special circumstances. In the event an attachment is sent to any other county, the sheriff of this county shall not be required to go to such other county for the purpose of returning the accused to this county unless he is first tendered his costs and expenses.

(c) *Ex Parte Orders: Governmental Agencies.* No *ex parte* restraining order shall be entered against the city, state, or other governmental agency, or its agents or employees acting on behalf of such city, state or governmental agency, except (1) upon evidence under oath of the probability of irreparable damage, and (2) upon notice to counsel for the party to be restrained and an opportunity to appear in opposition to such order. Any hearing on such matter may be informal and may be called by the court on oral notice, or otherwise, and may be for such time as to the court may deem reasonable and appropriate under the circumstances involved. No notice and hearing shall be necessary where the court shall make a finding that because of the circumstances a hearing is not appropriate.

(d) *Support Orders.* Each order for child support, or for maintenance when there is also an order for child support, entered in this district shall include the language set out in the Family Law Rules.

RULE 127 - COURT'S RECORDS

- (a) Authorized Personnel. Only judges, administrative assistants, reporters, abstracters, and authorized court personnel will be allowed into the vault area of the court clerk's office.
- (b) Sign Out. All files leaving the vault area must be signed for on individual checkout cards.
- (c) Red Files. Under no circumstances shall red files be allowed to leave the vault area.
- (d) Filing Procedure. All persons permitted to access to the vault area must pull their own files, and place a red file on the shelf without a checkout card attached. When returning the file the clerk will be responsible for putting the file in its proper location and removing the red file.
- (e) Files Returned Damaged or Altered. If a court file is returned to the vault area in a damaged condition, or with documents missing, the last person that signed for the file will be held responsible for the costs of returning the file to its original condition.

APPENDIX TO RULE 121(e)

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

Plaintiff,

v.

Defendant.

Case No: _____

Div. No: _____

Chapter 60

NOTICE OF SERVICE OF DISCOVERY

On the ___ day of _____, 200 __, I deposited in the United States mail, first class postage prepaid, a copy of plaintiff-petitioner-defendant-respondent's (answers to) interrogatories/ (response to) request for production of documents (response to) requests for admissions, properly addressed to:

counsel for petitioner/plaintiff/defendant/respondent

Attorney name and bar number

Address

Phone Number

Attorney for Defendant

APPENDIX TO RULE 122

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

_____,
Plaintiff,
v.
_____,
Defendant.

Case No: _____
Div. No: _____
Chapter 60

PLAINTIFF'S OPENING INTERROGATORIES TO DEFENDANT

COMES NOW the plaintiff, and pursuant to the Kansas Code of Civil procedure, K.S.A. 60-223, propounds the following interrogatories to the defendant.

1. If applicable, were you the operator (passenger) of an automobile, license number, _____ which was involved in an accident with the plaintiff at _____, in the City of _____, Kansas, on _____, 20__.

ANSWER:

2. If applicable, furnish the following information with respect to such vehicle:
- a. The make and model of the vehicle;
 - b. The name and address of the owner of such vehicle.

ANSWER:

3. If the vehicle being operated by defendant was being operated by someone other than the owner, then state:
- a. The name and address of the owner
 - b. The relationship between the owner and the driver, with reference to the use of the automobile.

ANSWER:

4. Did you have any occupants in your vehicle at the time of the collision other than yourself? If so, state the name, address and age of each occupant.

ANSWER:

5. Were you at the time of the occurrence or occurrences forming the basis of this suit performing any job, task or undertaking for any persons, firm or corporation other than yourself? If your answer is "yes," state:

- a. The name and address of the person, firm or corporation for whom you were performing some job, task or undertaking;
- b. The nature of the job, task or undertaking you were performing for such person, firm or corporation.

ANSWER:

6. Were any statements, written, recorded or stenographic, obtained from plaintiff by you or anyone acting on your behalf in connection with occurrence described in the petition? If so, state:

- a. The date they were obtained;
- b. The name and address of each person or entity obtaining such statements;
- c. Describe the method by which the statement was taken;
- d. If written, were they signed by the person?
- e. The name and address of the present custodian of the statement;
- f. Attach a copy of each statement to your answers to these interrogatories.

ANSWER:

7. Have you given statements, written, recorded or stenographic to anyone concerning the occurrence described in the petition? If so, state;

- a. The dates they were given;
- b. The name and address of each person taking such statements;
- c. The name and address of the present custodian of the statements.

ANSWER:

8. State the names and addresses of any and all persons know to you, your attorney, or any other representatives, who claim to have witnessed the occurrence that is the subject of this action.

ANSWER:

9. Were any statements, written or otherwise, obtained from anyone other than the defendant by a person acting on your behalf in connection with the occurrences described in the petition? If so, state:

- a. The date of each statement;
- b. The name and address of each person whose statement was taken;
- c. Whether such statement was written, recorded or taken by any other means;
- d. The name and address of each person who took statements;
- e. The name and address of the present custodian of the statements.

ANSWER:

10. Do you, or anyone acting on your behalf, have any photographs of any objects (e.g., scene, vehicles, etc.) which relate or may relate to the occurrence described in the petition? If so, state:

- a. The number of photographs you have;
- b. The subject matter of each photograph;
- c. The dates the photographs were taken;
- d. The name and address of each photographer taking the photographs;
- e. The name and address of the present custodian of the photographs.

ANSWER:

11. Do you have any documentary evidence which you claim or may claim is relevant to the issues of this action other than photographs (e.g. repair estimates, scene diagrams, medical records, correspondence, etc.) or statements identified elsewhere in your interrogatory answers? If so, identify the same and attach a copy of each to your answers to these interrogatories.

ANSWER:

12. Do you, or anyone acting in your behalf, have a copy of any record of testimony taken at a prior hearing involving this case? If so, state:

- a. The date and nature of the hearing;
- b. The name and address of the person who recorded the testimony;

- c. The name and present address of the present custodian thereof.

ANSWER:

13. Were you arrested on charges arising out the occurrence described in the petition? If so, identify the court wherein the charges were filed.

ANSWER:

14. Please state whether or not the defendant has liability insurance coverage for personal injury. If the answer is in the affirmative, state:

- a. Whether or not the company with which the defendant was insured is a defendant in this action;
- b. The name and address of the insurance company defending the action;
- c. The applicable limits of liability insurance contained in said policy.

ANSWER:

15. Pursuant to K.S.A. 66-226(b), please identify (by name and address) each person whom you expect to call as an expert witness at trial and state the subject matter about which the expert is expected to testify, the substance of the facts and opinions as to which the expert is expected to testify, and a summary of grounds of each opinion.

ANSWER:

Please take notice that your answers to the foregoing interrogatories must be served upon the undersigned within thirty (30) days after service of these interrogatories.

These interrogatories shall be deemed continuing so as to require supplemental answers if you or your attorneys obtain further information between the time answers are served and the time of trial.

Attorney Name, Bar No.
Address
Phone number
Attorney for Plaintiff

STATE OF KANSAS)
) SS:
COUNTY OF WYANDOTTE)

_____, of lawful age, being first duly sworn on his (her) oath, states:

That he (she) is the defendant above named; that he (she) has read the above and foregoing answers to interrogatories and that they are true and correct.

Defendant's Signature

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

Notary Public

My Appointment Expires:

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

_____,
Plaintiff,

Case No: _____

Div. No: _____

v.

Chapter 60

_____,
Defendant.

DEFENDANT'S OPENING INTERROGATORIES TO PLAINTIFF

COMES NOW the defendant, and, pursuant to the Kansas Code of Civil Procedure, K.S.A. 60-223, propounds the following interrogatories to the plaintiff.

1. If applicable, were you the operator (passenger) of an automobile, _____, license number _____, which was involved in an accident with the defendant at _____, in the City of _____ Kansas, on the ___ day of _____, 20___?

ANSWER:

2. If applicable, furnish the following information with respect to such vehicle:
 - a. The make and model of the vehicle;
 - b. The name and address of the owner of such vehicle.

ANSWER:

3. If the vehicle being operated by plaintiff was being operated by someone other than the owner, then state:
 - a. The name and address of the owner;
 - b. The relationship between the owner and the driver, with reference to the use of the automobile.

ANSWER:

4. Did you have any occupants in your vehicle at the time of the collision other than yourself? If so, state the name, address and age of each other occupant.

ANSWER:

5. Were any statements, written, recorded or stenographic, obtained from the defendant by you or anyone acting in your behalf in connection with the occurrence described in the petition? If so, state:
 - a. The dates they were obtained;
 - b. The name and address of each person obtaining such statements;
 - c. Describe the method by which the statements were taken;
 - d. If written, whether they were they signed by the person;
 - e. The name and address of the present custodian of the statement;
 - f. Attach a copy of each statement to your answers to these interrogatories.

ANSWER:

6. Have you given a statement, written, recorded or stenographic, to anyone concerning the occurrence described in the petition? If so, state:

- a. The date it was given;
- b. The name and address of each person taking such statement;
- c. The name and address of the present custodian of the statement.

ANSWER:

7. State the names and addresses of any and all persons known to you, your attorneys, or any other representatives, who claim to have witnessed the occurrence that is the subject of this action.

ANSWER:

8. Were any statements; written or otherwise, obtained from anyone other than defendant by a person acting on your behalf in connection with the occurrence described in the petition? If so, state:

- a. The date of each statement;
- b. The name and address of each person whose statement was taken;
- c. Whether such statement was written, recorded or taken by any other means;
- d. The name and address of each person who took such statements;
- e. The name and address of the present custodian of the statements.

ANSWER:

9. Do you, or anyone acting on your behalf, have any photographs of any objects (e.g., scene, vehicles, etc.) which relate or may relate to the occurrence described in the petition? If so, state:

- a. The number of photographs you have;
- b. The subject matter of each photograph;
- c. The dates the photographs were taken;
- e. The name and address of each photographer taking the photographs;
- f. The name and address of the present custodian of the photographs.

ANSWER:

10. Do you have any documentary evidence which you claim or may claim is relevant to the issues of this action other than photographs (e.g., repair estimates, scene diagrams, medical

records, correspondence, etc.) or statements identified elsewhere in your interrogatory answers? If so, identify the same and attach a copy to your answers to these interrogatories.

ANSWER:

11. Do you, or anyone acting on your behalf, have a copy of any record of testimony taken at a prior hearing involving this case? If so, state:

- a. The date and nature of the hearing;
- b. The name and address of the person who recorded the testimony;
- c. The name and present address of the present custodian thereof.

ANSWER:

12. Were you arrested on charges arising out the occurrence described in the petition? If so, identify the court wherein the charges were filed.

ANSWER:

13. Pursuant to K.S.A. 60-226(b), please identify (by name and address) each person whom you expect to call as an expert witness at trial and state the subject matter about which the expert is expected to testify, the substance of the facts and opinions as to which the expert is expected to testify, and a summary of grounds for each opinion.

ANSWER:

14. Do you claim to have suffered personal injuries in the occurrence described in the petition? If so, please describe the nature and extent of injuries you claim.

ANSWER:

15. Did you seek medical treatment for such injuries? If so, with respect to each such treatment, please state:

- a. the health care provider's name and address;
- b. the date of the treatment;
- c. the nature of the treatment;

- d. whether you have ever received the same or similar treatment to the same part of your body for injuries or conditions existing before the date of the incident of which you complain in your petition.

ANSWER:

16. Have you received any payments from the State Department of Social and Rehabilitation Service (S.R.S.) or from any insurance carrier under any policy of insurance for first party payments in conformity with the Kansas Personal Injury Protection Law? If so, state:

- a. The name of the payer;
- b. The amount of payment you have received.

ANSWER:

17. Have you made a claim under the Kansas Automobile Reparation Injury Act with your automobile insurance carrier? If so, state:

- a. The name and address of the insurance carrier;
- b. The amount you have claimed for medical and hospital expenses;
- c. The amount you have claimed for lost income;
- d. Any other amounts you have claimed under the Kansas Automobile Reparation Injury Act.

ANSWER:

18. Have you, in the ten years immediately preceding the filing of the petition in this case, received health care for any condition or injury? If so, with respect to each such care, please state:

- a. the name and address of each health care provider;
- b. the condition for which you were treated;
- c. the date(s) of such treatment.

ANSWER:

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

Notary Public

My Appointment Expires:

APPENDIX TO RULE 124(b)

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

Plaintiff,

v.

Defendant.

Case No: _____

Div. No: _____

Chapter 60

PRE-TRIAL QUESTIONNAIRE

(Instructions: This questionnaire must be completed by each attorney of record and copies mailed to the clerk and all other counsel at least one week prior to pre-trial conference. All information must be typed. If the space provided is not sufficient for your answers, you may type your own questionnaire and answers in accordance with this format.)

1. Present date.
2. The name of the party your represent.
3. Your name.
4. Requests for amendments to pleadings.
5. Theory of your claim, if any, including grounds of comparative negligence, if applicable.
6. Theory of your defense, if any, including grounds of comparative negligence, if applicable.
7. Total amount of damages claimed.
8. Itemization of damages.
9. Other questions of fact.

10. If a personal injury action,
 - (a) Are permanent injuries claimed?
 - (b) Have the injuries stabilized?
 - (c) Has the defendant had a physical examination of the plaintiff?
11. Other questions of law.
12. Discovery.
 - (a) List discovery you have completed.
 - (b) Please specify if further discovery is contemplated; if discovery is complete, state "none."
 - (c) If further discovery is contemplated, state when same will be completed.
13. Motions.
 - (a) List motions you have pending.
 - (b) List motions you intend to file prior to trial.
14. Identify all witnesses by name and address you intend to call at trial. Note, you must list all witnesses know to you at the present time.
15. Identify and describe all exhibits you intend to offer at trial.
16. Trial assignment.
 - (a) Should case receive priory setting and if so, why? (If due to out of town witness, please specify.)
 - (b) Are you requesting court or jury trial?
 - (c) If jury trial, would you stipulate to six-member jury?
 - (d) What is estimated time for trial?

Signature of Attorney and Bar Number
Address
Phone number
Attorney for _____

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was mailed, e-mailed or faxed to _____, Attorney for _____, at the following address, fax number or e-mail, on this _____ day of _____, 20__.

Attorneys for _____

APPENDIX TO RULE 124(g)

PRE-TRIAL ORDER

In order to conserve your time and facilitate pretrial conference proceedings, the court has prepared a format to be followed in preparing a pretrial order.

The following format, including numbers and captions, shall be used in preparation of a proposed pretrial order. If a particular numbered paragraph is not applicable, it should be listed followed by a statement "Not Applicable."

Prior to pretrial conference, counsel shall confer and prepare a pretrial order for submission at the pretrial. The parties have an equal obligation to confer and to cooperate fully in preparation of the pretrial order.

All undetermined discovery motions will be presented at the pretrial conference.

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

_____,
Plaintiff,

v.

_____,
Defendant.

Case No: _____

Div. No: _____

Chapter 60

PRETRIAL ORDER

A pretrial conference was held in the above case on the ____ day of _____, 20____.

1. Appearances.

(List Appearances.)

2. Venue; jurisdiction of parties and subject matter; propriety of parties:

(a) Here state brief, concise objection to jurisdiction, venue or propriety of parties (if applicable).

(b) Statement showing no objection to venue, jurisdiction or propriety of parties (if applicable).

3. Nature of case:

(Brief, one paragraph statement characterizing the type of action involved, i.e. products liability; auto negligence; contract; securities; labor-management, employment discrimination, etc.)

4. Plaintiff's factual contentions (and reply to counterclaim if applicable):

Brief, concise statement, without duplication of plaintiff's ultimate factual contentions and legal theories relied on for recovery. A list of the grounds of negligence relied upon, where applicable. An itemized list of damages or other relief sought.)

(In case of counterclaim, the factual contentions relied upon in the reply as in 4.1. below).

4.1 Defendant's-factual contentions (and counterclaim, if applicable).

(Brief, concise statement of the ultimate factual contentions and legal theories relied on as a defense; including where applicable, specific grounds of comparative negligence.)

(In case of counterclaim, the factual contentions and legal theories relied upon as in paragraph 4 above.)

4.2 Factual contentions of third-party plaintiff and third-party defendant.

(As in paragraphs 4 and 4.1 above).

4.3 Factual contentions. of cross-claimants.

(As in paragraph 4 above).

- 4.4. Factual contentions in defense of cross-claim.
(As in paragraph 4.1 above).
5. Amendments to pleadings.
(A concise statement of any proposed amendment.)
6. Stipulations.
(Separately state and number each stipulation.)
7. Issues of fact.
(Separately state and number the ultimate issues of fact).
8. Issues of law.
(Separately state and number each issue of law).
9. Discovery.
(Is complete; or is extended to _____, 20__.)
10. Witnesses and exhibits.

Counsel will exchange proposed exhibits and lists of witnesses, together with their addresses, and shall file with the clerk, lists of proposed witnesses, by _____, 20___. Witnesses and exhibits listed by one party may be called or offered by the other party. All exhibits shall be marked by the court reporter or counsel, as the court directs prior to trial. Witnesses and exhibits not exchanged and filed as required by this order shall not be permitted to testify or be received into evidence respectively, except by agreement of counsel or upon order of the court, or in proper rebuttal.

11. Motions.
 - (a) List any pending motions;
 - (b) List the motions a party intends to file prior to trial (At the pretrial a date will be fixed for filing all motions and supporting memoranda).
12. Other.
(Any significant matter affecting trial of this case not properly entered elsewhere).
13. Trial.
(Court or jury).

14. Time and Place of Trial.

The case will be ready for trial on the _____ day of _____, 20____, and for disposition of any pending motions, or

The case is specially set for trial on the _____ day of _____, 20____, at _____ o'clock ____M.

15. Trial time and settlement prospects.

- a. Estimated trial time is _____ days.
- b. Settlement prospects are (poor, fair or good).

16. Trial briefs in jury cases.

A party desiring to submit a trial brief shall file it at least three days prior to trial and serve opposing counsel at the same time as filing.

17. Additional requirements in all non-jury cases.

The plaintiff will prepare, file and serve on or before the ____ day of _____, 20____, the following:

- (a) A summary of the anticipated testimony of the witnesses and other evidence the party plans to offer.
- (b) A trial brief or memorandum of law;
- (c) Proposed findings of fact and conclusions of law.

The defendant will prepare, file and serve the foregoing on or before the _____ day of _____, 20____.

IT IS SO ORDERED, that this Pretrial Order shall supersede pleadings and control the future course of the action unless modified to prevent injustice.

Dated this _____ day of _____, 20____.

JUDGE OF THE DISTRICT COURT

APPENDIX TO RULE 124(i)

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

_____,
Plaintiff,

Case No: _____

Div. No: _____

v.

Chapter 60

_____,
Defendant.

CASE MANAGEMENT CONFERENCE ORDER

1. A Case Management Conference ordered by this Court was held on the ____ day of _____, 20__.

2. The parties appeared as follows:
(Set forth appearances- lead counsel for each party has the responsibility for preparation of this Order even though lead counsel may find it necessary for an associate to participate in the case management conference.)

3. Plaintiff states the anticipated issues in this case to be:
(Set forth a concise statement of the controlling ultimate issues in the case.)

4. Defendant states the anticipated issues in this case to be:
(Set forth a concise statement of the controlling ultimate issues in the case. Paragraph 3 and 4 may be combined.)

5. This case is/is not suitable for ADR. See K.S.A.60-216(b)(2).

6. The following plan and schedule of discovery is _____, including _____ . Set forth the types of discovery and time table proposed for affecting same.

7. The following provisions are made with reference to discovery in this case: (This space will be utilized in making specific provisions with reference to discovery, such as the expiration date for discovery, making amendments to pleadings, establishing a date for filing dispositive motions, providing for exchanging information pertaining to expert witness and other

matters that may affect preparation of the case for trial. Such matters will be covered in the conference.)

8. A pretrial conference is scheduled for the _____ day of _____, 20____
at _____ o'clock a.m.

IT IS SO ORDERED.

Dated this _____ day of _____, 20_____.

JUDGE OF THE DISTRICT COURT

APPROVED:

APPENDIX TO RULE 125

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

_____,
Plaintiff,

v.

_____,
Defendant.

Case No: _____

Div. No: _____

Chapter 60

MOTION TO WITHDRAW AS ATTORNEY FOR

COMES NOW Jane Doe, attorney of Record for the petitioner/respondent/plaintiff/defendant, and moves the court, under Kansas Supreme Court Rule 117 and Local Rule 125, to allow him or her to withdraw as attorney of record for the party for whom he/she now serves as attorney.

THE PARTY representation from whom is requested to be withdrawn is notified there are currently pending in the above action the following matters (here list same), which will not be continued by the court for lack of representation

Signature of Attorney

Address

Phone Number

Attorney for

CERTIFICATE OF SERVICE

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS

_____,
Plaintiff,

v.

_____,
Defendant.

Case No: _____

Div. No: _____

Chapter 60

ORDER ALLOWING ATTORNEY FOR _____ TO WITHDRAW

NOW on this _____ day of _____, 20____, upon the motion of the attorney for _____ to be allowed to withdraw, and for good cause shown, the court further finding notice has been given to the party from whose representation the attorney is withdrawing,

IT IS ORDERED that _____ should be and hereby is allowed to withdraw as attorney of record for _____.

District Judge

APPROVED:

FAMILY LAW RULES

RULE 201 - ASSIGNMENT OF CASES

Family Law cases shall be assigned according to Rule 102. These shall include divorce, annulment, separate maintenance, paternity, writs of habeas corpus involving children filed under the Uniform Child Custody Jurisdiction Act. Post-divorce child support matters and actions filed under the Protection From Abuse Act shall be initially assigned to a hearing officer.

RULE 202 - EXECUTION OF *EX PARTE* ORDERS

Orders in family law cases issued according to K.S.A. Section 60-1607 may be presented to any general assignment judge. An Assignment judge will be available to sign such orders each day that Court is in session.

If there are deviations in these orders from the form provided by Rule 205, counsel and pro se parties must personally identify such deviations to the Court. Such deviations include, but are not limited to, the following situations:

1. The spouse designated to have temporary residential care of the child of this marriage or the spouse having residential care of minor children from another relationship is being removed from the family residence;
2. Children are being temporarily divided between different residential custodians;
3. Child support is not being set in accordance with the Kansas Supreme Court Child Support Guidelines.
4. The order has extraordinary language for the protection of one of the parties or the children of the parties; and
5. The non-custodial parent is not being allowed reasonable visitation.

RULE 203 - AFFIDAVITS AND WORKSHEETS FOR SUPPORT ORDERS

All applications for *Ex Parte* Temporary Orders which include requests for support shall be accompanied by a completed Domestic Relations Affidavit as set out in Kansas Supreme Court Administrative Order No. 107, and as set out in Kansas Supreme Court Rule 139, along with a completed Child Support Worksheet.

**RULE 204 - ISSUANCE OF SUMMONS
AND SERVICE OF ORDERS**

Summons shall be issued by counsel by certified mail receipt requested or by special process. Service of all orders issued pursuant to K.S.A. 60-1607(a)(1) and (2) (restraining orders) shall be by personal service.

RULE 205 - STANDARD TEMPORARY ORDER

Temporary Orders shall be in the following form which may be adapted to fit each case. Sections clearly inapplicable should be omitted, such as child support provisions when there are no children of the marriage.

All Temporary Order payments will be stated in monthly amounts, although the order may also provide that the monthly payments may be divided into more frequent installments.

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
CIVIL COURT DEPARTMENT

In the Matter of the Marriage of

and

Case No:
Division No.
K.S.A. Chapter 60

TEMPORARY ORDER

NOW on this ____ Day of _____, 20 ____, comes the petitioner, (who is hereafter designated as "Husband/Wife" or "Petitioner") and hereby requests that the Court issue proper orders so that Petitioner and Respondent, _____, (who is hereinafter designated as "Husband/Wife" or "Respondent"), may temporarily live separate and apart from each other and make orderly provisions for the period of time until dismissal of this action, further order of this Court, or trial of this case. After reviewing the pleadings presented and hearing the statements of counsel, the Court orders, adjudges and decrees:

I.

CHILD CUSTODY AND SUPPORT

The parties are granted: joint care, custody and control of the minor child“ren” with Husband/Wife to have primary residential custody, and Husband/Wife shall have reasonable visitation rights.

Husband/Wife is ordered to pay \$_____ per month commencing on the ____ day of _____, 20 ____, as and for support of the minor child“ren” of the parties.

Said support shall be paid through the Clerk's office at the address which is set out in Article III.

The parties shall share all medical and dental expenses of the minor child“ren” which are not reimbursed or otherwise paid by health or dental insurance policies covering said child“ren based on the relative percentage of the parties’ income as stated on line D-2 of the Child Support Worksheet. This percentage payment is in addition to the child support obligation of both parties. Payments made for these obligation need not be made through the Clerk of the District Court. However, the responsibility of proper records keeping of expenses and payments shall be upon the party making claims of either expense or payment.

Removal of the child“ren” from this State or the Kansas City Metropolitan Area without permission of the Court is prohibited unless otherwise agreed between the parties.

II.

SUPPORT OF SPOUSE

Husband/Wife is ordered to pay \$ _____ per month commencing on the _____ day of _____, 20____, as and for support of Husband/Wife:. Said support shall be paid through the Clerk of the District Court at the address which is set out in Article III.

III.

ADDRESS FOR PAYMENTS AND ROLE OF THE COURT TRUSTEE

The Clerk's address for support payments in as follows:

Clerk of the District Court
Child Support
Wyandotte County Courthouse
7th and Ann Avenue
Kansas City, Kansas 66101

The case number shown on the first page of this order shall be placed on all checks or money orders and said checks or money orders shall be payable to the Clerk of the District Court.

The Clerk shall forward said payments to Husband/Wife at _____ and it shall be the responsibility of Husband/Wife to inform the Clerk of any changes in address.

IV.

COLLECTION OF UNPAID SUPPORT

Should either party fail to be current with the support obligations as set out herein so that there is an arrearage in an amount equal to or greater than the amount of support payable for one

month or two months if only spousal support is ordered, an income withholding order shall be issued by the Court upon proper application. The income withholding order shall require any payer of income to the party in arrearage to withhold income from each pay period in the necessary and lawful amounts to pay the current obligation and to reduce the accrued arrearage.

The above orders for support may be enforced by garnishment unless the Husband/Wife requests a hearing to contest the issuance of an Order of Garnishment within five (5) days after the service of the order of support upon Husband/Wife.

V.

RESIDENCE

Husband/Wife shall have the temporary possession of the residence located at _____.

To the Sheriff of Wyandotte County, Kansas, his deputies, or any duly authorized law enforcement officer of the State of Kansas:

OPTION 1:

You are hereby directed to evict the Husband/Wife, _____, from the dwelling located at _____. If they have not voluntarily vacated within twenty-four (24) hours of service of this Order, you may use whatever force that is reasonably necessary to evict the Husband/Wife from this dwelling.

OPTION 2:

You are hereby directed to enter the dwelling of Husband/Wife, _____, located at _____ with the Husband/Wife using whatever force is reasonably necessary to prevent the Husband/Wife from interfering with the Husband's/Wife's removal of the Husband's/Wife's personal clothing and such personal effects as are reasonably necessary for maintaining personal hygiene.

Husband/Wife is hereby given notice that a return to said residence without the permission or upon the invitation of Husband/Wife could be considered a Criminal Trespass under K.S.A. 21-3721 or appropriate municipal ordinance, for which you could be prosecuted.

OPTION 3:

You are hereby directed to evict the Husband/Wife, _____, from the dwelling located at _____. At the time of eviction you are directed to take into your possession any household keys or garage door openers that may be found on Husband's/Wife's person or under their control and to deliver said items to Husband/Wife.

VI.

RESTRAINT

The parties are jointly restrained and enjoined from molesting or interfering with the privacy or rights of each other in any manner. Furthermore, they are restrained from disposing of or

encumbering any property of the parties or of each of them without prior Court approval other than for reasonable living expenses or attorney fees.

In addition, the parties are restrained and enjoined from cancelling any utility services and/or deposits or cancelling or modifying (including changing or adding beneficiaries) any existing pension benefits, medical, health, automobile, homeowner's or renter's, life or disability insurance coverages involving any family members or their property.

VII.

ENFORCEMENT

Nothing in this Temporary Order shall be construed as a final decision concerning the property or rights of either party. The ultimate decision relating to all such matters will be made at the time of trial. This Temporary Order shall remain in effect until the trial of this case unless modified by the Court upon motion of either party. **DISOBEDIENCE OF THIS ORDER OF THE COURT IS PUNISHABLE AS INDIRECT CONTEMPT OF COURT AND MAY BE PUNISHED BY CONFINEMENT IN JAIL.** All duly authorized officers of the State of Kansas are directed to use force as reasonably necessary to enforce the provisions of this Temporary Order.

VIII.

HEARING

Husband/Wife may seek modification of this Order by filing a Motion for Modification within ten (10) days of service of this Order. Notice of said Motion for Modification shall contain a Notice of Hearing and shall be served upon Husband's/Wife's counsel (or the opposing party if said party is not represented by counsel). The party filing the Motion for Modification shall give Husband's/Wife's counsel (or the opposing party if not represented by counsel) at least seven (7) consecutive days notice prior to the hearing date.

JUDGE OF THE DISTRICT COURT

APPROVED:

RULE 206 - DEFAULT OR UNCONTESTED HEARINGS

All uncontested or default family law cases for final hearing shall be presented to any general assignment judge. While the taking of a record may be waived by the Court, the testimony of one of the parties, either directly before the Court under oath or through interrogatories shall be submitted to the Court at the hearing. The Court may waive the required testimony when an executed Decree of Divorce and Property Settlement Agreement is presented to the Court.

RULE 207 - MOTION SCHEDULE

Family Law Motions with the exception of Protection from Abuse actions and child support enforcement hearings shall be scheduled pursuant to Rule 104.

RULE 208 - HEARING OFFICER MOTION SCHEDULE

See Rule 104.

RULE 209 - APPEAL FROM HEARING OFFICER'S ORDER

Any appeal from the Hearing Officer's order shall be filed within ten (10) days from the filing of said order and shall be heard *de novo* by the District Court to which the case is assigned and shall be heard on the judge's next motion docket.

**RULE 210 - *EX PARTE* ORDERS CHANGING LEGAL
OR *DE FACTO* CUSTODY**

No *ex parte* orders shall be issued unless supported by sworn testimony required for an *ex parte* change of sole *de facto* custody under the provision of K.S.A. Section 60-1607(b). Such testimony may be a narrative affidavit signed by the moving party setting forth in detail the facts necessitating such a change of custody as well as any other affidavits providing the information to the Court. If such an order is granted through telephonic communication, the supporting affidavit shall be presented to the Court by the next court date.

If the non-requesting party is represented by counsel, the requesting attorney shall first make a diligent attempt to notify the other attorney of record and advise opposing counsel when said *ex parte* contact with the Court is scheduled, and afford opposing counsel the opportunity to meet in person or by telephone with the Court at such time.

The requesting party shall prepare a motion to confirm said order which shall be set for hearing at the next regular motion docket. Said motion shall be filed with the Clerk simultaneously with the *ex parte* order. Both the motion and order shall be mailed to the non-requesting party at their last known address.

At the hearing on the motion, the Court shall consider the matter de novo and the requesting party shall have the burden of going forward.

CRIMINAL RULES

**RULE 301 - ESTABLISHMENT OF CRIMINAL DEPARTMENT
AND ASSIGNMENT OF CASES**

There is created in Wyandotte County District Court a criminal department comprised of a number of trial divisions to be determined by the Chief Judge. All Criminal Cases shall be randomly assigned to a division on a rotating basis at the time of filing the initial information.

RULE 302 - FIRST APPEARANCES

Arraignments in misdemeanor cases and first appearances in felony cases shall be held daily in accordance with the duty rotation of Divisions 11, 12, and 13(hereafter referred to as basement judges), except any defendant who posts bond prior to 1 st appearance shall appear on the following Tuesday at 9:00 at the criminal docket.

RULE 303 - SEPARATION OF CASES

Each defendant will be charged in a separate case. Where there are co-defendants, the judge assigned to the defendant with the lowest case number shall be assigned to co-defendants. Further proceedings in the cases shall be in accord with K.S.A.22-3201 et seq.

RULE 304 - FELONY ARRAIGNMENTS

Unless otherwise ordered by the assigned court pursuant to K.S.A. 22-3205, felony arraignment shall be immediately following bindover. If the defendant is bound over on charges not included in written information, an amended information is to be filed within seven (7) days.

RULE 305 - PRE-TRIAL CONFERENCE

At the time of arraignment, the case will be set for pre-trial conference in the assigned court. Only that court can reschedule the pre-trial conference. At the pre-trial conference, the matter will be set for trial or plea. If the case is to be set for trial, counsel will jointly submit a pre-trial order on a form approved by the Court. A continuance of the pre-trial conference will be granted only upon good causes shown.

RULE 306 - REQUIRED APPEARANCES

If a defendant is charged with a misdemeanor, an attorney may appear for said defendant except the defendant shall appear for all trials, pleas or scheduled sentencings or as otherwise ordered by the court. Defendants in all felony cases will appear in person for arraignment, and at all other matters before the court. Failure to so appear will result in bond being forfeited and a bench warrant issuing for the arrest of the defendant unless otherwise directed by the court.

RULE 307 - WITHDRAWAL OF COUNSEL

In all criminal cases where counsel has been retained no motion to withdraw as counsel will be granted following pre-trial conference unless other counsel has entered an appearance or extraordinary circumstances are shown.

RULE 308 - SETTING AND MODIFYING BOND

The judge issuing a warrant shall set bond as provided by law. Any motion to modify a bond prior to arraignment shall be heard by the judge who set the bond, if said bond was set by a basement judge. Otherwise, it shall be set at the direction of the basement duty judge.

RULE 309 - MOTIONS

All motions shall be filed within sufficient time to meet the statutory requirements of notice and shall be in writing. All evidentiary motions shall be filed within two weeks of the pre-trial conference and a setting obtained from the assigned division. All motions shall be delivered to the assigned judge on or before the date of filing. Any evidentiary motions filed in a case shall be heard at the direction of the assigned judge.

**RULE 310 - MUNICIPAL AND TRAFFIC APPEALS;
REQUEST FOR JURY TRIAL**

All appeals from the Municipal Courts of Wyandotte County shall be assigned randomly to the criminal courts, with first appearance dates to be provided to the parties by the division to which it is assigned. The appealing party shall cause written notice of a jury trial request to be served upon the assigned court or make a request on the record of the appellant's intent to have a jury trial.

RULE 311 - REASSIGNMENT

In the event of disqualification or recusal of the assigned judge, a case shall be reassigned by the Chief Judge, or his or her designee, to another judge. Any criminal case set for trial may be reassigned at the direction of the assigned judge to a different division for trial and post-trial proceedings.

RULE 312 - MULTIPLE CASES - SAME DEFENDANT

In the event a new case is filed against a defendant who has an active case pending or is on probation, the new case shall be assigned to the division assigned the prior case(s). In the event strict adherence to this rule would interfere with the orderly conduct of the court's business, reassignment shall be made by the chief judge.

RULE 313 - DISMISSALS

Whenever a case is dismissed, the District Attorney's office shall file the appropriate order with the clerk of the district court. No *ex parte* order for dismissal presented by or on behalf of a defendant shall be approved by the Court.

RULE 314 - AMENDED CHARGES

Amendment to a complaint or information may be made by filing an amended complaint or information. After arraignment, amendments may be made only upon order of the court.

RULE 315 - UNAVAILABILITY OF JUDGE

If a judge is unavailable, any action he could take in his case may be taken by another judge of the district, as follows:

- a. By another judge of the criminal department, or if all are unavailable;
- b. By the chief judge of the district or his or her designee, or;
- c. By any judge of the district.

JUVENILE OFFENDER RULES

RULE 401 - COURT SERVICES OFFICER REPORTS AND OTHER CONFIDENTIAL REPORTS

Court services officer reports as well as reports from healthcare and mental healthcare providers are confidential. Counsel may generally discuss the contents of these reports with respondents and their families but may not give them copies or show them the reports. Recommended sentences may be specifically discussed.

RULE 402 - PROCEDURES FOR EXTENDED JURISDICTION JUVENILE PROSECUTION

When a case is designated by the Court to be an extended jurisdiction juvenile prosecution pursuant to K.S.A. 38-2347, the case thereafter will proceed as follows:

1. If no demand for a jury trial is made, the case will be treated in the same manner as all cases tried to the court in juvenile offender court, assuring that all rights of a defendant set forth in the Kansas Code of Criminal Procedure are afforded.
2. If the defendant demands a jury trial, such trial shall be conducted pursuant to the Kansas Code of Criminal Procedure in juvenile offender court or in such other division to which it may be assigned by the Chief Judge.