

RULES
of the
DISTRICT COURT
of the
THIRD JUDICIAL DISTRICT
OF KANSAS

PREFACE

These District Court Rules supersede all other district court rules of the Third Judicial District. 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. 60-267 and Kansas Supreme Court Rule 105 and should be read in conjunction with related statutes and "Rules of the Supreme Court relating to District Courts." K.S.A. 60-2702. 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 court and in the county law library. Nothing herein is intended to contravene any statute or Supreme Court rule.

Cite these rules DCR 3.101 et seq.
Cite forms F3.101 et seq.

Date adopted: September 3, 1997
Date effective: November 1, 1997

By order of the Judges of
the Third Judicial District

These rules can also be found at www.shawneecourt.org

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DCR 3.101

(Prefatory Rule)

(a) Rules Adopted. The following rules of the Third Judicial District numbered 3.101 through 3.607 are hereby adopted and effective November 1, 1997. Rules adopted in the future will bear the 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 These rules shall apply to all matters pending before any court in this district unless specifically superseded by statute or special rule governing proceedings in specialized divisions of this court.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of the Third Judicial District which are in effect immediately prior to the effective date of these rules are hereby repealed as of November 1, 1997.

(d) Modification of Rules. Any of the rules of this District may be modified by the presiding judge in any action as that 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 the statute by number, it shall be deemed to be a reference to the Kansas Statutes Annotated or supplement or amendment thereto unless a different statute is indicated.

(f) Supreme Court Rule References. In these rules, wherever there is a reference to a rule of the Supreme Court by number, it shall be deemed to be a reference to the Kansas Supreme Court Rules relating to District Courts, as amended, unless a different rule is indicated.

DCR 3.102

(District Court Rules)

- (a) The Judges shall consult with Bench/Bar Committee of the Topeka Bar Association whenever there is a proposal for the adoption, revision, or modification of a District Court Rule unless the proposed revision is required by a change in Kansas Statutes or Kansas Supreme Court Rules. The Chief Judge shall submit the proposed rule to the members Bench/Bar Committee by email. The Bench/Bar Committee shall have a period of 30 days in which to submit its recommendations or comments to the Court. In the event that time is of the essence in the consideration of the proposed rule, the Chief Judge may shorten the Bench/Bar comment period. After receiving any written recommendations from the Bench/Bar committee, or in the event that the Committee fails to respond during the thirty day comment period or any shortened comment period, the proposal shall be submitted to the Judges for decision. If a majority of the Judges of the District Court vote in favor of the proposal, it shall be adopted as a rule or a revision of a rule of the District Court and it will become effective upon filing with the Clerk of the Kansas Appellate Courts. Notification of the new rule or amended rule shall be provided to the members of the Bar through the Shawnee County District Court website and by requesting that the Topeka Bar Association send an email notification regarding the change to all its members.
- (b) The Bench/Bar Committee may request in writing the adoption, revision, or modification of a District Court Rule, in which event, the proposal shall be submitted to the Judges of the District Court for a majority vote, and if approved, for filing and notice in accordance with subsection (a).

Adopted 2/19/2014

DCR 3.103

(Court Sessions)

Unless otherwise ordered, court shall be in regular session from 9:00 a.m. to 12:00 noon and 1:30 p.m. until 5:00 p.m. Monday through Friday.

DCR 3.104

(Acting Chief Judge)

(a) An Acting Chief Judge shall be appointed by the Chief Judge to serve during his/her absence or unavailability.

(b) Such Acting Chief Judge shall exercise the same authority as the Administrative Judge during his/her absence or unavailability.

Revised: 8-18-2010

DCR 3.105

(Courtroom Decorum)

- (a) Spectators will not be permitted to consume food or beverage in the courtroom. Spectators will not engage in any activity that interferes with giving attention to the court proceedings.
- (b) No spectator, counsel or party shall carry sign or display pins, buttons or other materials which is designed to communicate a position or message to others while a trial is proceeding.
- (c) Application of Rule. This rule shall apply to any building occupied or used by the Court, and to the environs of any such building. It shall be in effect at all times that judges or court personnel are present whether or not court proceedings are actively under way.
- (d) Persons Subject to Search. All persons seeking entry to a courtroom are subject to search by the Sheriff or other officers designated by the Sheriff or by the court. Such search may include briefcases, parcels, purses or other containers carried by persons seeking entry to a courtroom.
- (e) Weapons. With the exception of weapons carried by law enforcement personnel, who are on active duty and are permitted to carry such weapons by their law enforcement agency, no weapons or ammunition other than exhibits shall be permitted in any courtroom. Any firearm, weapon or ammunition intended for introduction as an exhibit shall be presented to the Sheriff for a safety check prior to its being brought into any courtroom. Prior to any witness handling an exhibit consisting of a firearm or weapon, it shall be disabled to the satisfaction of the Court by a law enforcement officer or the Sheriff or other officers designated by the Sheriff.
- (f) Addressing the Court. Attorneys or pro se litigants shall rise when addressing the court, and shall make all statements to the court from the counsel table or the lectern facing the court. They shall not approach the bench, except upon the permission of the court.

(g) Questioning Witnesses. While questioning witnesses, attorneys or pro se litigants shall stand at the counsel table or at the lectern. They shall not approach the witness except with the court's permission. Only one attorney for each party may participate in the examination or cross-examination of a witness.

(h) Exhibits. Unless otherwise directed by the Court, all trial exhibits admitted into evidence in criminal and civil actions, which are not suitable for filing and transmission to the Court of Appeals or the Supreme Court, shall be retained in the custody of the party offering them, subject to the orders of the court. Such exhibits shall include, but not be limited to, the following types of bulky or sensitive exhibits: Narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, bio-hazardous materials, money or articles of high monetary value, counterfeit money, and documents or physical exhibits of unusual bulk or weight.

At the conclusion of a trial or proceeding, the party offering such exhibits shall retain custody of them and be responsible to the court for preserving them in their condition as of the time admitted until any appeal is resolved or the time for appeal has expired. The party retaining custody shall make such exhibits available to opposing counsel for use in preparation of an appeal and be responsible for their safe transmission to the appellate court, if required. Such party shall be responsible for documentation of the chain of custody of such exhibits. This requirement shall satisfy the trial court's obligation pursuant to K.S.A. 21-4206(1).

Revised: 7-15-09

DCR 3.106
(Selection of Juries)

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

(a) Prospective jurors will be summoned by the jury coordinator 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 registration records and the Department of Motor Vehicle drivers license list. (K.S.A. 43-162)

(b) At least twenty-one (21) days before the attendance date of a jury panel, the jury coordinator shall summon the selected persons by mailing a written notice to each person by first class mail postage paid.

(c) 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 the jury coordinator to summon a sufficient number of other persons to complete the jury.

(d) The term of actual jury service shall be for either one day, or until jury selection is completed, or for one complete trial which ever is longer.

(e) Persons summoned for jury service will be summoned to be available for a one week period, however, they shall be advised in the jury summons on how to contact the Court and receive recorded messages prepared by the jury coordinator for instructions on which day and time to report to the courthouse.

DCR 3.107

(Requested Jury Instructions)

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.

Pattern jury instructions may be requested by title and number.

Requested instructions altering pattern jury instructions shall show the deleted text and the new language requested shall be underlined.

Jury instructions based upon statutes or case law shall include the citation of authority at the end of the requested instruction.

DCR 3.108
(Law Library Rules)

The following rules govern the use of the law library:

- (a) Books may be checked out only the judges or their staff except upon express orders of a judge.
- (b) Anyone removing a book from the law library shall fill out the log book with the title of book, name of individual checking out book, and date checked out. Upon returning the book, entry should be made in the log book showing date returned.
- (c) Any books checked out by persons not employed by the court must be returned within thirty (30) minutes, if checked out during any working day, and by 8:30 a.m. of the next working day, if checked out overnight or on a weekend or holiday.
- (d) The following books are not to be removed from the library: Kansas Digest, Supreme Court Digest, Shepard's Citations, Kansas Statutes Annotated, index volumes, District Court Rules of Practice.
- (e) Attorneys or other persons are not permitted to conduct confidential conferences in the law library or to be present when any judge is conferring with a law clerk.

DCR 3.109

(Pleadings)

All pleadings and other papers in any case or proceedings with the Clerk of the Court shall have 2 inches of blank space in the upper right hand corner for use by the Clerk for file stamping.

All pleadings, praecipes, and correspondence shall contain the case number and the division involved, in addition to the items required by Supreme Court Rule 111.

Every page of every pleading must be numbered, including any attachment. Any document too large to be stapled must be bound. Loose leaf notebooks are preferred for documents exceeding 200 pages.

Amended: 10/18/2006

DCR 3.110

(Removal of Files from Clerk's Office)

All juvenile files and records, all mental illness and adoption files and records, all files and records pertaining to alcohol and/or drug abuse, all files not microfilmed and all other records required by law to be kept confidential shall not be disclosed to any person, except upon order of a judge of this court.

No criminal files shall be removed from the office of the Clerk of the District Court, except on written permission of the Court after verification that it has been microfilmed. All files checked out must be returned within seven (7) working days. (Also see Supreme Court Rule 106.)

Photocopies of any papers in any non-confidential file may be obtained from the clerk at fifty (50) cents per page and at no cost if indigent or waived by the judge. Certification by the clerk of such papers may be obtained at a cost of ONE DOLLAR and TWENTY-FIVE CENTS (\$1.25) for every certification. Payment shall be in cash or by check and shall not be charged to costs.

Revised: 8-18-2010

DCR 3.111

(Conformed Copies of Pleadings to Adverse Party)

Unless transmitted by computer or fax, 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 211, as amended.

DCR 3.112

(Limitation on Frequency of Garnishments)

Except as provided in this rule, no more than one wage garnishment nor more than two garnishments (including a wage garnishment) shall be issued out of this court applicable to the same claim or claims and against the same judgment debtor in any thirty (30) day period.

A judge of this court may order an exception to this rule in any case in which the party seeking the garnishment shall in person or by attorney; (a) certify that the garnishment is not for the purpose of harassment of the debtor, and (b) state facts demonstrating to the satisfaction of the judge that there is reason to believe that the garnishee has property or credits of the debtor which are not exempt from execution.

DCR 3.113

(Professional Courtesy)

1. A lawyer shall avoid taking action adverse to the interests of a litigant known to be represented without timely notice to opposing counsel unless ex parte proceedings are permitted.
2. A lawyer shall promptly return telephone calls and answer correspondence from other lawyers.
3. A lawyer shall respect opposing counsel's schedule by seeking agreement on deposition dates and court appearance (other than routine motions) rather than merely serving notice.
4. A lawyer shall avoid making ill considered accusations of unethical conduct toward an opponent.
5. A lawyer shall not engage in intentionally discourteous behavior.
6. A lawyer shall not intentionally embarrass another attorney and shall avoid personal criticism of other counsel.
7. A lawyer shall not seek sanctions against or disqualification of another attorney unless necessary for the protection of a client and fully justified by the circumstances, not for the mere purpose of obtaining a tactical advantage.
8. A lawyer shall strive to maintain a courteous tone in correspondence, pleadings, and other written communication.

9. A lawyer shall not intentionally mislead or deceive an adversary and should honor promises or commitments made.

10. A lawyer shall recognize that the conflicts within a legal matter are professional and not personal and endeavor to maintain a friendly and professional relationship with other attorneys in the matter - "leave the argument in the courtroom".

11. A lawyer shall express professional courtesy to the Court and has the right to expect professional courtesy from the Court.

12. Except where excused for good cause by court order, attorneys subpoenaing witnesses are expected to consider and attempt to accommodate the needs and other commitments of the witness. If undue inconvenience to the witness will occur from the issuance of the subpoena, the attorney should explore alternative means of obtaining the evidence, such as the use of alternative witnesses or by written stipulation. When the witness is engaged in providing public service, such as a physician or other professional, the attorney shall endeavor to ensure that the subpoena process does not interfere with the delivery of vital public services.

Revised: 5-21-08

DCR 3.114

(Attorney Fees)

The Court shall adopt a schedule of approved attorney fees in all cases wherein the Court appoints attorneys or otherwise sets compensation. This schedule shall be available in the office of the Clerk of the District Court.

- - REPEALED 5-29-2002 - -

DCR 3.115
(Judge Pro Tempore)

All persons serving as judge pro tempore in this district shall meet or exceed the following criteria:

1. Licensed and in good standing to practice law in the State of Kansas;
2. Five years experience in the practice of law in Shawnee County (or equivalent experience, as approved by the Court);
3. Complies with the Code of Judicial Conduct while serving the Court and has no pending complaints before bar disciplinary authorities;
4. Exhibits professional habits of competence, judicial temperament, timeliness, industry, integrity and independence;
5. Demonstrates special legal expertise in the area of matters presided over;
6. Generally available to serve at times on short notice and free of conflicts both professionally and in schedule;
7. Enjoy the continuing approval of the Judges of the Court.

DCR 3.116
(Garnishments)

In garnishments in this District:

1. The clerk shall issue the garnishment by mail to the employer, bank or other garnishee.
2. A judgment creditor may include in a garnishment order to pay in or pay out, that the garnishee forward the funds directly to the judgment creditor. This subsection shall apply in all Chapter 60 and 61 cases, except for small claims where the funds shall be paid first to the clerk.
3. Any order, in cases covered by paragraph 2, shall specifically provide:
 - (a) that the garnishee shall file an answer with the clerk of the court, and
 - (b) the payment of funds shall not be made until ten (10) days after the answer has been filed.
 - (c) in the event there is a reply to the garnishee's answer, or if there is a claim that the garnished funds are exempt as provided by KSA 60-2310 or 60-2308, no funds shall be applied to the judgment, until further order of the court.
4. Any person receiving an overpayment shall immediately return the overpayment to the garnishee/defendant.
5. The attorney or creditor receiving payment from the garnishee shall keep adequate accounts of the payments and report all account activity to the District Court upon request or order of the Court.

DCR 3.117

(Court Appointed Attorney/Guardian Ad Litem Fees)

1. In Probate, Juvenile and Domestic Relations (including paternity) proceedings, except as noted below*, counsel appointed as attorney or guardian ad litem will be paid at the rate of \$300 per appointment. Counsel should not request reappointment while the case or action is still pending. This rule contemplates the standard appointment fee to include up to six hours of time and all expenses. In extraordinary cases where it is necessary for counsel to expend more than 6 hours or where extraordinary expenses are incurred, payment will be approved at the hourly rate of \$62 per hour for documented time exceeding 6 hours.

[This amount is based on a presumption that the “average” amount of time is approximately 5 hours in a case and that \$62 per hour is a reasonable allowance considering the general nature of the work and the budget constraints being met by the courts. No time or expense records will need to be filed for cases falling within this applicable range.]

2. This standard fee rate shall be applicable in all cases where payment is made from public funds.

3. All orders submitted to the Court for payment of attorney fees from public funds shall also make provision for reimbursement of those by assessment against one or more of the parties to the case as appropriate or for waiver of such reimbursement when that is appropriate.

*This schedule shall not apply to those cases designated generally as “care and treatment cases” where the presently published schedule shall remain in effect. Likewise, this schedule of fees

shall not affect any fee contract for child in need of care and juvenile cases or attorneys appointed to represent obligors in child support contempt proceedings. Adopted: 2-18-98 / Revised: 9-19-07 Revised 7/17/13

DCR 3.118

(Media Coverage)

1. Definitions.

(a) The term “media coverage” as used herein refers to the audio recording, still photographing, television photographing, or videotaping of judicial proceedings.

(b) The term “courtroom environs” shall include the entire third floor and fourth floor of the courthouse including any office or hallway and all exists from said floor; the north wing of the basement; and the hallway area adjacent to B-19 and B-22.

(c) The term “judicial proceeding” or “judicial proceedings” shall include all proceedings conducted pursuant to order of a court, however categorized.

2. Permissible Activities, Devices, Or Equipment Without Court Approval. Still or motion pictures, audio video tapes, or radio or television broadcasting of ceremonies for the administration of oaths to public officials and weddings may be permitted using portable hand held equipment in the courtroom or its environs except judge’s chambers.

3. Prohibited Activity Unless Court Approved. Other than as allowed in paragraph 2, no judicial proceeding shall be photographed, videotaped, recorded or broadcast except as permitted by the court under the following procedure:

(a) A request must be submitted to the Court Administrator. The request must be made in advance of the hearing. Generally, a request must be made seven (7) days in advance

of the hearing. However, exceptions may be made within the discretion of the court, depending on the nature of the hearing (for example, first appearances) or other circumstances that make impracticable the giving of seven (7) days notice.

(b) The Court Administrator will provide the assigned division a request form with case information.

(c) The judge assigned to the judicial proceeding shall notify all counsel in a case of any request for media coverage and provide each counsel a reasonable opportunity to advise the court of any objections or requests concerning media coverage before authorizing such coverage. Such notification and objections and/or requests may be communicated by telephone. Notification is not required for media coverage of first appearances.

(d) Once the judge has made a decision to approve/not approve, the request form is sent back to the court administrator's office who will notify the news media in writing. If the case is continued, the assigned division shall indicate such on the request form and send back to the court administrator's office for notification to the news media.

(e) Each individual or group requesting a separate camera shall make a request. Approved recording or photographing may be pooled or shared with other sources without prior approval. When there are several media sources requesting coverage, the first source requesting coverage will be responsible for making pooling arrangements.

(f) Once approval of camera coverage for the trial has been granted, this will also include media coverage approval/not approved for the case at the time of plea and/or at sentencing.

4. Prohibited Activities.

(a) Jurors shall not be interviewed during their service in any judicial proceeding.

(b) Witnesses in a judicial proceeding shall not be interviewed while the judicial proceeding is in progress.

5. General Guidelines.

(a) No media coverage interview of any person shall begin or be attempted within a courtroom or its environs without first obtaining the express consent of the person to be interviewed.

(b) Subject to the discretion of the trial judges, individual defendants in judicial proceedings may be photographed in the courtroom so long as there is no appearance of such defendants being in restraints or in the custody of uniformed corrections officers.

(c) Media coverage equipment should be located in courtrooms unless otherwise approved and shall be as unobtrusive as possible and is subject to the continuing control of the judge assigned to the judicial proceeding.

(d) The Judge shall prescribe the location of the cameras.

6. The judge assigned to the judicial proceeding has discretion not only to permit or prohibit media coverage of judicial proceedings in his/her courtroom but also its environs. Approval for media coverage of any judicial proceeding does not include approval for any media coverage outside the courtroom unless expressly approved.

7. Requests for permanent installation of equipment and/or modification of courtrooms and/or corridors are subject to the approval of the chief judge.

ADOPTED: 8-22-01

DCR 3.119

(Electronic and Facsimile Filing)

1. Pursuant to Supreme Court Rule 122, documents may be signed, filed and verified by electronic means, provided the same conform to Supreme Court standards pertaining to the same and are consistent with Supreme Court Rule 119 (regarding facsimile filing).
2. Consistent with Supreme Court Rule 119, documents may be filed by fax directly with the Office of the Clerk of the District Court.
3. The authorized facsimile number for Civil and Domestic filings is (785) 291-4911.
4. The authorized facsimile number for Probate, Criminal and Traffic filings is (785) 291-4908.

Adopted: 10-4-00

AMENDED: 10-19-05

DCR 3.120

(Electronic Communication Devices)

All cellular telephones, pagers, two-way radios, computers and other electronic communication devices must be turned off inside courtrooms unless otherwise authorized by the presiding judge.

The presiding judge shall make such orders respecting the use of electronic communication devices or the prohibition of use of such devices as may be necessary to maintain courtroom decorum and security, including when necessary, an order that such devices be deposited with court security officers.

Adopted 2/4/04

DCR 3.121

(Servicemembers Civil Relief Act)

No default judgment may be taken unless the party seeking the default has complied with the provisions of the Servicemembers Civil Relief Act of 2003. The Court will not enter a default judgment unless the party seeking the default has filed an Affidavit stating whether or not the adverse party is in the active service of the military. If the party seeking a default judgment is unable to determine whether or not the defendant is in the active service of the military after a good faith investigation, the movant shall file an Affidavit of Inability to Determine Military Service. This rule does not apply to criminal cases except for the enforcement of a bail bond.

Adopted: 5-5-04

DCR 3.122

(Service and Returns of Service of Process)

Under the terms of KSA 60-303, attorneys licensed by the Kansas Supreme Court, special process servers appointed by this Court and certain others are specially authorized to serve process.

a) Applications for Appointment of Special Process Servers.

All applications for appointment of special process servers shall be made by Motion, accompanied by an Affidavit and Order. The Motion, Affidavit and Order shall be on the one page form approved by the Court [F3.122(a)].

b) Returns of Service.

All special process servers, including attorneys, are required to file all returns of service with the Clerk of the District Court in the manner and within the time prescribed by statute.

c) Faxing Certain Returns.

In addition to statutory return requirements, all returns of service on Temporary and Final Restraining and Injunction Orders shall also be faxed to the Clerk of the District Court and to the Sheriff of Shawnee County by noon the next business day following service. Relevant fax numbers are:

Clerk: (785) 291-4911
Sheriff: (785) 368-2385

d) Revocation of Authority.

Failure to timely make, file and fax such returns of service as required by statute and this Rule, may result in the revocation by the Court of the offending person's authority to serve process.

e) Copy Provided to Server.

A copy of this DCR shall be provided to each special process server upon appointment.

Adopted: 2/20/08

DCR 3.123

(JURY QUESTIONNAIRES)

Upon the motion of a party, or upon the Court's own motion, the court may approve the use of a Jury Questionnaire if the interests of justice so require. The Jury Questionnaire should be in the form set forth in Kansas Supreme Court Rule 167 or as otherwise authorized by the Court.

Any motion for approval of the use of a Jury Questionnaire shall be filed at least thirty (30) days prior to trial unless otherwise ordered by the Court. A copy of the proposed Jury Questionnaire shall be attached to the motion.

Adopted: 10-15-08

DCR 3.201

(Civil Case Management)

The following rules apply to all Chapter 60 civil actions except by order of the Court upon motion. The Court upon motion may order that these rules may be supplemented by adding discovery in complex civil cases, cases involving a large number of legal issues or parties, cases in which geographic considerations may delay the discovery process or any other case which the Court finds in its discretion would not be susceptible to proper management under these rules.

1. Counsel for all parties shall confer within thirty (30) days of the date of service of the answer or the last answer if the case has multiple defendants to prepare an agreed case management order [F 3.201(1)]. The order shall schedule all discovery for completion within four months. If more time is requested the reason therefor shall be stated in the proposed order. Counsel shall schedule a conference call with the administrative assistant of the division in which the case is pending to obtain dates for final pretrial and trial. Whether the pretrial and jury trial are scheduled in the case management order is discretionary with the Court. The order shall then be filed within fourteen (14) days of the conference call and approved by the Court in the format prescribed by the Court. Counsel shall exercise reasonable efforts in attempting to agree upon a scheduling order. Failure to confer may result in sanctions being imposed by the Court under the provisions of DCR 3.204. In the event counsel are unable to agree upon an order despite reasonable efforts the Court will set the case for a case management conference to resolve the dispute and will enter a scheduling order.

2. Except by order of the Court, a party shall, without the receipt of formal discovery requests, provide to the other parties answers to standard interrogatories [F 3.201(2) A, B] and responses to standard requests for production of documents [F 3.201 (2) C, D] properly requested by the other parties. The responding party shall print copies of the interrogatory questions and requests for production with the respective answers and responses and serve the questions, answers, requests and responses on all parties of record. The Court has pre-approved in these rules standard interrogatory questions and standard requests for production of documents for use in all civil cases. A party seeking to obtain information contained within these standard requests shall send a letter to the party from whom such information is sought designating the number or numbers of the interrogatory questions and requests for production being sought. A photocopy of this letter shall be simultaneously sent to the Court. Although for indexing purposes the interrogatory questions and requests for production have been designated “Plaintiff to Defendant” and “Defendant to Plaintiff,” where relevant any party may submit any interrogatory question or request for production to any other party regardless of the indexing designation. No more than thirty (30) questions and thirty (30) requests for production may be requested without leave of Court. The responding party shall have thirty (30) days from the date the letter is served in which to provide the information requested. If any party desires case specific interrogatory questions or requests for production that party will be allowed to serve such written discovery requests provided the specific discovery requests are appended to and allowed by the court in the case management order. No additional interrogatories or requests for production of documents other than those contained in this rule may be served without leave of court.

3. With respect to the information that falls within the scope of the preceding section, the Court will strictly enforce these written requests for information and will not entertain objections to the production of non-privileged information sought unless it falls within the scope of K.S.A. 60-226(c). Extensions of time in which to provide this information will be granted only in extreme cases where substantial hardship exists. Failure to timely provide the information required may result in the imposition of sanctions without the necessity of a motion to compel pursuant to the provisions of DCR 3.204.

4. Except as otherwise ordered, the Court will not entertain any motion under K.S.A. 60-237 unless counsel for the moving party has conferred with or has made a good faith effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Counsel for the moving party shall submit a certificate of compliance with this rule with any motion filed under K.S.A. 60-237. All motions filed under K.S.A. 60-237 shall be filed and served within thirty (30) days of the default or the service of the response, answer, or objection which is the subject of the motion, unless the time for the filing of such motion is extended for good cause shown, or the objection to the default, response, answer or objection shall be waived.

5. The Court has pre-approved standard medical authorizations, employment authorizations, income tax record authorizations and insurance record authorizations which shall be signed by the plaintiff and provided to the defendant if requested. [F3.201 (2) F] If the plaintiff is not making a claim for personal injury then medical authorizations need not be furnished except upon order of the Court. If the plaintiff is not making a claim for loss of earnings or loss of earning capacity then employment and income tax authorizations need not be furnished except upon order of the Court.

6. Except to the extent otherwise stipulated or directed by order of the Court, the parties are limited to the taking of four (4) depositions per party. Except to the extent otherwise stipulated or directed by order of the Court, the deposition of a non-party witness shall not exceed two (2) hours in length, and the deposition of a party or an expert witness shall not exceed four (4) hours in length. In addition to conforming to the requirements of K.S.A. 60-230, K.S.A. 60-231 and K.S.A. 60-232, the parties shall conform their deposition practice to the requirements contained in DCR 3.203.

7. The depositions of all parties, if desired to be taken by any other party, shall be obtained within ninety (90) days of the entry of the scheduling order in the case unless this time is extended by the Court for good cause shown.

8. A pretrial questionnaire from each party in the form pre-approved by the Court [F 3.201 (8)] shall be exchanged among all other parties and furnished to the Court at least five (5) working days prior to the pretrial conference. Failure to timely exchange pretrial questionnaires and submit them to the Court may result in the imposition of sanctions under the provisions of DCR 3.204.

9. All exhibits intended to be used at trial shall be marked by the court reporter in the presence of all counsel seven (7) days prior to trial. It is the duty of counsel to make themselves available to meet with the court reporter to mark exhibits.

10. With respect to comparative negligence actions, if any party is claiming the fault of another individual or entity to be compared, then, if requested, an identification of such person or entity shall be made no less than thirty (30) days before the close of discovery. If no such identification is timely made, the fault of such persons or entities will not be allowed except

upon motion and order of the court finding good cause as to why the identification could not have been timely. In the event this identification designates persons or entities not already investigated through discovery the court shall allow any other parties additional time in which to complete necessary discovery with respect to such individuals or entities. Nothing in this provision shall prevent any party from seeking leave of court for an earlier identification if the interests of justice so require.

Revised: 2-15-12

DCR 3.202

(Motions in Civil Cases)

(a) Form and Filing.

All motions, unless made during a hearing or at trial, shall be in writing and shall be filed with the clerk. An original shall be filed and shall be accompanied by a brief or memorandum suggesting the reasons and authorities in support.

(b) Responses and Replies to Motions.

A party opposing a motion other than one to dismiss or for summary judgment shall, within fourteen (14) days after service of the motion upon it, file an original with the clerk and serve upon all other parties a written response to the motion containing a short, concise statement of his opposition to the motion, and if appropriate, a brief or memorandum in support thereof. A party shall have twenty-one (21) days to respond to a motion to dismiss or for summary judgment. The party may, within fourteen (14) days after the service of such response in opposition upon him, file an original with the clerk and serve upon all other parties a copy of a written reply memorandum. No sur replies will be allowed. All motions, responses to motions and replies shall be in the form of pleadings and shall meet all formal statutory requirements pertaining to pleadings.

(c) Hearings and Submission for Decision.

If oral argument or a fact hearing is allowed by the Court, after request by counsel, the Court will set the matter specially for hearing. At any time after the expiration of the initial response time to a motion when no request for a hearing or oral argument has been granted, counsel shall certify in writing to the Court and opposing counsel that the motion is

ready for ruling. When the motion is so certified, or on the Court's own motion in the absence of any such certification, the motion shall be deemed finally submitted for decision.

(d) Exceptions.

The exceptions to sections (a), (b) and (c) above are:

(1) Initial applications to the court for additional time to plead which do not request extensions in excess of thirty (30) days will be ruled on instantly without supporting memoranda and without awaiting responses from adverse parties.

(2) Motions which show on their face factual authorities sufficient to support the relief requested do not require additional memoranda. (Motions and supporting memoranda may be combined and where combined should be so labeled.)

(3) Motions accompanied by an agreed order will be ruled on without further supporting or responsive memoranda.

(4) Preliminary domestic motions may be supported and opposed by affidavits in lieu of or in addition to other memoranda.

(5) Contested motions for temporary or permanent change of custody.

(e) Copy to Court.

A copy of every civil motion and response and reply, if one, filed with the clerk must be simultaneously mailed or delivered to the division where such motion will be decided.

(f) Time Computation.

The provisions of K.S.A. 60-206 shall govern the computation of the time periods set forth in this rule.

(g) Compliance.

Any motion may be dismissed by the Court for failure to comply with the requirements of this rule.

(h) Motion for Special Process Server.

All motions for special process server shall be accompanied by an order. Both the motion and order shall be on one page in the form approved by the court. [F3.202(h)].

(i) Motion for Enlargement or Extension of Time.

Motions for enlargement of time shall state: (a) the current deadline; (b) good cause for the extension; (c) the position of opposing counsel or parties; (d) the proposed new deadline. All such motions shall be accompanied by a proposed order.

DCR 3.203

(Depositions)

1. Cooperation.

Counsel are expected to cooperate with, and be courteous to each other and deponents. Counsel are further expected to cooperate in selecting the least expensive and least disruptive manner of conducting the deposition. Counsel should consider such cost saving methods as telephone depositions, and sharing of expenses in bringing an out-of-state witness to Kansas for the deposition rather than all counsel traveling to the out-of-state location.

2. Stipulations.

Unless contrary to or inconsistent with an order of the Court, the parties (and, when appropriate, a non-party witness) may stipulate in any suitable writing to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition. Stipulations for the extension of discovery deadlines set by the Court will not be effective until, and unless, approved by the Court.

3. Scheduling.

Absent extraordinary circumstances, counsel shall consult in advance with opposing counsel and proposed deponents in an effort to schedule depositions at mutually convenient times and places. Depositions shall be scheduled to conform to normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday unless otherwise mutually agreed by all counsel and the witness. The most convenient location for a party's deposition shall be presumed to be in the office of that party's counsel. Except for the principal plaintiff, defendant or key experts, the fact that some counsel may be unavailable shall not, in view of the number of attorneys involved

in the litigation, be grounds for postponing a deposition if another attorney from the same firm is able to attend. Unless by agreement of counsel or leave of court is first obtained, at least 14 days notice of any deposition shall be given.

4. Attendance.

(a) Who may be present. Unless otherwise mutually agreed by the parties or ordered under K.S.A. 60-226(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purpose of the deposition, the parties or the representative of a party, and counsel for the deponent. While a deponent is being examined about any stamped confidential document or the confidential information contained therein, persons to whom disclosure is not authorized under the Confidentiality Order shall be excluded.

5. Conduct.

(a) Objections. The only objections that should be raised at the deposition are those made required to be under K.S.A. 60-232(d)(3) in order to preserve the objection or to preserve a privilege, judicial limitation, or opportunity to seek court protection. Objections on other grounds are unnecessary and should generally be avoided. Relevance and materiality are not appropriate grounds. All objections should be concise, stating the basis of the objection and nothing more than is necessary to preserve the objection and must not suggest answers to (or otherwise coach) the deponent. Argumentative interruptions will not be permitted.

(b) Directions not to answer. Directions to the deponent not to answer are improper except on the ground of privilege to enforce a judicial limitation or to enable a party or deponent to present a motion to the Court for termination of the deposition on the ground that it is being

conducted in bad faith or in such a manner as unreasonably to annoy, embarrass, or oppress the party or the deponent. When a privilege is claimed, the witness should nevertheless answer questions relevant to the existence, extent, or waiver of the privilege, such as the date of a communication, who made the statement, to whom the contents of the statement have been disclosed, and the general subject matter of the statement.

(c) Private consultation. Private conferences between deponents and their attorneys during the actual taking of the deposition are improper except for the purpose of determining whether a privilege should be asserted. Unless prohibited by the Court for good cause shown, such conferences may, however, be held during normal recesses and adjournments.

6. Documents.

(a) Production of documents. Witnesses subpoenaed to produce numerous documents must be served at least 30 days before the scheduled deposition unless the witness agrees to a shorter time period. Depending upon the quantity of documents to be produced, some time may be needed for inspection of the documents before the interrogation commences.

(b) Confidentiality order. A copy of any Confidentiality Order shall be provided to the deponent before the deposition commences if the deponent is to produce or may be asked about documents which may contain confidential information.

7. Depositions of Witnesses Who Have No Knowledge of the Facts. An officer, director or managing agent of a corporation, partnership, association other organization or a government entity serviced with a notice of a deposition or subpoena regarding a matter about which such person has no knowledge may submit to the noticing party a reasonable time before the date noticed an affidavit so stating and identifying a person within the corporation or government

entity believed to have such knowledge. Notwithstanding such affidavit, the noticing party may proceed with the deposition, subject to the right of the witness to seek a protective order. A public or private corporation, partnership, association, other organization or governmental entity, noticed as the deponent under K.S.A. 60-230(b)(6) shall designate the person to be deposed as the representative of the entity who has the most knowledge regarding the subject matter on which the examination is requested.

8. Expert Witnesses. Leave is granted to depose expert witnesses in addition to or in lieu of discovery through interrogatories. Objection to such depositions may be made by motion. Experts shall, upon written request without the necessity of a subpoena, bring to the deposition, the expert's written report, complete file, documents or other materials reviewed and billing records regarding the compensation to be paid for the study and testimony.

9. Videotaped depositions. By indicating in its notice of a deposition that it will record the deposition by videotape, a party shall be entitled to videotape the deposition pursuant to the following terms and conditions.

(a) Stenographic recording. The videotaped deposition shall be simultaneously recorded stenographically by a qualified court reporter. The court reporter shall on camera administer the oath or affirmation to the deponents. The written transcript by the court reporter shall constitute the official record of the deposition for purposes of K.S.A. 60-230(e) (submission to witness) and K.S.A. 60-230(f) (filing; exhibits).

(b) Cost. The requesting party shall bear the expense of the videotaping. Any party may at its own expense obtain a copy of the videotape and the stenographic transcript. Requests

for taxation of these costs and expenses may be made at the conclusion of the litigation in accordance with applicable law.

(c) Video Operator. The operator(s) of the videotape recording equipment shall be subject to the provisions of K.S.A. 60-228(c) unless otherwise agreed by the parties. At the commencement of the deposition, the court reporter shall swear or affirm to record the proceedings fairly and accurately.

(d) Attendance. Each witness, attorney, and other person attending the deposition shall be identified on camera at the commencement of the deposition. Thereafter, only the deponent (and demonstrative materials used during the deposition) will be videotaped.

(e) Standards. The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box except when reviewing or presenting demonstrative materials for which a change in position is needed. To the extent practicable, the deposition will be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angle, lens setting, and field of view will be changed only as necessary to record accurately the natural body movements of the deponent or to portray exhibits and materials used during the deposition. Sound levels will be altered only as necessary to record satisfactorily the voices of counsel and the deponent. Eating and smoking by deponents or counsel during the deposition will not be permitted.

(f) Interruptions. The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording will be suspended during all “off the record” discussions.

(g) Examination; exhibits; re-reading. The provisions of paragraphs 5 and 6 of this order apply to videotaped depositions. Re-reading of questions or answers, when needed, will be done on camera by the stenographic court reporter.

(h) Filing. The party requesting the videotape deposition shall preserve custody of the original videotape in its original condition until further order of the court. No part of a videotape deposition shall be released or made available to any member of the public unless authorized by the Court.

(I) Objections. Requests for pretrial rulings on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. If the objection involves matter peculiar to the videotaping, a copy of the videotape and equipment for viewing the tape shall also be provided to the Court.

(j) Use at trial; purged tapes. A party desiring to offer a videotape deposition at trial shall be responsible for having available appropriate playback equipment and a trained operator. After the designation by the parties of the portions of a videotape to be used at trial, an edited copy of the tape, purged of unnecessary portions (and any portions to which objections have been sustained), shall be prepared by the offering party to facilitate continuous playback; but a copy of the edited tape shall be made available to other parties at least 14 days before it is used, and the unedited original of the tape shall also be available at the trial.

10. Waiver of transcription and filing. The parties and deponents are authorized and encouraged to waive transcription and filing of depositions that prove to be of little or no usefulness in the litigation or to agree to defer transcription and filing until the need for using the deposition arises.

11. Rulings. Immediate presentation. Disputes arising during depositions that cannot be resolved by agreement and that, if not immediately resolved, will significantly disrupt the discovery schedule or require a rescheduling of the deposition, may be presented by telephone to the Court. The presentation of the issue and the Court's ruling will be recorded as part of the deposition by the court reporter taking the deposition.

Revised: 8-18-2010

DCR 3.204

(Sanctions)

(a) Sanctions Under These Rules, K.S.A. 60-211, and Other Rules and Statutes.

(1) On Court's Own Initiative. The Court, upon its own initiative, may issue an order to show cause why sanctions should not be imposed against a party and/or an attorney for violation of these rules, K.S.A. 60-211, or other provisions of the Kansas rules or statutes. The Court shall state the reasons therein for issuing the show cause order. Unless otherwise ordered, all parties may respond within fourteen (14) days after the filing of the order to show cause. The responses may include affidavits and documentary evidence as well as legal arguments.

(2) On a party's Motion. The issue of sanctions may be raised by a party's motion and responded to in the same manner as specified above.

(3) Procedure. The Court may rule forthwith on either or both of the issues of violation and of the nature and extent of any sanction imposed as raised in its order to show cause or a party's motion and responses thereto. Discovery and evidentiary hearings on the question of sanctions will be permitted only when ordered by the Court. In ruling on the imposition of sanctions, the Court shall articulate the factual and legal basis for its decision.

(b) Imposition of Sanctions. In addition to the sanctions provided for violations of K.S.A. 60-211 and other Kansas rules and statutes, for violation of a local rule or order of the court, the court may make such orders as are just under the circumstances of the case, including but not limited to the following:

(1) An order that designated matters or facts shall be taken as established for purposes of the action:

(2) An order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting it from offering specified witnesses or introducing designated matters in evidence;

(3) An order striking pleadings or parts thereof, or staying proceedings until the rule is complied with, or dismissing the action or any part thereof, or rendering a judgment by default against the failing party;

(4) An order imposing costs, including attorney's fees, against the party, or its attorney, who has failed to comply with a local rule.

(c) Sanction Within the Discretion of the Court. In considering the imposition of sanctions, the Court may consider whether a party's failure was substantially justified or whether other circumstances make the imposition of sanctions inappropriate.

DCR 3.205

(Consolidations and Dismissals)

Cases appropriate for consolidation shall be consolidated with the lowest number case unless otherwise ordered by the administrative judge. When a case with a higher number is consolidated with a case having a lower number, the judge assigned to the case with the higher number shall order the consolidation after conferring with the judge with the lower number case, if such case is in another division.

When cases are filed under two different Chapters (60-61-59-38) the judge shall notify in writing the judge succeeding to the case.

Any case dismissed and refiled shall be transferred to the same division to which it was previously assigned. (See Supreme Court Rule 107 and K.S.A. 60-242(a).)

DCR 3.206

(Duty to Confer)

Duty to Confer Concerning Discovery Disputes. Unless otherwise ordered, the court will not entertain any motion to quash or modify a subpoena, any motion to order appearance or production only upon special conditions, or any motion under K.S.A. 60-226(c) or 237, unless counsel for the moving party has at least informally conferred or has made good faith effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Counsel for the moving party shall file a certificate of compliance with this rule as a part of the motion describing the steps taken by all counsel to resolve the issues in dispute.

DCR 3.207

(Poverty Affidavits, Refunding Court Costs)

Miscellaneous Forms

A civil action shall be filed on poverty affidavits only when counsel believes in good faith that the plaintiff is unable to pay a docket fee.

Court costs and docket fees shall 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.

Miscellaneous forms for use by the Clerk dealing with satisfaction of judgments, service of process and requests for executions, subpoenas and summons are approved. [F 3.207]

DCR 3.208

(Extensions of Time and Continuances of Hearings)

(a) Motions for an Extension of Time to Perform an Act. All motions for an extension of time to perform an act required or allowed to be done within a specified time shall show (1) when there was a prior consultation with opposing counsel, which is required, and the views of opposing counsel; (2) the date when the act was first due; (3) if prior extensions have been granted, the number of extensions granted and the date of expiration of the last extension; (4) the cause for the requested extension. Extensions will not be granted unless the motion is made before the expiration of the specified time, except upon a showing of excusable neglect; and (5) if for extension of discovery, compliance with K.S.A. 60-216(b). Stipulations for extensions of time are subject to the approval of the court.

(b) Motions for Continuance. Motions to continue a pretrial conference, a hearing on a motion, or the trial of an action must be filed with the clerk reasonably in advance of the hearing date and shall reflect the views of opposing counsel. Continuances shall not be granted upon stipulation of counsel.

DCR 3.209

(Special Orders In Sensational Cases)

In a widely-publicized or sensational criminal or civil case the court, on motion of any party or on its own motion, may enter a special order governing such matters as extrajudicial statements by attorneys, parties or witnesses; the seating and conduct of spectators and news media representatives; the management and sequestration of jurors and witnesses; and other matters which the court finds necessary to insure a fair trial.

DCR 3.210

(Business Records Subpoenas)

1. Issuance of Subpoena.

No business record subpoenas shall be issued by the Clerk unless the procedure set forth in K.S.A. 60-245a is followed.

2. Notice to Parties

When requesting a business records subpoena, counsel shall certify to the clerk that a Notice of the Issuance of a Subpoena has been given to all parties and that more than fourteen (14) days have passed without objection. The Clerk shall not be obligated to issue a subpoena until such certification is made.

3. Subpoena of Protected Health Information

Health care providers will not be expected to release protected health information upon receipt of a subpoena unless accompanied by an appropriate authorization or Agreed Order for Inspection, Reproduction and Disclosure of Medical Records and Protected Health Information.

Revised: 8-18-2010

DCR 3.211

(Expert Witnesses)

1. At the case management conference, or thereafter, the Court may limit the number of expert witnesses to be called by each party to avoid repetition and unnecessary expense.

2. At the case management conference, or thereafter, the Court shall determine the time that identification of experts will be made by the parties.

3. The parties shall comply with the provisions of K.S.A. 60-226(b)(6) with respect to the disclosure of expert testimony. A written report signed by the witnesses shall be furnished to all parties of record which shall contain a complete statement of all opinions to be expressed and the bases and reasons therefore. The disclosure shall include a current curriculum vitae setting out the qualifications of the expert and identifying all published and unpublished writings of the expert pertaining to the expert's opinions in the case. The disclosure shall also identify and provide copies of all other data, writings or exhibits upon which the expert relies upon to support his or her opinions in the case. Published writing may be identified by citation and need not be physically produced. Copies of the expert's unpublished writings shall be timely furnished upon request [with the report].

4. If the expert's opinions are based on calculations, and or mathematic statistic, economic or other assumptions, the expert's report shall disclose in the report all calculations and assumptions the expert made or relied upon in forming opinions. The source of each assumption and or the manner in which each assumption was derived shall be specifically explained. Any calculations shall be completely shown, except when done using a specific computer program, in

which case the specific program must be identified and each input made by the expert into the computer calculation shall be specifically set forth.

5. The parties shall disclose the hourly rates of retained expert witnesses at the time of disclosure and shall produce all billing statements or documents evidencing the amount of money billed and the amount of time the expert has spent providing services in the case prior to the disclosure.

6. At the status conference, or thereafter, the Court shall explore with counsel the possibility of using alternative means of discovery of the opinions of expert witnesses, however, the parties shall retain the right to depose opposing experts.

7. Treating physicians may be identified as experts without the necessity of a full disclosure as set forth in this rule. However, if counsel anticipates using them for opinions other than causation, the nature and extent of this injury, and the reasonableness and necessity of past medical treatment and expenses, then full disclosure shall be made.

Revised: 5-21-08

DCR 3.212

(Interviewing Health Care Providers)

In any case in which the condition of a patient, as defined by K.S.A. 60-427(a)(1), is an element or factor of the claim or defense asserted by or on behalf of the patient, the attorneys representing the parties may interview any treating health care provider, as defined by K.S.A. 40-3401, or their employees without leave of the Court.

Upon the request of any party, the Court shall issue an Agreed Order for Inspection, Reproduction and Disclosure of medical records and protected health information.

Revised: 5-21-08

DCR 3.213

DCR 3.213

(Limited Actions Practice)

1. The Clerk shall commence pre-judgment activity at 8:00 a.m. and post-judgment activity at 8:30 a.m. Pre-trials shall commence at 8:00 a.m.
2. The plaintiff's attorney or an authorized representative to cover for plaintiff's attorney and all defendants are required to appear for all post-judgment activity.
3. Proper professional attire shall be worn by all counsel at all sessions of the Court, including those held on the Expocentre grounds.
4. All money judgments in Chapter 60 cases (money judgments) will be set during the docket as stated above. The matter shall be scheduled in the same time slot as Chapter 61 post-judgment matters. All post-judgment Chapter 60 matters will be filed with the Clerk of the District Court.
5. All landlord tenant cases (8-day trials) will be conducted on Tuesday afternoons commencing at 1:30 p.m. at the courthouse.
6. A dismissal list covering all cases on file for 6 months for which service has not been had or on which judgment has not been taken shall be published monthly. All cases on the dismissal list shall be dismissed 90 days thereafter unless service has been obtained or judgment taken, as the case may be. Cases may be removed from the dismissal list only if good service is obtained on a summons issued before the dismissal date. Dismissed cases shall not be reinstated and must be refiled.

7. Aids in execution or citations properly serviced shall not be continued by the Court unless agreed to by all parties or ordered by the Court.

8. The Court has authorized "order backs" in proceedings in aid of execution not more often than every eight (8) weeks except in exceptional circumstances.

9. All Chapter 60 and Chapter 61 aids, citations and post judgment papers may bear a computer generated, stamped, or facsimile signature of the attorney.

10. Service by tacking is authorized on all Chapter 61 pre-judgment matters and all aids in execution. In post-judgment matters such as citations and bench warrants, certified mail service will be sufficient if the signature on the return receipt card is definitely distinguishable as a signature that purports to be the defendant(s).

11. In cases where attempted service reveals the address furnished for service was not correct, no further attempt at service at that same address shall be made, unless the person or attorney seeking service certifies by letter that they have verified, subsequent to the service attempt, that the address is now good. The Clerk shall not send such "bad addresses" to the Sheriff for re-service unless the mentioned certification letter has accompanied the re-service request.

12. Forms for limited action practice are approved and shall be used by counsel and others with matters pending in this division. [F 3.213(12) A] Forms for pro se and small claims litigants are likewise approved [F 3.213(12) B and C respectively].

13. Service of Process Service of Process shall be made in accordance with K.S.A. 61-3003.

Orders to appear, Citations in Contempt and Garnishments may be served initially by First Class Mail. Attorneys may request, in writing, a different type of initial service.

a. Judgment debtors shall be served with an “Order to Appear for Hearing in Aid of Execution” requiring the debtor to appear to give information at the docket held at the Expocentre. This order may be served by First Class Mail in a sealed envelope or by using any other approved method of service. The proceeding held pursuant to this order shall permit the plaintiff or counsel for plaintiff to gather information for the purpose of collecting the judgment or any other purpose allowed by statute.

b. If the debtor fails to appear for examination as ordered, the debtor may be cited in contempt for failure to appear. These citations will be served by First Class Mail in a sealed envelope or by using any other approved method of service. If no one appears or no service is obtained, alias citations may then be issued. These citations shall be personally served or by certified mail. The cases shall be called during the Limited Actions Docket held at the Expocentre. Absent a judicial finding to the contrary, submitting to the examination shall purge this contempt. Failure to appear after proper service is obtained may then result in the issuance of a bench warrant. Repeated failures to appear (3 or more times in a 12 month period) may also constitute a basis for filing a Motion and Affidavit in Contempt. In such cases, the debtor shall be personally served with a “Citation in Contempt” for hearing at the Shawnee County Courthouse.

c. Attorneys are encouraged to make First Class service of garnishments themselves by completing the First Class mailing and return forms through their offices.

d. Bench Warrants, Bonds, Hearings : A bench warrant may be issued if the obligor fails to appear for a contempt hearing. The amount of cash bond for bench warrants shall be determined as follows:

1st failure to appear \$100

2nd failure to appear \$250

3rd and subsequent failure to appear \$500

If the debtor has posted the cash bond, he/she shall be ordered to appear at the Expocentre at 8:30 a.m. on the date determined by the Court.

Personal information sheets shall be attached to all service of process requests. Except for any such sheets attached to garnishments, which are needed by employers to identify the employee in question, such information shall be kept confidential and shall not be distributed by the Clerk or Sheriff to anyone outside their offices with the exception of Special Process Servers.

14. Dismissal Debtors shall be dismissed from the docket after three months of regular payment, either by income withholding order or by voluntary payment. Application of cash deposit bail bond funds shall not be considered a regular payment. Debtors who have been judicially or administratively determined to be disabled to the extent that they are unable to work or have other income shall be dismissed from the docket.

15. Counsel In contempt cases, the obligor shall not have counsel appointed if they have sufficient actual or imputed income to employ an attorney. A financial affidavit shall be used to determine the issues of income and indigency. The movant may rebut the obligor's assertions regarding income and indigency by filing a motion to have the Court determine the same.

16. Forms A form for Civil Judgment Bond has been approved by the Court and is required to be used. Any alteration in this form shall be highlighted and called to the Court's attention when filed or presented for signature. It is:

Civil Judgment Bond Form: F 3.213(17)J

17. Date and Time of Filing Whenever any petition or other pleading is electronically filed by email in this district, the date and time of filing shall be that date and time indicated on the court's email acknowledging receipt, whether or not such petition or other pleading is actually processed by the Clerk or by the court computer at a later date or time.

Revised: 9-19-12

DCR 3.214

(Limited Actions Bench Warrant in Collection Cases)

A bench warrant issued from the Clerk of the District Court Office in any civil collection case shall not be served by the Warrants Department unless the plaintiff or counsel provides a properly executed Warrant Information Sheet, or Affidavit.

A "properly executed" Warrant Information Sheet shall contain the following information:

1) Date, case number, name of plaintiff or plaintiff's attorney, address, business address, business phone, subject's full name, subject's address, and at least two other identifiers listed on said Information Sheet. [F 3.213(12)]

2) The Information Sheet shall be signed by plaintiff or plaintiff's attorney.

The Court can waive the requirement of "identifiers" stated in (1) above upon affidavit filed by plaintiff or certification by plaintiff's attorney that, after diligent effort, was unable to obtain such other information.

DCR 3.215

(Investment of Funds in Special Accounts)

A judge of the District Court may order that any monies in actions pending before the Court be invested in any local financial institution for safe keeping. The court order, for investment of these funds, must specify that the attorney holding the monies shall 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 shall 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 pay out all proceeds to the designated parties. Interest received from the investment of these monies shall become the property of the person or persons found to be the owners of the monies by the Court unless otherwise ordered.

Adopted: 3-4-98

DCR 3.216

(Pretrial Conference / Hearing of Condemnation Cases)

The following matters shall be considered and determined at the pretrial conference / hearing of condemnation cases:

- (A) Date of taking.
- (B) Any amendments or changes in the taking since the original taking.
- (C) Number of acres in tract before taking.
- (D) Number of acres taken.
- (E) Number of acres remaining after taking.
- (F) The nature of the taking, whether a fee simple interest or an easement.
- (G) Access rights taken.
- (H) Any unusual improvements, including fencing, which should be special elements of damage to be awarded.
- (I) Highest and best use.
- (J) Requests for other admissions -- stipulations.
- (K) Exhibits, plats or demonstrative evidence to be introduced.
- (L) View of the premises.
- (M) Witness -- appraisers.
- (N) Any special instructions needed.

Adopted: 1-27-99

DCR 3.217

(Application for Aid in Execution for e-filed Aids)

In Limited Actions cases, an electronic request for an Aid in Execution constitutes an Application for Examination of Judgment Debtor and a representation that as to each debtor:

- 1) Applicant holds an unsatisfied judgment against debtor.
 - 2) Creditor is without sufficient knowledge of debtors assets to execute on the judgment.
 - 3) Prior attempts at execution have been ineffective or have been returned unsatisfied.
 - 4) The debtor will not be caused undue hardship by appearing in this court.
- A hard copy of such application will be generated by the court in any case upon request.

Adopted: 9-1-99

DCR 3.218

(Alternative Dispute Resolution)

The judge to whom a case has been assigned shall enter an order directing counsel and the parties, at the earliest appropriate opportunity, to attempt to resolve or settle their dispute using extra-judicial proceedings such as mediation, or other alternative dispute resolution programs. Any such order may set forth the terms of the extra-judicial proceedings. Litigants in all civil cases are required to consider the use of an alternative dispute resolution process, including, but not limited to, mediation, settlement conferences, early neutral evaluation, and arbitration, at an appropriate stage in the litigation. Specific cases in which use of alternative dispute resolution would not be appropriate may be exempt from this requirement.

Settlement conferences shall be conducted in such a way as to permit an informative discussion between counsel and the parties, and the judge, or mediator of every possible aspect of the case bearing on its settlement, thus permitting the judge, or mediator to privately express his or her views concerning the settlement of the case. Attendance by a party representative with settlement authority at such conferences is mandatory, unless the court orders otherwise.

Settlement conference statements or memoranda submitted to the court or any other communications which take place during the settlement conference shall not be used by any party in the trial of the case. The judge, or mediator presiding over the settlement conference shall not communicate to the judge trying the case, the confidences of the conference except to advise as to whether or not the case has been settled. If the conference is conducted by a mediator, the costs of the conference, including the reasonable fees of the mediator, shall be assessed to the parties in such proportions as shall be determined by the judge.

Adopted: 6-14-2000

DCR 3.301

(Criminal Case Administration)

The Chief Judge with the approval of a majority of the District Judges shall appoint one or more judges who shall devote full time to the administration of criminal cases.

Criminal cases in the Third Judicial District shall be administered in accordance with procedures and guidelines approved by the District Judges.

Revised: 4-19-06

DCR 3.302

(Notice of Case Settings - Court Calendar)

The Shawnee County District Court Website (www.shawneecourt.org) shall constitute the official court calendar provided for in K.S.A. 60-216 and K.S.A. 60-240(2) and Supreme Court Rule 104 and 131. The setting of motions, pre-trials or trials and their publication on the Shawnee County District Court Website in domestic and Chapter 61 Civil cases shall constitute written notice to all counsel of such setting, and shall constitute written notice to show cause why the matter should not be dismissed on that date pursuant to K.S.A. 60-241(a)(2), and shall further constitute written notice pursuant to K.S.A. 60-255 and Supreme Court Rule 118 of intention to render default judgment if counsel and/or parties do not appear for scheduled hearing and if the first publication thereof affords the time provided by statute.

Defendants in criminal cases and their lawyers have the duty to watch the official court calendar and know when they are to be present. Defendants in criminal cases must appear and be prepared for hearings or to stand trial on the day that their case is scheduled for trial, as noticed in the official court calendar unless excused by the court. Failure to appear whenever noticed to appear will result in the defendant's bond being forfeited and a warrant being issued for the arrest of defendant.

When such listing appears on the Shawnee County District Court Website and parties or counsel find it impossible to appear, they must within three (3) working days or a reasonable length of time under the circumstances, prior to the scheduled date make satisfactory arrangements with the Court to reschedule.

Notice on the Shawnee County District Court Website does not supersede any written notices of the Court.

Revised: 4-19-06

DCR 3.303

(Rotation of Judges)

A master calendar shall be approved by a majority of the District Judges and published by the Court Administrator which will designate the rotation of the various divisions with respect to responsibilities related to criminal matters. The master criminal calendar will be published by October 1 for the following calendar year.

Revised: 4-19-06

DCR 3.304

(District Attorney to Track Speedy Trial Time)

The responsibility to compute speedy trial lies with the prosecutor.

1. When any criminal case is scheduled for trial or continued for trial, the District Attorney shall review the speedy trial time elapsed and advise the court forthwith if the beginning trial date is not within the speedy trial provisions of K.S.A. 22-3402.
2. All other perceived speedy trial problems shall be immediately brought to the attention of the court by the District Attorney.

Revised: 4-19-06

DCR 3.305

(Withdrawal of Retained Counsel in Criminal Cases)

In all criminal cases where counsel has been retained, no motion for leave to withdraw as counsel will be granted following arraignment in the District Court unless other counsel has entered an appearance or extraordinary circumstances are shown.

Pursuant to Supreme Court Rule 117, counsel must serve the motion for withdrawal on the client and on opposing counsel prior to the court considering the motion for withdrawal.

Revised: 4-19-06

DCR 3.306

(Processing Criminal Complaints Procedure)

(a) The Duty Judge will perform the duties of the Magistrate as defined in K.S.A. 22-2301, 22-2302, and 22-2303. The Clerk of the Court and the District Attorney shall be notified of the assignment. All complaints shall be filed with the Duty Judge along with any requests for warrants, summons and proposed bond amount. Upon review of the complaint, the Duty Judge will note in the upper left hand corner of the complaint "filed", the date and the Duty Judge's initials.

(b) The District Attorney's office shall place a marker on each page where a judge's signature is requested and endorse all requested conditions of bond on the complaint and also on the signature marker attached to the warrant. The District Attorney shall not write on the warrant.

(c) Unless otherwise determined by the Magistrate, a summons shall issue in all misdemeanor cases where the alleged criminal act occurred more than twenty (20) days before the case has been filed.

Revised: 4-19-06

DCR 3.307

(Department of Corrections Staff as Deputy Clerks; ABS)

Shawnee County Corrections Officers shall be authorized to serve as Deputy Clerks of District Court and shall follow the Automatic Bail-bond Schedule (ABS) or special instructions of the On-Call Judge, the Duty Judge, or the Chief Judge in processing bail-bonds during times when the Office of the Clerk of District Court is not open.

Revised: 4-19-06

DCR 3.308

(Standard Conditions of Probation and Forms)

Standard conditions of probation and bond supervision and form orders for supervised probation and bond supervision shall be approved by the Judges of the 3rd Judicial District and kept on file with the Clerk of the District Court.

Revised: 5-21-08

DCR 3.309
(Pretrial Release)

1. Court Services Officers (CSO), Deputy Sheriffs and Correctional Officers who are sworn in as Deputy Clerks of the District Court are authorized to permit persons in custody to post bail bonds in accordance with the Automatic Bond Schedule and sections 2, 3, 4, and 5 of this rule.

2. The Automatic Bond Schedule (ABS) is approved for the amount of bail bonds for particular crimes. For those offenses where no bond is set or is designated "see judge", the accused shall be brought before a judge of the district court at the next court date to have a bond set.

3. Notwithstanding the ABS, persons in custody with any of the following conditions are not eligible for an ABS bond and shall be brought to the next first appearance to have bond set:

A defendant who:

- (a) has been extradited or is awaiting extradition to another state.
- (b) has a detainer or hold from other states or federal authorities.
- (c) is being detained on an arrest letter for violation of probation, parole, or bond condition.
- (d) is believed, in good faith, by law enforcement or deputy clerk, to pose a danger to public safety, to be ineligible for bond under the ABS, or to lack positive identification.

4. On bonds requiring \$1,000 surety or less, a Shawnee County resident eligible for bond under the ABS may be released on the person's own recognizance bond (OR) if he/she meets one of the following criteria:

- (a) Owns real estate located in Shawnee County in own name; or
- (b) Any three of the following five:
 - (1) Has been a resident of Shawnee County - for 6 months or more;
 - (2) Has a valid Kansas drivers license;
 - (3) Employee in Shawnee County - for 3 months or more;
 - (4) Has current telephone service in his/her own name;
 - (5) Is enrolled as a student in the State of Kansas; or
- (c) Is on active duty military and stationed at a military base in the State of Kansas.

All factors shall be determined upon a sworn statement made under penalty of perjury by the accused or the accused's private surety. Court services officers, deputy sheriffs or correctional officers who are sworn in as deputy clerks are authorized to require further verification of any item as they deem appropriate before permitting a person in custody to post bond. Victims reflected in an arrest report cannot act as private surety on a bail bond.

5. On bonds requiring \$2,500 surety or less, Shawnee County residents eligible for bond under the ABS, but not meeting the criteria at paragraph 4, may be released with a private surety if the surety completes a sworn statement and qualifies under both items (a) and (b) of paragraph 4.

6. When the appearance bond has been set at \$2,500 or less and the most serious charge against the person is a misdemeanor, a severity level 8, 9, or 10 non-person felony, a drug severity level 4 felony or a DUI, the Court may allow the person to post an Own Recognizance Cash Deposit Bond (ORCD) by posting cash in the amount of 10% of the bond if the person meets all of the following qualifications:

- (a) is a resident of the State of Kansas;
- (b) has a criminal history score category of G, H or I;
- (c) has no prior history of failure to appear;
- (d) has no detainer or hold from any other jurisdiction;
- (e) has not been extradited from, and is not awaiting extradition to, another state; and
- (f) has not been detained for an alleged violation of probation.

7. OR-Cash deposit and cash bonds shall be placed in an interest-bearing financial institution account by the Clerk, however, no interest shall be paid to the accused on an OR-Cash deposit bail bond. Annually the amount of interest earned on OR-Cash deposit bail bonds and cash bonds shall be turned over to the general fund of Shawnee County.

8. The OR-Cash deposit and cash bonds shall be held by the Clerk of the Court until such time as the accused is discharged from all appearances under the bond. The accused is entitled to a refund of all moneys paid for the cash bond or the OR-Cash deposit after deduction of outstanding financial obligations to the court. "Outstanding financial obligations" as used in this rule means any court ordered fines, fees, court costs or restitution, whether from the case in

which the bond was posted or arising from any other case within the district court that remain unsatisfied.

The Clerk shall ascertain any outstanding financial obligations due from records available. If at sentencing the restitution has not been determined by the Court and one of the parties requests that the issue of restitution remain open for a period of time, no return of the deposit shall be made until the Court has entered an order of restitution or the time for determining restitution has expired. If bond deposits are intended to be applied under a diversion agreement, an order signed by a member of the District Attorney's staff and the accused or his counsel authorizing such application must be provided to the Clerk.

After the above withholdings have been ascertained and affected, any balance remaining due from such OR-Cash deposit bond or cash bond shall be returned to the accused along with an accounting of the dispersal of funds under the bond.

9. A cash receipt for an OR-Cash deposit bail bond or cash bond shall be issued only to the person being released on bond. Any person posting cash for another person is hereby placed on notice that any cash posted as a bail bond is the property of the accused person and may be forfeited, applied to payment of court ordered financial obligations, or refunded to the arrested party. Any arrangements to furnish bond money are between the lender and the accused person.

10. When an accused person who has posted a cash deposit bail bond or cash bond is discharged from all appearances and financial obligations to the court and provides identification to the Clerk, the portion of the cash deposit or cash bond not allocated to court ordered financial

obligations shall be refunded to the accused or assignee by the Clerk if the accused has not failed to appear for any court proceeding.

11. All OR-Cash deposit bail bonds or cash bonds issued in this county shall be subject to the condition of forfeiture and the amount deposited will become the absolute and permanent property of the State of Kansas if the accused person fails to appear in court pursuant to court order at any stage of the proceedings, subject to the provisions of K.S.A. 22-2807 for possible remittitur.

12. All persons placed on bond supervision shall be required to report as directed to a court service office (CSO) or to a community corrections officer, and if ordered, shall pay a bond supervision fee of \$10.00 per week pursuant to K.S.A. 22-2802(15).

13. All bail bonds issued in this judicial district are subject to this rule. Other special conditions also may be imposed by the court as a requirement of release on any bail bond.

14. No surety shall be released on an obligation on a bail bond absent court approval or operation of law (e.g. sentencing). If a person is arrested on an appearance bond pursuant to K.S.A. 22-2809, the surety shall provide a written sworn statement setting forth the reason(s) for a requested discharge when the person is delivered to the jail or alternatively the surety may bring the person before a judge or magistrate at which time the surety shall provide either a written or oral sworn statement to the court setting forth the reason(s) for a requested discharge. The court, the person arrested (or the person's counsel), or the surety may request a hearing regarding the reason for the discharge. The court shall release the surety from further liability on the bond upon receipt of the sworn statement or after the hearing whichever occurs later.

15. Unless bonds are set under the provisions of the Automatic Bond Schedule, bail bonds designated as OR-Cash deposit, Cash or Professional Surety shall be written only on terms specified by a judge of the district court. If an accused person requests release on a professional surety bond when cash or an OR-cash deposit bond has been specified, the deputy clerk shall contact the judge who authorized the bond for approval to modify the bond to allow professional surety.

16. This rule shall not limit or restrict the right of any person to seek or obtain pretrial release under other statutory methods of admitting accused persons to bail or the authority of a judge of the district court to determine bail.

17. This rule shall not apply to civil bench warrants.

18. Definitions:

(a) The term "cash" as used in this rule means United States currency, a money order, or a bank draft or certified check drawn on a Kansas banking or savings and loan institution.

(b) The term "court" as used in this rule refers to the District Court of the Third Judicial District of the State of Kansas.

(c) The term "accused person" as used in this rule means a person in custody by reason of an arrest report or a defendant in a criminal, driving under the influence of drugs or alcohol, or traffic case.

19. (a) District Judges may condition any OR or OR Cash Deposit bond as "with Supervision" (ORS or ORCD - Supervised) bond.

(b) Persons released under supervised conditions shall report and maintain contact with personnel of the Shawnee County Court Services designated to supervise pre-trial release or personnel with Shawnee County Community Corrections.

(c) Persons released under supervised conditions are subject to all of the Standard Conditions of Probation, as provided for in DCR. 3.308. Persons released upon supervised bonds shall be given written notice of these terms and conditions by the pretrial release supervisor.

(d) Any supervised bond shall be subject to show cause order upon affidavit of the pretrial release supervisor, setting set forth the specific acts of alleged violation of bond conditions. Upon review of such affidavit, a District Judge may issue an arrest warrant. Upon arrest, at First Appearance, the case shall be set on CAD of the assigned division or CR Docket (if no division has yet been assigned). At the docket, a hearing shall be scheduled, unless revocation is not contested, and Notice of Hearing shall be issued to parties and sureties. At the revocation hearing, the bond may be revoked and a new bond set, affirmed or the bond conditions on current bond may be changed. Failure of sureties to appear at the revocation hearing shall constitute the surety's approval of any modified conditions to the current bond.

Revised: 11-19-08

DCR 3.310

(Indigent Defender Appointments)

1. If after appointment, the regional public defender's office determines that it should not or cannot represent an indigent defendant due to conflict or case overload, referral of the case should be made by the public defender's office to the bids conflict office.

2. If any further conflict arises regarding appointment of counsel, either the assigned judge or the duty judge must be notified. Any appointed attorney who is allowed to withdraw from a case shall advise the newly appointed attorney of all court settings. If the attorney is not able to undertake representation in accordance with the existing schedule, the assigned judge or the duty judge should be notified.

3. The appointed attorney shall forthwith file with the Clerk of the District Court an entry of appearance in the case with copies to the client, district attorney and public defender. Once the entry of appearance is filed, the public defender office shall be relieved of its responsibilities in the case as set forth in Supreme Court Rule 117.

4. The public defender office should make referral as soon as the conflict or overload is ascertained to avoid continuances and other delays in the case.

Revised: 4-19-06

DCR 3.311

(Indigent Defense Services)

The Duty Judge will determine eligibility for counsel and appoint counsel in felonies pursuant to K.S.A. 22-4503 and in misdemeanor cases when deemed appropriate in light of indigency, availability of counsel and other factors deemed relevant by the Duty Judge.

Request for investigators, reimbursement of expenses, reimbursement for attorneys' fees from the Board of Indigent Defense Services, shall be presented to the assigned judge for felony cases and the Duty Judge for misdemeanor cases.

Revised: 4-19-06

DCR 3.312

(Justifications of Bail Bond Companies, Individuals or Sureties in Shawnee County)

(a) No bond posted by a bail bond company, individual or corporate surety may be accepted by or on behalf of Shawnee County District Court unless the individual, bond company, or corporate surety posting such bond has obtained and is operating under an order of justification issued by the Shawnee County District Court. The Shawnee County District Court will issue such an order of justification only after a hearing on a petition filed in compliance with the terms of this rule.

(b) The Shawnee County District Court Chief Judge will hold a hearing each year to determine petitions for orders of justification for the upcoming calendar year. The Clerk of the Court will send notice of the annual hearing date to all individuals and companies justified to post bonds in Shawnee County as of September 1 of the current calendar year. The Chief Judge may set other hearing dates as necessary or appropriate.

(c) A bail bond company, individual or corporate surety seeking an order of justification from Shawnee County District Court must file a petition with the Clerk of the Court under the standards set forth in paragraph (e). There shall be no filing fee. In subsequent years, any person or company justifies in Shawnee County at the time the petition is filed may file the petition under the existing case number. If a person or company is not justified at the time the petition is filed, the person or company may file the petition only under a new case number, regardless of whether the person or company was justified at an earlier time.

(d) At least thirty (30) days prior to a hearing on justification, a petitioner must serve a copy of the filed petition on the Chief Judge and the District Attorney. A hearing on the petition may be stricken or the order of justification denied in whole or in part if affidavits of service of the petition do not appear in the court file at the time of the hearing on justification or if service has not been timely made.

(e) The petition for justification shall clearly state the name or names in which authorization to post bail bonds is sought, and shall contain a true and correct copy of each of the following documents:

(1) A Certificate of Authority from the Kansas Insurance Commission for the petitioner or underlying surety to do surety insurance business in the State of Kansas or a statement that the petitioner is not licensed and is seeking justification to act as a surety;

(2) Proof of agency under K.S.A. 40-239 or a fully executed and current power of attorney for each agent, individual or corporation, authorized to execute surety bonds on behalf of each surety that may guarantee bonds under the justification order sought;

(3) If justification is sought to post property bonds, a letter of credit, evidence of
of
blocked interest account, or other form of guarantee effective for the period for which justification is sought;

(4) A current list of petitioner's total bond obligations by county, segregating property bonds from surety bonds;

(5) A truthful declaration signed under penalty of perjury by each proposed agent

stating that person's full name, aliases, social security number, address, date of birth, and statement of misdemeanor and felony convictions;

- (6) Such other proof of financial, corporate and agent responsibility as the Chief

Judge of the District Court shall find to be sufficient to justify the surety or property bond agent.

- (f) At the hearing of justification, the Court shall consider petitioner's proof of financial,

corporate and agent responsibility, an obligations or proof submitted by the District Attorney and/or other interested parties, and any other information bearing on the sufficiency of the petition for justification. The Court shall deny any order of justification in whole or in part to the extent a petitioner files a petition that is incomplete or insufficient under the terms of this order, and may deny an order of justification in whole or in part for other good cause.

- (g) If approved, the Court shall sign an order of justification that shall designate the corporate surety in which surety bonds may be written, state the basis on which property bonds may be written, name the authorized agents, set the maximum amount that may be written on any one bond by each surety, and specify any other conditions of justification.

- (h) No order shall generally authorize a bonding company or individual to write bonds exceeding two hundred thousand dollars (\$200,000) for any single bond, provided that any company or individual justified in this county may seek approval for authorization to bond for additional sums on an individual case. Approval shall be made by Court order, a copy of which the movant shall provide to the Shawnee County Department of Corrections.

- (I) This procedure shall not be in lieu of the requirement of Kan.Ct.R. Ann. 114 requiring that there be attached to each property bond a sworn financial statement which identifies the assets relied upon and the total amount of liabilities contingent or otherwise. Any property pledged as surety for bail bond must have a non-homestead equity valued at least at one and one-half times the amount of the bond.
- (j) An order of justification shall be in full force and effect for the period specified in the order, in any event not to exceed one year. Authorization shall expire at midnight on December 31 of the year in which authorization to post bail bonds is effective.
- (k) The Shawnee County Department of Corrections, acting pursuant to DCR 3.307, or Clerk of the Court shall not accept a surety or property bond unless it can verify that the bond is posted under the conditions specified in a current order of justification. It shall be the responsibility of the petitioner to provide a true and current, file-stamped or certified copy of the current order of justification and current photo of each authorized agent to the Clerk of the Court and the Director of the Shawnee County Department of Corrections before transacting business as a bail bond company in Shawnee County.
- (l) An order of justification may be suspended or revoked at any time upon determination of insufficiency or unreliability of the sureties or their agents or for such other reasons as the Court deems good cause. Suspension or revocation may be initiated by the Office of the District Attorney upon filing a notice of intent to

seek suspension or revocation with the Clerk of the Court. The notice of intent to seek suspension or revocation is sought and shall be served on the bonding company whose justification is at issue. A hearing will be set within thirty (30) days of filing and service of the notice of intent to seek suspension on revocation.

- (m) The authority of the bail bond company, individual or surety to write bonds within this judicial district shall be terminated five (5) days after notice from the District Attorney to the Chief Judge of the Shawnee County District Court, the Clerk of the Court and Director of the Shawnee County Department of Corrections that an effective judgment has been entered against a bail bond company, individual or surety and the same has not been satisfied and, if on appeal, no appeal bond has been filed. Within five (5) days of being notified of such intention by the District Attorney's office, the bail bond company, individual or surety may make written request for a hearing before the Chief Judge. Whenever possible, such hearings shall occur not sooner than ten (10) or later than twenty (20) days after the request for hearing is made. The termination shall be stayed until the hearing.
- (n) During the period an order of justification is in effect, a petitioner may seek to add additional agents by filing with the Clerk of the Court and serving on the District Attorney a Notice of Intent to Add Agent(s) together with supporting information as required in paragraphs (e)(3) and (e)(5) of this order. Absent objection by the District Attorney, the intended agent(s) will be added without further order no later than the end of ten (10) court days after the filing and service of said notice. In the event of objection, petitioner may file a motion or review of the Notice of

Intent to Add Agent(s), which shall be heard and determined by the Shawnee County District Court Chief Judge under the standards of this order.

- (o) A bail bond company must notify, in writing, the Shawnee County District Court Chief Judge and the Director of the Shawnee County Department of Corrections when an agent authorized to post bonds under an order of justification is terminated from employment with the bail bond company.

Revised: 4-19-06

DCR 3.313

(Filing of Search Warrants)

At the time of issuing a search warrant the judge shall retain possession of a signed copy of the warrant and of the executed supporting affidavit or other evidence presented in support of the warrant. Upon the return being made as provided by law, the issuing judge will place the search warrant and supporting material along with the return in a search warrant envelope with the judges name and date of issuance of the search warrant. The envelope shall then be sealed shut and delivered by the judge or at his or her direction to the clerk of the district court. In the absence of the clerk or vacancy of the office, the envelope shall be delivered to the chief judge who shall thereafter provide for the storage of the envelope in the locked storage facility. In the event neither is available then the issuing judge shall retain the same in his or her possession in a secure place until the same may be delivered as otherwise provided herein.

Revised: 4-19-06

DCR 3.314

(DUI Evaluation, Presentence, and Supervision)

- a. **DUI's—First and Second** A drug and alcohol evaluation shall be completed on all persons convicted of a DUI 1st or DUI 2nd. This evaluation shall be conducted by a provider who was certified by the 3rd Judicial District to perform evaluation services as of July 1, 2011 or any provider listed on the Department for Aging and Disability Services' electronic list of providers. The report shall be made available to the Court 48 hours prior to sentencing. The cost of the evaluation shall not be less than \$150 and shall be paid by the defendant directly to the provider unless the court finds the defendant is indigent. If the defendant is indigent, the provider must agree to accept the payment ordered by the court and the payment shall be paid into the court and then remitted to the provider.

A Presentence Investigation (PSI) is not required for DUI 1st or 2nd, but the court may specifically order a PSI criminal history. Supervision of defendants convicted of a DUI 1st or a DUI 2nd will be assigned to Court Services for a supervision period of one year.

- b. **DUI's---Third, Fourth and Subsequent** A presentence investigation will be completed by Court Services on all misdemeanor third DUI's and felony third, fourth, and subsequent DUI's. The risk assessment tool will be administered prior to sentencing. The Court shall determine based on the risk and needs score of the risk assessment tool whether, upon release from jail, the defendant will be supervised by Court Services or Community Corrections for the mandatory one year supervision period.

- c. The State has the burden to prove any prior DUI convictions(s) of a defendant.
- d. Pursuant to KSA 8-1567(e), court costs and other fees paid to the court shall be required to be paid within 90 days.

Revised 7/18/2012

DCR 3.315

(Jail Check)

Pursuant to K.S.A. 22-4502, the Third Judicial District Public Defender's Office is hereby authorized to make regular checks of the Shawnee County Jail in order to determine if there is any person incarcerated who is indigent and charged with a felony who desires counsel but has not yet had counsel appointed.

DCR 3.316

(Disclosure of AIDS Test)

Pursuant to K.S.A. 22-3913 upon conviction of any person for any crime which a judge determines was likely to have involved the transmission of body fluids from one person to another, the judge may order the convicted person to submit to an AIDS test. The test shall be arranged by Court Services.

Court Services shall disclose the AIDS test results in writing to the following persons:

- a. the judge ordering the test;
- b. the convicted person;
- c. the health care provider/counselor designated by the victim or if the victim is a minor, the victims parents or legal guardian;
- d. the Secretary of Health and Environment and the Secretary of Corrections if the test is positive.

If the test is negative, it shall be rescheduled and repeated six months thereafter and Court Services shall notify the above persons of the results of the subsequent test.

Suitable forms should be devised by Court Services for the implementation of this order.

----- **REPEALED 10-28-98** -----

DCR 3.317

(Motions in Criminal Cases)

- (a) **Form and Filing.** All motions, unless made during a hearing or at trial, shall be in writing and shall be filed with the clerk. An original shall be filed and shall be accompanied by a brief or memorandum suggesting the reasons and authorities in support. With the approval of the court, parties may be relieved from the requirement of serving and filing written briefs or memoranda in support of motions, responses and replies.
- (b) **Joint or Unopposed Motions.** If a motion is joint or unopposed, a statement to this effect shall be contained in the caption and in the body of the motion. Also, a proposed order shall be submitted with the motion.
- (c) **Responses and Replies to Motions.** A party opposing a motion other than one to suppress or dismiss shall, within ten (10) days after service of the motion upon it, file an original with the clerk and serve upon opposing party (or counsel, if the party is represented by an attorney) a written response to the motion containing a short, concise statement of his opposition to the motion, and if appropriate, a brief or memorandum in support thereof. If a party believes a hearing is needed, one should be requested. A party shall have twenty-one (21) days (or as shortened a period as the Court directs) to respond to a motion to suppress or dismiss. All motions and responses to motions shall be in the form of pleadings and shall meet all formal statutory requirements pertaining to pleadings. The moving party may file and serve a written reply memorandum.

- (d) **Exceptions.** The exceptions to sections (a) and (b), above, are:
- (1) Motions which show on their face factual authorities sufficient to support the relief requested do not require additional memoranda. (Motions and supporting memoranda may be combined.)
 - (2) Motions accompanied by an agreed order will be ruled on without further supporting or responsive memoranda, and without hearing.
- (e) **Copy to Court.** A chambers copy of every criminal motion and response filed with the clerk must be mailed or delivered contemporaneously to the division where such motion will be decided. (Misdemeanor Motions and Responses should be delivered to the chambers of the Duty Judge or Chair of the Criminal Division.)
- (f) **Time Computation.** The provisions of K.S.A. 60-206 shall govern the computation of the time periods set forth in this rule.
- (g) **Compliance.** Any motion may be dismissed by the Court for failure to comply with the requirements of this rule.
- (h) **Motions for Enlargement or Extension of Time.** Motions for enlargement of time shall state:
- (1) the current deadline;
 - (2) good cause for the extension;
 - (3) the position of opposing counsel or parties; and
 - (4) the proposed new deadline(s).

All such motions shall be accompanied by a proposed order.

Revised: 8-19-09

DCR 3.318

(Jury Trial Requests in Criminal Cases)

All requests for jury trial in misdemeanor cases to be timely, shall be made in writing not later than seven (7) days following the court's first notice of trial assignment pursuant to K.S.A. 22-3404.

For speedy trial purposes, any delay of trial occasioned by any jury request later made, if granted by the Court, shall be charged to the party making the untimely request.

Revised: 4-19-06

DCR 3.319

(Criminal Continuances)

(a) Any party requesting a continuance of a criminal hearing shall complete a Request for Continuance form which form shall be approved by the District Judges.

(b) The form shall be fully completed, specifically including (1) the written waiver of speedy trial by the defendant, if the request is to continue a trial setting; (2) the position of other counsel requesting the continuance, including counsel representing any co-defendants, and (3) any other requested information.

(c) Upon completion of the form, the form shall be delivered to the assigned judge for felony cases or the duty judge for misdemeanor cases.

(d) At the discretion of the judge, a conference call may be required. Counsel initiating the continuance request shall arrange the call. All counsel shall be included in the call and shall have their calendars available. At the time of the call, if a continuance is granted, a new date will be given.

(e) No continuances in felony cases, including for diversion checks, shall be granted the day of a hearing except in an extreme emergency or where a subpoena has been personally served but the witness fails to appear and a show cause proceeding will be instituted.

(f) No continuance shall be granted in variance of these procedures except in an extreme emergency.

Revised: 4-19-06

DCR 3.320

(Implementation of S.B. 323)

To implement K.S.A. 2000 Supp. 21-4611, referred to in this rule as S.B. 323, the following procedures will be utilized:

1. Court Services and Community Corrections staff are directed to review all persons under supervision for a crime in severity levels 8, 9 or 10 of the sentencing guidelines grid for non-drug crimes or a crime in severity levels 3 or 4 of the sentencing guidelines grid for drug crimes. Court Services will prepare a report for all probationers whose probation would expire before September 1, 2000 under the provisions of S.B. 323 by June 16, 2000. For any person whose probation period would terminate after September 1, 2000 and whose probation term is potentially shortened by the provisions of S.B. 323, a report shall be prepared at least 60 days before the date of potential discharge. The report shall state:

- ◆ Defendant's name;
- ◆ Case number;
- ◆ Sentencing judge;
- ◆ Name of CSO or ISP officer;
- ◆ Crimes of conviction and the period of probation originally imposed;
- ◆ Date of sentence and any extensions of probation;
- ◆ Whether there are misdemeanor counts for which the probation is under supervision and, if so, the length of probation imposed for the misdemeanor count and whether the counts run concurrently or consecutively;
 - ◆ Whether there are other cases for which the Defendant is supervised and, if so, the crimes of conviction, the length of probation and whether the term is concurrent or consecutive to the case for which the report is being prepared;
 - ◆ Date probation would expire if not altered by SB 323 and there were no additional extensions;
 - ◆ Date probation could potentially expire under shortened term mandated by SB 323;
- ◆ Amount of restitution owed as of date of the report;
- ◆ Amount of court costs, fines, attorney fees, probation fees, lab fees, administrative fees or other costs and fees owed as of date of the report;
- ◆ A short summary of probation status, including progress on any treatment; programs and any special concerns regarding public safety or welfare of the probationer; and
- ◆ Whether the probationer has been convicted of nonsupport of a child.

2. The report shall be delivered or mailed to the sentencing judge, the district attorney's office, and the last attorney of record (unless an order to withdraw has been filed in which case the probationer will be given a copy of the report).

3. The sentencing court will review the report.

(A). If the Judge finds that safety of the community will be jeopardized or that the welfare of the probationer will not be served by the release of the probationer from probation under the terms of SB 323, the Judge will issue an Order. See Form A attached. The Order shall be filed, with copies being delivered to the Chief Judge, the district attorney, the supervising probation officer, the district attorney and the defense attorney or, if the defendant is unrepresented, the defendant. The probationer may seek modification of the order at any time.

(B). If the Judge does not issue the Order, the Judge shall make a notation on the face of the Report that the Report has been reviewed. The Judge will date and sign the notation. A copy of the report with that notation will be delivered to the Chief Judge, the district attorney, the supervising probation officer and the defense attorney or, if the defendant is unrepresented, the defendant. Within thirty days of the Sentencing Judge dating the report, the district attorney or any interested party may file a motion to retain the current period of probation. The motion shall specify why safety of the public will be jeopardized, why the welfare of the probationer will not be served by the shortened length of probation, or other reason.

- (1). If a motion is filed, the matter shall be set for hearing by the sentencing judge before September 1, 2000, if the shortened period of probation expires before that date, or before the shortened period would expire if the date is after September 1, 2000. After a hearing, the district attorney shall prepare a journal entry.
- (2). If no motion is filed within 30 days of the report, the Chief Judge will enter an administrative order finding that under the legislative action adopted in SB 323, the probationer will be discharged from probation. (See attached form B). If no order is filed, probation will automatically terminate as of September 1, 2000 or the date of expiration of probation under the terms of SB 323, whichever is later.

---- REPEALED 4-19-06 ----

Adopted: 6-14-2000

ATTACHMENT --FORM A
IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

STATE OF KANSAS

vs.

Case No. _____

_____,
Defendant

ORDER CONTINUING PROBATION

Under the provisions of K.S.A. 21-4611, as amended by Senate Bill 323, 2000 Kan. Sess., the Defendant's period of probation ordered by the Court in the above-captioned case is continued for the full term of the probation as imposed at the time of sentencing. Pursuant to Section 6(c)(5) and (d) of Senate Bill 323, the Court finds that the provisions of Section 6 (c)(1) or (2) do not apply because:

___ Termination of probation would jeopardize the safety of the members of the public, or

___ Termination of probation would not serve the welfare of the probationer.

IT IS SO ORDERED.

Date

Judge of the District Court

Original: Clerk of the District Court

Copy: Court Services of Community Corrections

District Attorney

Defense Counsel, if any

Defendant if no defense counsel by mailing to _____

---- **REPEALED 4-19-06** ----

ATTACHMENT --FORM B
IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

State of Kansas

vs.

Case No. _____

_____,
Defendant

ADMINISTRATIVE ORDER IMPLEMENTING MANDATE OF
SB 323

As mandated by K.S.A. 21-4611, as amended by Senate Bill 323, the Defendant's period of probation ordered by the Court in the above-captioned case has now expired. You are hereby released from supervision.

Probation terminated with Defendant having complied with terms and conditions of probation

Probation terminated with Defendant having failed to satisfy terms and conditions of probation

Restitution not satisfied
 Court costs or other fines, fees and costs not satisfied
 Other _____

If the Defendant still owes a debt to the Court, the case will be referred to the Court Collection Service for continued payment. The Court Collections Service may be contacted at (785)234-9500, Vopat & Rowe, 607 SE Quincy, Suite 200, Topeka, Kansas 66603.

Date

Judge of the District Court

Original: Clerk of the District Court

Copy: Court Services of Community Corrections

District Attorney

Defense Counsel, if any

Defendant if no defense counsel by mailing to _____

----- REPEALED 4-19-06 -----

DCR 3.321

(Domestic Violence Subpoenas)

If a law enforcement officer makes an arrest related to a domestic violence call, the law enforcement officer is directed, pursuant to K.S.A. 22-3214(2), to service subpoenas to obtain the attendance of witnesses at the next regularly scheduled domestic violence first appearance docket of this court.

The officer shall follow the definition of "domestic violence" in the written policies of the officer's agency (see K.S.A. 22-2307).

Forms will be provided by the District Attorney.

Adopted: May 2, 2001
Amended: May 11, 2001

DCR 3.322

(Warrantless Arrest)

All persons brought into the Shawnee County Jail should be accorded a first appearance no later than the first business day following arrest.

Any person detained on a warrantless arrest and who makes bond thereon shall be directed to appear at the first criminal or traffic docket (whichever is appropriate based on the arrest report) available after ninety (90) days, pending the filing of formal charges unless sooner summoned or directed by the Court. If formal charges are not filed by the docket date, the arrested person will be discharged from all conditions of bond unless otherwise ordered by the Court.

During business hours, the Duty Judge, or in his or her absence or unavailability, any judge, and during non-business hours the on-call judge shall be available to review complaints with accompanying affidavits.

On each day the court is not in session, the on-call judge will review arrest reports/law enforcement affidavits and determine whether there is probable cause to detain the arrested person. If there is probable cause, the judge shall determine whether bond should be set.

Revised: 6-18-08

DCR 3.323

(Bond Supervision Fee)

There is hereby created a local Bond Supervision Fee Fund, as authorized by K.S.A. 22-2802(12), to receive payments from defendants ordered to pay the costs of bond supervision. Expenditures from this fund will be by order or voucher of the Chief Judge to pay costs associated with the supervision of conditions of release on criminal appearance bonds.

Revised: 4-19-06

DCR 3.324

(Domestic Violence Special Programs Fee)

There is hereby created and established a local Domestic Violence Special Programs Fee Fund, as authorized by K.S.A. 20-369, to receive payments of Domestic Violence Special Programs Fees imposed by the Court against any defendants convicted of domestic battery (K.S.A. 21-3412a). The amount of such fee which may be imposed in the Third Judicial District shall not exceed \$100.00 per case, at the discretion of the sentencing Judge. Expenditures from the fund shall be by order or voucher of the Chief Judge to benefit any designated domestic violence programs administered by the Court that enhance a coordinated community justice response to the issue of domestic violence.

Revised: 4-19-06

DCR 3.325

(Drug Court Program Board)

There is hereby created a Third Judicial Drug Court Program Board.

A. The Third Judicial Drug Court Program Board shall be comprised of the following persons:

1. One or more District Court Judge(s), as assigned by the Chief Judge;
2. One Assistant District Attorney, as assigned by the District Attorney;
3. One Public Defender or other defense attorney, as assigned by the Chief Public Defender;
4. One or more Court Services Officer(s), as assigned by the Director of Court Services;
5. The Drug Court Coordinator, as selected by the Third Judicial District's Chief Judge;
6. One or more Case Managers, as assigned by the Drug Court Coordinator;
7. All members of the Drug Court Treatment Team; and
8. Committee members, including providers and community members, as selected by the Third Judicial Drug Court Steering Committee.

B. Third Judicial Drug Court Program Board members shall serve for a term of two (2) years and may be reappointed for additional terms.

C. The Program Board shall hold monthly meetings, examine available Drug Court data, ensure compliance with grant standards, check ongoing outcomes, and conduct budget oversight. The

Program Board shall advise the Judges of the Third Judicial District. All actions shall be subject to the review and consent of the Judges of the Third Judicial District.

D. There shall be a Steering Committee of the Program Board.

1. The Steering Committee shall consist of:

- a. One or more District Court Judge(s), as assigned by the Chief Judge, who will serve as chair;
- b. One Assistant District Attorney, as assigned by the District Attorney;
- c. One Public Defender or other defense attorney, as assigned by the Chief Public Defender;
- d. The Director of Court Services or a designee; and
- e. A treatment provider or other member of the Drug Court Treatment Team, as assigned by the Chair.

2. The Steering Committee shall determine the distribution of any program incentives to program participants.

3. The Steering Committee will otherwise fulfill the responsibilities required by any and all grants, foundation papers, and all other official documents regarding the Third Judicial Drug Court Program.

4. The Steering Committee shall report on a regular basis to the Chief Judge and advise the Judges of the Third Judicial District. All actions shall be subject to the review and consent of the Judges of the Third Judicial District.

5. The Steering Committee will recommend to the Chief Judge candidates for position of the Drug Court Coordinator. The Chief Judge will make the final selection of the Coordinator. The Drug Court Coordinator will report to and be supervised by the Director of Court Services. Effective

January 1, 2003, the Drug Court Coordinator shall be subject to the personnel rules of the Kansas Supreme Court.

Adopted: 10-2-02

DCR 3.401

(Domestic Relations Cases)

1. (a) Captions in Divorce Cases. The caption in divorce cases shall have the petitioner's and respondent's full name pursuant to K.S.A. 60-210. Filings will not be accepted if full names are not in the caption.

(b) Ex Parte Orders.

(1) In domestic cases, motions for ex parte orders pursuant to K.S.A. 60-1607a shall be presented upon, or in conformity with the application and order forms prescribed by the District Court. Forms approved by the Court shall be available through the Office of the Clerk of the Court [F 3.402]. Unless specifically waived by the Court, relief different from that provided for in the standard application and order forms, may be had only upon a verified motion which sets forth the reasons for requesting relief different than provided in the approved forms. All modified ex parte orders shall set forth the Court's findings which support the granting of the requested relief.

(2) General Order on Temporary Child Custody and Child Support

(a) Unless the Court finds a probability of abuse or neglect and necessity based upon corroborated sworn testimony, no ex parte orders of temporary child custody or child support shall be entered without a hearing.

(b) Until permitted to do so by a specific order of the Court, neither party shall remove minor children from the jurisdiction of the Court nor from the residence where the children usually reside at the time the action was filed.

(3) General Order on Temporary Maintenance

Unless the Court finds extreme circumstances and necessity, no order for temporary maintenance shall be issued by the Court until after a hearing.

(4) The Court shall establish a weekly docket to take up motions for temporary child custody, child support and maintenance or for modification of any temporary order. The moving party must provide at least 48 hours notice to the non-moving party.

(c) Supporting Documents Required. All motions for temporary child support shall be accompanied by an Affidavit according to Supreme Court Rule 139 and Child Support Worksheet according to Supreme Court Administrative Order 107.

(d) Modification of ex parte Orders. Requests to vacate or modify ex parte orders obtained under this rule shall be made by written motion and shall comply with Supreme Court Rule 139 and Administrative Order 107.

2. (a) Documents Required. In all domestic actions, counsel shall bring to the final hearing (1) a proposed form of divorce decree if the case is uncontested (2) a domestic relations affidavit (3) if children are involved, (A) a completed Child Support Worksheet required by Supreme Court Administrative Order 107 and (B) evidence that the parents attended an educational program for divorcing parents required by this rule and (4) the State of Kansas Department of Health and Environment Vital Statistics form. The journal entry will not be filed by the Court until the documents are furnished.

(b) Hearings on Contested Cases - Documents Required. In all contested domestic cases the parties shall exchange, file and furnish to the trial judge, at least ten (10) days prior to hearing, a

domestic relations affidavit, if children are involved a completed child support worksheet, and the parties' proposals for division of property, allocation of debt, and maintenance.

(c) Submission of Journal Entry - Contested Cases. Unless otherwise specifically ordered by the trial judge, counsel directed to prepare the decree in contested domestic cases shall submit their proposed order to the Court and opposing counsel within ten (10) days following the decision pursuant to Supreme Court Rule 170.

3. Real Estate Involved. All divorce decrees in which title to real estate is involved should have prominently displayed on the 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. 58-2242(a). Further, counsel should file one additional copy of the journal entry for certification to the County Clerk pursuant to the statute.

4. Educational Sessions for Parents. Parents with minor children in all divorce actions filed after October 5, 1987, shall attend an educational program approved by the Court which deals with the impact of divorce on children within four (4) weeks after the action is filed or as directed by the trial judge. A party shall not be subject to this requirement if the Court finds that the party is indigent and that the fee will not be waived or reduced by the agency to permit attendance at such program. The requirement of this rule may be waived for good cause at any time by the trial judge.

5. Payment and Enforcement of Child Support. Pursuant to Rule 172 of the Kansas Supreme Court and the provisions of K.S.A. 23-492 et. seq., all child support orders shall be enforced by the District Court Trustee's office or the contracting agent for IV-D cases.

(a) Payments for Child Support and Maintenance through Clerk of the District Court. All orders for payment of child support entered in this district after March 1, 1986 and all orders for

payment of maintenance after November 1, 1997, shall provide that payments be made to the Clerk of the District Court.

(b) Mandatory Supplemental Orders. All orders for payment of child support, including modifications of existing support orders, entered in this district after March 1, 1986, shall contain the following as mandatory supplemental orders:

(1) "IT IS FURTHER ORDERED that all child support and maintenance payments shall be paid to the Kansas Payment Center, P.O. Box 758599, Topeka, Kansas 66675-8599. Any payments of child support not made in accordance with this provision shall be presumptively disallowed. Any payments made payable to the obligee may be endorsed and cashed by the Kansas Payment Center."

(2) "IT IS FURTHER ORDERED that the Office of SRS, or their contracting agent for IV cases, or the District Court Trustee for private cases shall monitor and enforce the payments of support ordered herein and may pursue on behalf of any child all civil remedies available to the obligee to enforce payments of child support."

(3) "IT IS FURTHER ORDERED that each party shall inform the Clerk of the District Court, the Kansas Payment Center and SRS for IV-D cases, or the District Court Trustee for private cases in writing of any change of name, residence and employer including address within seven (7) days after such change."

(4) "IT IS FURTHER ORDERED that withholding of income to enforce this order of support shall take effect without further notice to K.S.A. 23-4, 107, and all amendments thereto."

(5) "IT IS FURTHER ORDERED that the amount of child support payable per month in this case is \$ _____, due on or before the _____ day of each month and \$ _____ on arrears each month. The payments in this case are to be paid monthly."

(6) "IT IS FURTHER ORDERED that the home addresses and telephone numbers, employment names, addresses, and telephone numbers, and social security numbers of each party shall be included each time an order is entered."

(c) Exemptions from this Rule. The District Judge assigned to domestic matters shall review for exemption determination all written motions from parties requesting exemption from this rule, and

all journal entries submitted not in compliance with the mandatory supplement provisions of this rule pursuant to the following:

(1) It shall be the general rule that exemptions not be granted except for good cause shown pursuant to K.S.A. 23-4, 100, and all amendments thereto;

(2) Consideration may be given as exceptions to the general rule of non-exemption when a movant proves the following:

(A) The support order was made prior to March 1, 1986, has not been in arrears for more than one calendar month, and now is subject to the rule due to a post March 1, 1986, modification of the support order;

(B) The support order is being regularly paid by an irrevocable mandatory military allotment; or

(C) The support order has been satisfied by a posted security bond or endowed irrevocable trust.

(3) Exemptions granted shall be by written order.

(d) Filing. The Clerk of the District Court shall not accept for filing any order for child support which does not contain the mandatory supplemental orders.

(e) Record of Support Payments. The Clerk of the District Court, contracting agent for IV-D cases or Trustee for private cases shall maintain a record of all child support and maintenance payments in all cases subject to this rule. In cases where both maintenance and child support are collected, payments will be first applied to current child support then to current maintenance and any remaining amounts will be applied first to past due child support then to past due maintenance. In cases where only child support is collected, payments will be first applied to current child support then

to past due child support. Any support payment not received on the due date set forth in the Order of Support will be considered overdue.

(f) Support Orders Converted to Monthly Awards. Due to the need to make optimum use of available computer data storage space, all support orders not issued as monthly amounts shall be converted to monthly amounts for record keeping purposes per the following conversion table and posted on the final due date of the month:

weekly amount times 4.333,

bi-weekly amount times 2.166, and

semi-monthly amount times 2.

(g) Temporary Support Orders. Trustee's office or contracting agent for IV-D cases shall not enforce temporary support orders in a case after the entry of the final divorce decree unless a judgment for temporary support is specifically awarded by the Court in the final divorce decree.

(h) Payment Disbursement. The Clerk of the Court, contracting agent for IV-D cases or Trustee is authorized to disburse all payments received pursuant to temporary or permanent support or maintenance orders to the party entitled to receive same without further order of the Court.

If the Clerk of the District Court receives any funds through an income withholding order that causes over-collection of support in the case, the Clerk of the District Court shall apply the excess amount to the current support obligation in the successive months following the over-collection. Upon satisfaction of all obligations of future support in such cases, the Clerk of the District Court shall refund the overage to the obligor within a reasonable time.

(i) Cost of Enforcement. The fee to be charged by the District Court Trustee shall be established by Court Order per K.S.A. 23-497, and all amendments thereto. The maximum fee to be charged on current payments of child support and or maintenance shall be \$25.00.

6. (a) Powers of District Court Trustee. The District Court Trustee in the Third Judicial District is empowered to pursue all civil remedies which are available to an obligee in establishing and enforcing payments of support, and may perform all other duties with full powers authorized by K.S.A. 23-496, and all amendments thereto.

(b) Trustee's Duty to Child. The District Court Trustee's obligation under this rule to enforce child support orders is on behalf of and in the interest of the minor child or children of the parties in each case. There is no attorney-client relationships or duty created between an obligee or obligor and the Office of District Court Trustee.

(c) Right to Private Counsel. Nothing in this rule shall be construed to prohibit the right of any party to employ private counsel, at their own expense, or to enforce payment or modify orders of child support. However, private counsel shall furnish the District Court Trustee with notice of all proceedings and copies of all motions, pleadings and orders obtained in every case which is monitored and enforced by the District Court Trustee.

7. Time Standards. The Administrative Judge of the District shall monitor all cases subject to the expedited judicial process in order to ensure that any action to establish, modify, or enforce court obligations is completed from time of filing to the time of disposition within the following time frames:

- (1) 90% in 90 days.
- (2) 98% in 180 days.
- (3) 100% in 365 days.

8. (a) Expedited Judicial Process. Pursuant to K.S.A. 20-164 and Kansas Supreme Court Rule 172 entitled Expedited Judicial Process, there shall be appointed an Administrative Hearing Officer to hear all matters authorized by law, and specifically including parentage proceedings, post judgment motions and hearings relating to the establishment, modification, and enforcement of support orders, and post judgment motions to enforce visitation. The following procedures shall be applicable to matters assigned to the Administrative Hearing Officer:

(1) Motions to modify or establish post judgment child support obligations and motions to enforce visitation shall be scheduled on the Administrative Hearing Officer's docket by the Administrative Hearing Officer's staff, (233-8200 Ext. 4651) if filed by an attorney or by the Clerk of the District Court's office if filed by a pro se party. Counsel for the moving party shall mail hearing notice of the setting to opposing counsel and all parties concerned at their last known addresses or as required by statute. The Clerk of the District Court shall mail notice in pro se cases;

(2) Any post judgment motion to enforce visitation filed when there is a pending motion to modify child support before the Administrative Hearing Officer either pro se or with counsel shall be scheduled on the Administrative Hearing Officer's docket with the motion to modify child support. The Clerk of the District Court shall mail hearing notice of the pro se visitation motion to all parties concerned at their last known addresses or as required by statute;

(3) All motions and actions brought under the "Expedited Judicial Process" procedures shall be initially set for hearing before the Administrative Hearing Officer. Any motion may be transferred by the Administrative Hearing Officer to a District Judge or a matter may be removed from the Administrative Hearing Officer on order of a District Judge.

(b) Qualifications and Supervision. The hearing officer shall be an attorney admitted to the practice of law in the State of Kansas and shall be directly supervised by and serve at the pleasure of the Administrative Judge or a judge or judges designated by the Administrative Judge.

(c) Hearing Officer Powers. Matters cognizable by the hearing officer shall include motions to establish or modify child support, acceptance of voluntary acknowledgment of parentage, motions to stay or contest the issuance of an income withholding order, enforcement of visitation orders, the determination of the necessity for a contempt hearing, the monitoring of purging orders, issuing summons and subpoenas and such other matters as they may be within the purview of Rule 172.

(d) Preparation of Motions; Setting; Notice of Hearing. Upon the request of any party, the Clerk of the District Court, District Court Trustee or contracting agent for IV-D cases shall provide written forms approved by the Court for modification of child support or enforcement or modification of visitation. The Clerk of the District Court also shall cause such motion to be scheduled on the hearing officer's docket and shall mail hearing notices of the settings to all interested parties at their last known address or to the attorney of record or as otherwise required by statute.

(e) Accusations in Contempt. Contempt citations and Aids in Executions shall be heard at dockets as assigned by the Administrative Judge.

(f) Judicial Review. All orders issued by the hearing officer shall be subject to judicial review on the written motion of any party filed within ten (10) days after the Administrative Hearing Officer's order is filed with the Clerk. If no motion is filed within ten (10) days objecting to the hearing officer's order, it shall be deemed a final order of the district court.

(g) Copies of Support Payment Records. SRS, the contracting agent for IV-D cases, or the District Court Trustee shall provide copies of child support payment records to attorneys or any party. Any party not subject to a cost of enforcement fee can be charged a fee for the copies.

Revised: 9-1-99

DCR 3.402

(Forms)

Forms for Motions for Ex Parte Interlocutory Orders, Temporary Restraining Orders, Temporary Custody and Support Orders, and for mandatory Supplemental Orders are approved by the Court . [F

3.402(A)]

Forms for child support and protection from abuse matters are likewise approved. [F 3.402(B)]

DCR 3.403

(Pay-outs in Domestic Relations Cases)

A notation "MONEY PAID OUT" shall be made in the margin of the first page of all orders or journal entries providing for payout of monies in all domestic relations cases.

DCR 3.404

(Post Judgment Domestic Pleadings)

All post judgment child support enforcement pleadings, certificates, notices and orders in domestic cases, where the Office of the District Court Trustee is a party, may bear a computer-generated name or facsimile signature of the attorney or the District Judge, assigned in lieu of an original signature.

Upon motion of any party to the action, the Court for good cause shown may direct the pleading or order be signed by the District Court Judge, the District Court Trustee or Deputy District Court Trustee or be stricken from the file.

*******REPEALED 8-23-2000*******

DCR 3.405

(Standards and Procedures for Child Support Enforcement Dockets)

A. Delinquent Payments The obligor may be served with an “Order to Appear for Hearing in Aid of Execution” if he/she is at least two full months delinquent in support payments.

B. Service of Process Obligor shall be served with an “Order to Appear for Hearing in Aid of Execution” requiring the obligor to appear to give information at the docket held at the Expocentre. This order may be served by first class mail. The proceeding held pursuant to this order shall permit the enforcement agency to gather information for the purpose of collecting support payments. If the obligor fails to appear for examination as ordered, the obligor may be cited in contempt for failure to appear.

These citations shall be personally served and shall be called at the Expocentre, as similar limited actions cases are handled. Absent a judicial finding to the contrary, submitting to the examination shall purge this contempt. If collection efforts fail and the movant deems the case an appropriate one for contempt charges for failure to pay as defined in these rules, then the movant may file a Motion and Affidavit in Contempt and the debtor shall be personally served with a “Citation in Contempt” for hearing at the Shawnee County Courthouse.

Failure to pay as contemplated in this rule means (a) an arrearage of at least three (3) full months payments and (b) that the support obligor has assets or the ability to pay the support obligation but has deliberately, willfully and without good cause, failed to pay or take reasonable action to make payments. Repeated failures to appear (3 or more times in a 12 month period) may also constitute a basis for filing a Motion and Affidavit in Contempt.

C. Summons and Six Month Continuing Review Notice Obligor will be ordered to appear at the Expocentre on a continuing monthly basis until dismissed from the docket, or -ordered to appear for a contempt trial. The obligor shall check in with the clerk when he/she appears at the Expocentre and shall

present himself/herself to the appropriate enforcement agency(ies) for examination. Each monthly appearance date for continuing review shall be listed on an “Order to Appear for Review” which the clerk shall provide to the obligor at the obligor’s initial appearance. This notice and order shall plainly state that the obligor need not appear if his/her full payment has been made prior to the hearing. Obligor who are incarcerated shall be ordered to appear within thirty (30) days following their release from incarceration.

D. Dismissal Obligor shall be dismissed from the docket after six months of regular payment, either by income withholding order or by voluntary payment. Application of cash deposit bail bond funds shall not be considered a regular payment. Obligor who have been judicially or administratively determined to be disabled to the extent that they are unable to work or have other income shall be dismissed from the docket.

E. Contempt Trials and Criminal Non-Support Obligor who are 3 or more full months delinquent in support payments and have the ability to pay and have refused to pay, or are deliberately underemployed or unemployed, shall be removed from the collection docket and charged with contempt or alternatively referred to the District Attorney for criminal prosecution under the non-support statute.

F. Counsel In contempt cases, the obligor shall not have counsel appointed if they have sufficient actual income or other assets to employ an attorney. A financial affidavit shall be used to determine the issues of income and indigency. The movant may rebut the obligor’s assertions regarding income and indigency by objecting at the hearing or by making a written or oral motion to have the matter determined by the judicial officer hearing the matter.

G. Bench Warrants, Bonds, Hearings A bench warrant may be issued if the obligor fails to appear for a contempt hearing. The amount of cash bond for bench warrants shall be determined as follows:

1st failure to appear	1/mo. current support, or \$100, whichever is greater
-----------------------	---

2nd failure to appear	2/mo. current support, or \$250, whichever is greater
3rd and subsequent failure to appear	3/mo. current support, or \$500, whichever is greater

If the obligor has posted the cash bond, he/she shall be ordered to appear at the Expocentre at 8:30 a.m. on the third Tuesday of each month as determined by the Court.

H. Forms Forms for each of the matters described in this rule have been approved by the Court and are required to be used. Any alteration in these forms shall be highlighted and called to the Court's attention when filed or presented for signature. They are:

Motion for Examination of Judgment Debtor:	F 3.405A
Master Motion for Examination of Judgment Debtor(s):	F 3.405A(2)
Order to Appear for Hearing in Aid of Execution and Return of Service:	F 3.405B
Master Order to Appear for Hearing in Aid of Execution and Return of Service	F 3.405B(2)
Alias Order to Appear for Hearing in Aid of Execution and Return of Service:	F 3.405C
Master Alias Order to Appear for Hearing in Aid of Execution and Return of Service:	F 3.405C(2)
Citation in Contempt (Failure to Appear) and Return of Service:	F 3.405D
Alias Citation in Contempt (Failure to Appear) and Return of Service:	F 3.405E
Order to Appear for Review:	F 3.405F
Summons to Appear for Review and Return of Service:	F 3.405F(2)
Motion and Affidavit for an Order to Appear and Show Cause:	F 3.405G
Order to Appear and Show Cause and Return of Service:	F 3.405H
Application for Appointed Defense Services:	F 3.405I

Financial Affidavit: F 3.405J

Motion to Establish Child Support Order F 3.405K

I. Pro Se Forms Forms for the following matters have been approved for pro se litigants:

Motion for Modification of Child Support F 3.405L

Mini Domestic Relations Affidavit F 3.405M

Child Support Worksheet F 3.405N

Information on Child Support, Custody & Visitation F 3.405O

Kansas Payment Center -

Child Support Order Information Sheet F 3.405P

Mandatory Supplemental Orders F 3.405Q(1)

Mandatory Supplemental Orders for Direct Pay Cases F 3.405Q(2)

Motion to Establish Parenting Time F 3.405R

Motion to Modify Parenting Time F 3.405S

Motion to Enforce Parenting Time F 3.405T

Proposed Parenting Plan F 3.405U

Motion for Conciliation F 3.405V

Motion for Reimbursement of Uninsured Health

Care Expenses F 3.405W

Request for Transcript F 3.405X

Motion for Judicial Review F 3.405Y

Poverty Affidavit F 3.405Z

Adopted: 10-29-97

Revised: 10-1-08

F 3.405K

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO ESTABLISH CHILD SUPPORT ORDER

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The last court order, filed on _____ did not set child support because:

_____.

2. The following material change(s) of circumstance warrant(s) the establishment of a current child support order: _____

_____.

3. Submitted with this Motion is, a current Domestic Relations Affidavit and copies of my most recent pay stub(s) or other proof of income.

4. My gross income each month is \$ _____ and the other parent's gross income each month is estimated to be \$ _____.

5. The name, current address and telephone number of the other parent is **known** to be:

(If not known, do not complete) _____

_____.

WHEREFORE, I pray that the Court establish a current child support order of \$ _____ per month current support and \$ _____ per month to be applied toward any arrearage in accordance with the Kansas Child Support Guidelines and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address _____

Phone _____

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the day of , 20___, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

A Mini-Domestic Relations Affidavit must accompany all Motions To Establish Child Support.

Financial information is not required if the request is for termination only.

F 3.405L

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO MODIFY CHILD SUPPORT ORDER

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The last court order, filed on _____ sets the child support of the **Petitioner/Respondent** at \$ _____ per month for current support and \$ _____ per month to be applied toward any arrearage.

2. The following material change(s) of circumstance warrant(s) modification of the last child support order: _____
_____.

3. I am submitting with this Motion, a current Domestic Relations Affidavit and copies of my most recent pay stub(s) or other proof of income.

4. My gross income each month is \$ _____ and the other parent's gross income each month is estimated to be \$ _____.

5. The name, current address and telephone number of the other parent is **known** to be:
(If not known, do not complete) _____
_____.

WHEREFORE, I pray that the Court modify the last child support order to \$ _____ per month current support and \$ _____ per month to be applied toward any arrearage in accordance with the Kansas Child Support Guidelines and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent
Address _____

Phone _____

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the day of , 20___, he/she caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

**A Mini-Domestic Relations Affidavit must accompany all Motions To Modify Child Support.
Financial information is not required if the request is for termination only.**

**A Mini-Domestic Relations Affidavit must accompany all Motions To Establish Child Support.
Financial information is not required if the request is for termination only.**

B. Self-Employed, Gross income \$ _____
Reasonable Business Expense \$ _____
Self-Employment Tax \$ _____

6. Work Related Child Care Expenses:

A. Weekly Summer Expense Name and Address of Provider
\$ _____

B. Weekly School Year Expense Name and Address of Provider
\$ _____

7. Father/Mother provides Health Insurance for child(ren).

A. Name and Address of Health Insurance Plan: _____

B. Persons insured on plan: _____

C. Monthly cost of health insurance: \$ _____
Monthly cost of dental insurance: \$ _____
Monthly cost of vision insurance: \$ _____
Monthly cost of drug prescription insurance: \$ _____
Increase cost of adding child(ren) to the plan: \$ _____

8. Father/Mother claims child(ren) for income tax purposes.

You file taxes: _____ Single _____ Head of Household _____ Joint _____ Other

9. Child Support Adjustments requested: _____ Long Distance Parenting Time Adjust.

_____ Parenting Time Adjustment _____ Income Tax Adjustment _____ Special Needs
_____ Agreement Past Minority _____ Overall Financial Condition

10. Attached is: _____ Current Pay Stub _____ Last Year's Tax Form _____ W-2

_____ Written Proof of Day Care Cost _____ Written Proof of Insurance Costs
_____ Other

I declare under penalty of perjury under the laws of the state of Kansas that the forgoing is true, correct and complete.

Executed on the _____ day of _____, 20__.

Petitioner/Respondent

F 3.405N

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

CHILD SUPPORT WORKSHEET OF: _____

A. INCOME COMPUTATION-WAGE EARNER MOTHER FATHER

1. Domestic Gross Income (Insert on Line C.1. below)* _____

B. INCOME COMPUTATION-SELF-EMPLOYED

1. Self-Employment Gross Income* _____

2. Reasonable Business Expenses (-) _____

3. Domestic Gross Income (Insert on Line C.1. below) _____

C. ADJUSTMENTS TO DOMESTIC GROSS INCOME

1. Domestic Gross Income _____

2. Court-Ordered Child Support Paid (-) _____

3. Court-Ordered Maintenance Paid (-) _____

4. Court-Ordered Maintenance Received (+) _____

(Insert on Line D.1. below)

D. COMPUTATION OF CHILD SUPPORT

1. Child Support Income _____ + _____
= _____

2. Proportionate Shares of Combined Income
(Each parent's income divided by combined income) _____ % _____ %

3. Basic Child Support Obligation**
(Using combined income from Line D.1., find amount for each child and enter total for all children)

Age of Children	0-6	7-15	16-18	
Number Per Age Category	_____	_____	_____	
Total Amount	_____	_____	_____	= _____

* Cost of Living Differential Adjustment? _____ Yes _____ No

* Multiple Family Adjustment? _____ Yes _____ No

MOTHER FATHER

4. Health and Dental insurance Premium _____

5. Work-Related Child Care Costs
 (Amount x % + [.25 x (Amt. x %)] _____
 for child care credit = _____)
6. Parents' Total Child Support Obligation
 (Line D.3. plus Lines D.4. and D.5) _____
7. Parental Child Support Obligation
 (Line D.2. times Line D.6. for each parent) _____
8. Adjustment for Insurance and Child Care
 (Subtract for actual payment made for items _____
 D.4. and D.5.) _____
9. Net Parental Child Support Obligation
 (Obligation (Line D.7. minus Line D.8. _____
 Insert on Line F.1. below)

E. CHILD SUPPORT ADJUSTMENTS

APPLICABLE	N/A	CATEGORY	AMOUNT ALLOWED	
			PARENT A	PARENT B
1. _____	_____	Long Dist. Parenting Time Costs (+/-)	_____ (+/-)	_____
2. _____	_____	Parenting Time Adjustment	(+/-) _____	(+/-) _____
3. _____	_____	Income Tax Considerations	(+/-) _____	(+/-) _____
4. _____	_____	Special Needs	(+/-) _____	(+/-) _____
5. _____	_____	Agreement Past Minority	(+/-) _____	(+/-) _____
6. _____	_____	Overall Financial Condition	(+/-) _____	(+/-) _____
7. TOTAL (Insert on Line F.2. below)			_____	_____

F. DEVIATION(S) FROM REBUTTABLE PRESUMPTION AMOUNT

1. Net Parental Child Support Obligation (Line D.9 from above)	_____	_____
2. Total Child Support Adjustments (Line E.7 above)	(+/-) _____	(+/-) _____
3. Adjusted Child Support Obligation	_____	_____
4. Child Support Enforcement Fee	+ _____	+ _____
5. *Estimated amount of arrearage _____		
6. Monthly support towards arrearage	+ _____	+ _____
7. Total Monthly Support Due	_____	_____

* As shown by the records of the collecting agency. Arrearage does not include interest. Attorneys are expected to check the arrearage amount with SRS for IV-D cases, and the District Court Trustee for private cases, prior to submitting this worksheet.

District Court Judge/Administrative Hearing Officer

PREPARED AND SUBMITTED BY:

Attorney for Respondent/Petitioner

F 3.4050

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
Division ____

In the Matter of

_____,
Petitioner/Plaintiff,

and/vs.

Case No. _____

_____,
Respondent/Defendant.

SHARED EXPENSE ORDER

The Court hereby adopts the following plan for sharing of direct expenses of the minor child(ren) which shall be in addition to the monetary child support as required by the shared residency arrangement.

a. Unless otherwise mutually agreed, the purchase of school clothing and shoes shall be done jointly by the Petitioner and the Respondent during the month of August. The parties agree that Petitioner shall be responsible for ____% of the cost and Respondent shall be responsible for ____% of the cost, up to \$_____ per parent.

b. Unless otherwise mutually agreed, the parties further agree that they will shop for the child(ren)'s summer clothes and shoes during April or May. Petitioner shall be responsible for ____% of the cost and Respondent shall be responsible for ____% of the cost, up to \$_____ per parent.

c. The parties further agree that they are each free to buy additional clothing for the minor child(ren) at any time at their own expense.

d. The parties further agree to share the cost of school, enrollment, books, supplies yearbooks, senior pictures, haircuts, uniforms, musical instruments, driver's education and/or field trips with the Petitioner responsible for ____% of the cost and Respondent responsible for ____% of the cost.

e. School lunches shall be prepaid for each of the minor child(ren), with the Petitioner responsible for ____% of the cost and Respondent responsible for ____% of the cost.

f. The parties agree that the child(ren) may be involved in extracurricular activities with the consent of both parents. They further agree that the costs of such agreed activities shall be shared with the Petitioner responsible for ____% of the cost and Respondent responsible for ____% of the cost.

g. Failure to pay a party's respective share of direct expenses may result in modification of child support or other sanctions.

h. The parties shall share the work-related day care or after school care of the child(ren), with the Petitioner responsible for _____ % of the cost and Respondent responsible for _____ % of the cost.

i. The parties shall each pay the following direct expenses of the child(ren), with the Petitioner responsible for _____ % of the cost and Respondent responsible for _____ % of the cost:

1. Any clothing needed for the child(ren)'s special event (which shall include, but not be limited to, formal dances, prom and graduation) so long as the expenditure for such clothing is reasonable and is discussed with the other party prior to the purchase; and
2. Any expense relating to the education, health and/or fitness of the child(ren) so long as such expenses are reasonable and discussed with the other party prior to the expenditure.

j. At the end of each quarter of the calendar year, or at any other time mutually agreed upon in writing by the parents, the parties shall present to each other their respective expenditures for direct each other their respective expenditures for direct expenses of the minor child(ren) in the form of receipts for purchases thereof and canceled checks or other form of payment. After totaling the amount of expenditures of each party, the party with the lower amount of expenditures shall reimburse the other party one-half of the difference within thirty (30) days. Failure of one party to submit any such direct expenses to the other party by use of this method for a period of 120 days following the expenditure shall extinguish any right of reimbursement from the nonparticipating party in such expense. Failure of either party to pay their respective share of the child(ren)'s direct expenses within thirty (30) days may be considered a basis for sanctions or other appropriate relief.

k. Failure to pay a party's respective share of the direct expenses may result in modification of child support or other sanctions.

IT IS SO ORDERED.

Entered on this _____ day of _____, 20__.

Administrative Hearing Officer

Agreed to and approved by:

Petitioner

Respondent

Attorney for Petitioner

Attorney for Respondent

F 3.405O(1)

CHILD SUPPORT, CUSTODY & PARENTING TIME

COMMONLY ASKED QUESTIONS AND ANSWERS*

1. WHAT IF I DO NOT THINK THIS IS MY "BIOLOGICAL" CHILD?

ANSWER: Normally, once a court has established paternity, the Court cannot set this finding aside. In other words, once you are found to be the parent, you are financially responsible to support the child or children. If you wish to contest this, you will need to file a motion yourself or employ a lawyer to do so for you.

2. WHAT IF MOTHER AND FATHER STILL LIVE TOGETHER OR HAVE RECONCILED OR THE CHILD(REN) IS LIVING WITH ME?

ANSWER: You should move to change the order for child support to reflect the actual residence of the child. It is the duty of the parents (parties) to prepare and present this order. The Court will not change the order on its own. You will need to file a written motion with the Court or prepare an agreed order to be filed. A form (F3.405M) for this motion can be obtained from the Clerk of the District Court, Domestic Department.

3. WHAT IF MY CHILD SUPPORT ORDER IS TOO HIGH?

ANSWER: Your attorney, or you on your own without an attorney, can file a motion to request a reduction of your child support. You will have to pay a filing fee, unless you qualify to file the motion with a poverty affidavit. Forms (F3.405M & N) for this motion can be obtained from the Clerk of the District Court, Domestic Department.

4. WHY SHOULD I PAY CHILD SUPPORT WHEN I DO NOT GET PARENTING TIME?

ANSWER: Child support and parenting time are two separate issues. Your duty or obligation to pay child support does not depend upon whether you are receiving parenting time. Your parenting time rights should not be based on whether you are actually paying your monthly child support payment. If you are being denied parenting time, you have right to file a motion to enforce this right. You do not need a lawyer to file this motion. You may get a form (F 3.405K) for this motion from the Clerk of the District Court, Domestic Department. It is important to have the other party's address.

5. WHAT IF I CANNOT WORK BECAUSE OF A DISABILITY?

ANSWER: You will need to provide the child support agency with written documentation (usually medical) regarding your health and disability including any documentation concerning your workers' compensation claims, social security or any other disability agency's determination. It is important to file a motion with the court to review your child support. This procedure is explained in paragraph three above.

6. WHY DO I HAVE TO PAY CHILD SUPPORT IF THE OTHER PARENT IS NOT WORKING?

ANSWER: Kansas has a statewide guideline to govern child support amounts. Under these guidelines, both parents are financially responsible for the child(ren). Often when a parent (party) is not employed or is under-employed, the Court when issuing the child support order will impute income to that unemployed or under-employed parent. That means that the Court will assume for the child support guideline purposes that the parent can work 40 hours a week at a minimum wage job, at least.

7. WHAT IF THE RESIDENTIAL PARENT IS NOT SPENDING THE MONEY ON THE CHILD(REN)? AREN'T I ENTITLED TO KNOW HOW THE MONEY IS SPENT?

ANSWER: Normally, the Court does not require an accounting from the residential parent showing how child support monies are spent. Child support is not just for direct needs of the child, such as food, clothes, school expenses, and entertainment. It is also to be used for housing, utilities, transportation, and for other indirect expenses related to the day-to-day care and well-being of the child.

8. ARE SERVICES AVAILABLE WHERE THE OTHER PARENT AND I CAN GET HELP IN RESOLVING OUR CUSTODY/PARENTING TIME PROBLEMS?

ANSWER: Yes. You should file a motion for conciliation. This motion will be placed on a motion docket and a judge can refer you and the other parent to a Court Services Domestic Relations Counselor or to a mediator. Your financial circumstances will determine what cost, if any will be incurred.

* This information is supplied as a courtesy by enforcement and defense counsel and is intended to be helpful. However, all parties are advised and encouraged to consult their own attorney for individual advice in specific cases.

F 3.405Q(1)

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION ____

IN THE MATTER OF THE MARRIAGE OF:

_____,
And _____.

CASE NO.: _____
DATE: _____

MANDATORY SUPPLEMENTAL ORDERS

The following mandatory supplemental orders pertaining to enforcement of child support are incorporated in the foregoing order and are incorporated as a part thereof pursuant to Shawnee County District Court Rule#3.401:

IT IS FURTHER ORDERED that all child support and maintenance payments be paid to the Kansas Payment Center, PO Box 758599, Topeka, Kansas 66675-8599. Any payments of child support not made in accordance with this provision shall be presumptively disallowed. Any payments made payable to the obligee may be endorsed and cashed by the Kansas Payment Center.

IT IS FURTHER ORDERED that the Office of the SRS or their contracting agent for IV-D cases, or DCT for private cases shall monitor and enforce the payments of support ordered herein and may pursue on behalf of any child all civil remedies available to the obligee to enforce payments of child support.

IT IS FURTHER ORDERED that each party shall inform the Clerk of the District Court, Kansas Payment Center, and SRS for IV-D cases, or DCT for private cases party in writing of any changes of name, residence and employer including business address within seven (7) days of such change.

IT IS FURTHER ORDERED that withholding of income to enforce this order of child support or modification shall take effect thereto without further notice pursuant to K.S.A. 23-4, 107, and any amendments thereto.

IT IS FURTHER ORDERED that the amount of child support payable per month in this case is \$_____, current, due on or before the ____ day of each month and \$_____ on arrears per month. The payments in this case are to be paid monthly.

IT IS FURTHER ORDERED that the following information be provided each time an Order is entered:

Petitioner
Home Address: _____

Home Phone: _____
Employer Name: _____
Business Address: _____
Business Phone: _____
Soc. Sec. No.: _____

Respondent
Home Address: _____

Home Phone: _____
Employer Name: _____
Business Address: _____
Business Phone: _____
Soc. Sec. No.: _____

Prepared and submitted by:

Judge of the District Court/AHO

F3.405Q(2)

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

DIVISION _____

IN THE MATTER OF THE MARRIAGE OF:

_____,
And
_____.

CASE NO.: _____

DATE: _____

MANDATORY SUPPLEMENTAL ORDERS FOR DIRECT PAY CASES

The following mandatory supplemental orders pertaining to enforcement of child support are incorporated in the foregoing order and are incorporated as a part thereof pursuant to Shawnee County District Court Rule #3.401:

IT IS FURTHER ORDERED that all child support and maintenance payments shall be paid directly to the _____ by the _____. The written agreement of the parties to make direct child support payments is filed with this order, and the Court does find that good cause has been shown.

IT IS FURTHER ORDERED that the shall maintain a written record of all child support payments received and report the same to the Court and _____ on an annual basis.

IT IS FURTHER ORDERED that the annual accounting shall be filed with the Court no later than _____ each year.

IT IS FURTHER ORDERED that each party shall inform the Clerk of the District Court and the other party in writing of any changes of name, residence and employer including business address within seven (7) days of such change.

IT IS FURTHER ORDERED that withholding of income to enforce this order of support or modification shall not take effect at this time.

IT IS FURTHER ORDERED that the amount of child support payable per month in this case is \$_____, current, due on or before the ____ day of each month and \$_____ on arrears per month. The payments in this case are to be paid _____.

IT IS FURTHER ORDERED that the following information be provided each time an Order is entered:

Petitioner

Home Phone: _____

Home Address: _____

Employer Name: _____

Business Phone: _____

Soc. Sec. No.: _____

Respondent

Home Phone: _____

Home Address: _____

Employer Name: _____

Business Phone: _____

Soc. Sec. No.: _____

Prepared and Submitted by: _____

Judge of the District Court/AHO

_____, of lawful age, being first duly sworn on oath states:

I do solemnly swear that I am the movant in the above action; I have read the above pleading, know the contents thereof and the same is true and correct.

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

Notary Public

My Appointment Expires:

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the day of , 20____, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

(Attach Proposed Parenting Plan Here)

F 3.405S

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO MODIFY PARENTING TIME

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the
Court:

1. The current order, filed on _____ grants the **Petitioner/Respondent**
parenting time as follows: _____

_____.

2. Parenting time was last requested of the other parent on: _____.

3. Parenting time should be changed to comply with the attached Parenting Time Plan.

4. The name, current address and telephone number of the other parent is **known** to be:
(If not known, do not complete) _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion
and for such further and other relief the Court deems just and equitable in the premises

Respectfully submitted,

Petitioner/Respondent

Address _____

Phone _____

F 3.405T

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION TO ENFORCE PARENTING TIME

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The current order, filed on _____ grants the **Petitioner/Respondent**
parenting time as follows: _____

_____.

2. Parenting time was last requested of the other parent on: _____.

3. The order of Parenting time is not being followed because: _____

_____.

4. The name, current address and telephone number of the other parent is **known** to be:
(If not known, do not complete) _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion
and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address _____

Phone _____

F 3.405U

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

PROPOSED PARENTING PLAN

1. Designation of the temporary legal custody of the child: Joint Sole
2. Designation of a temporary residence for the child:
 _____ with Petitioner at (address): _____
 _____ with Respondent at (address): _____
3. Allocation of parental rights and responsibilities regarding matters pertaining to the child's health, education and welfare:
 _____ Joint _____ with Petitioner _____ with Respondent
 Other: _____
4. A schedule for the child's time with each parent (when appropriate):
 _____ Unsupervised parenting time. Proposed schedule: _____
 _____ Supervised parenting time. Proposed schedule: _____
 _____ No parenting time unless ordered by the Court. Specific reason for request that no parenting time be allowed: _____
 _____ Other. Explain: _____

Petitioner/Respondent

Date: _____

Submitted by:

Attorney for Petitioner/Respondent

F 3.405V

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

MOTION FOR CONCILIATION

Comes now, the (Petitioner) (Respondent) and moves the Court for an Order for Conciliation. In support of this motion, movant states:

1. That the parties have completed the DivorceWorks Seminar.
2. The parties are presently not able to resolve the custody, residency and parenting time issues involving their minor children, _____.
3. That conciliation by a Court Services Officer or private conciliator may be of assistance in resolving the disputed issues of custody, residency and parenting time.

Wherefore, movant prays that the Court enter an Order for Conciliation, requiring the parties to conciliate the disputed issues.

Attorney for _____

Petitioner's Address: _____
Telephone: _____

Respondent's Address: _____
Telephone: _____

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Heading)

Case No. _____

ORDER FOR CONCILIATION

The Court having been advised that a dispute exists between the parties relative to custody, residency and parenting time of the minor child(ren) in this case, enters the following findings:

1. That it is in the best interests of the parties and their minor child(ren) that there be an amicable settlement of the custody, residency and parenting time issues; and
2. The Court finds that a (jointly-selected)(Court-appointed) conciliator shall meet with the parties to assist them in reaching agreements as to the issues identified below:
_____ Residential Placement
_____ Parental Access (parenting time)
_____ Decision Making (education, medical needs, spiritual training, etc.)
_____ Other: _____

3. That a Court Services Officer (CSO) in the domestic relations division should meet with the parties and serve as conciliator pursuant to the Shawnee County Family Law Guidelines on the issues of parenting time, residency and custody. If unable to accomplish an agreement, the CSO shall prepare a report to the Court stating whether or not an agreement has been reached and if not, the reasons for failure of conciliation. This report will contain an evaluation of those issues which bear on custody, residency and parenting time and may contain a recommendation for court resolution or for an order for counseling, mediation or other dispute resolution services.

IT IS THEREFORE ORDERED that the parties to this case confer with a Court Services Officer and participate in a conciliation process.

IT IS FURTHER ORDERED that if an agreement cannot be reached, the CSO shall provide the Court with a report as set forth above relative to the custody, residency and parenting time issues and recommendations to serve the best interests of the parties' minor child(ren).

IT IS FURTHER ORDERED that the parties shall meet with a Court Services Officer at such times, places and appointments which are set and to provide such information as the CSO requests.

Entered this _____ day of _____, 20____ at Topeka, Kansas.

IT IS SO ORDERED.

JUDGE

Counsel for Petitioner: _____

Petitioner's Address: _____

Petitioner's Phone #s: Work _____ Home _____

Counsel for Respondent: _____

Respondent's Address: _____

Respondent's Phone #s: Work _____ Home _____

F 3.405W

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

(Caption)

Case No. _____

**MOTION FOR REIMBURSEMENT OF UNINSURED
HEALTH CARE EXPENSES**

COMES NOW, the **Petitioner/Respondent**, and in support of this motion shows the Court:

1. The Court's order of _____, 20 __, states that the **Petitioner/ Respondent** shall be responsible for _____% of the total uninsured medical expenses, which includes any deductible, for the **child(ren)** of the parties.

2. I have not agreed to any treatment (except for emergencies) that makes the other parent responsible for more than \$250 without advising and consulting with the other parent before agreeing to the expense of treatment.

3. True and correct copies of the attached bills were sent to the other parent and **he/she** was requested to pay **his/her** percentage of them, but **he/she** has failed and refused to pay **his/her** percentage.

4. The name, current address and telephone number of the other parent is **known** to be:
(If not known, do not complete) _____
_____.

WHEREFORE, the **Petitioner/Respondent** prays that the Court grant **his/her** Motion in the amount of \$_____, and for such further and other relief the Court deems just and equitable in the premises.

Respectfully submitted,

Petitioner/Respondent

Address _____

Phone _____

CERTIFICATE OF SERVICE

The below signed hereby certifies that on the day of , 20____, **he/she** caused to be served a true and correct copy of the above and foregoing instrument in writing by causing the same to be deposited in the United States Mail, First Class, postage prepaid and addressed as follows:

F 3.405X

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION _____

In the Matter of the Marriage of

and

Case No. _____

Pursuant to K.S.A. Chapter 60

REQUEST FOR TRANSCRIPT

_____ hereby requests a typed transcript of the hearing
(Name of party)
on the _____ day of _____, 20____. The tape of the hearing is indexed as date:
_____ from _____ to _____. Attached is a certified
check or money order for the estimated cost of transcribing, which is \$_____.

(Signature of Requesting Party)

(Address of Requesting Party)

(Telephone Number of Requesting Party)

F 3.405Y

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION ____

(Caption)

Case No. _____

MOTION FOR JUDICIAL REVIEW

COMES NOW the _____ and moves the Court for a judicial hearing relative to the Administrative Hearing Officer's recommended order filed _____, 200____, for the following reason(s);

1. _____

_____ ; and

2. _____

_____.

Petitioner/Respondent

Address

Telephone Number

CERTIFICATE OF MAILING

I certify that a copy of the Motion for Judicial Review, filed _____, _____, was mailed or delivered on this _____ day of _____, 20__ to the following:

Clerk of the District Court

F 3.405Z

IN THE THIRD JUDICIAL DISTRICT
SHAWNEE COUNTY, KANSAS

Plaintiff

vs

Case Number _____

Defendant

POVERTY AFFIDAVIT

In the District Court of Shawnee County, I do solemnly swear that the claim set forth in the petition herein is just, and I do further swear that, by reason of my poverty, I am unable to pay a docket fee. My income and assets are as follows:

Current monthly income: _____ Checking account: _____

Savings account: _____ Cash: _____

Home equity: _____

Estimated automobile value: _____

Other pertinent financial information: _____

VERIFICATION

Under penalty of perjury, I certify that the above information and statements are true to the best of my knowledge.

Signature: _____

Address: _____

Phone Number: _____

SUBSCRIBED AND SWORN TO, before me a notary public, this _____ day of _____, 20____.

My Commission Expires: _____

DCR 3.406
(Domestic Case Services Fee)

Pursuant to K.S.A. 60-2001(a), the court has established alternative dispute resolution fees for domestic case services. Effective June 1, 2006, parties referred to conciliation with Court Services shall pay a conciliation service fee of \$25.00 per person. Parties referred to Court Services for Parent Coordination services shall pay a Parent Coordination fee of \$150.00 per person per year.

Fees assessed shall be paid to the Clerk of the District Court prior to the commencement of the process unless the court finds that a party is indigent and that the fees should be waived. The conciliation fee shall be charged every time the parties are referred back to Court Services for conciliation. The Parent Coordination fee is for one year of Parent Coordination services.

There is hereby created and established a local Domestic Case Services Fee Fund to receive payments of Domestic Case Services Fees assessed by the Court for conciliation services and Parent Coordination services. Expenditures from the fund shall be by order or voucher of the Chief Judge for grants to programs or purposes recommended by Court Services and approved by the judges.

Revised: 10/16/13

DCR 3.501
(Juvenile Proceedings)

The following rules, and any amendments and/or additions thereto, shall apply in all K.S.A. 38-1501, et. seq., proceedings initiated pursuant to the Kansas Code for the Care of Children and all K.S.A. 38-1601 et. seq. proceedings initiated pursuant to the Kansas Juvenile Justice Code.

DCR 3.502

(Terms Used in Juvenile Court)

An action in the District Court pursuant to K.S.A. 38-1501, et. seq., is initiated by the filing of verified petition; the petition sets forth the allegation(s); the juvenile is referred to as the respondent; the juvenile may be adjudicated upon stipulation or after trial or hearing a "child in need of care"; and after adjudication, a disposition is had, frequently after a home study or predisposition study and report is completed by a Court Services Officer or social worker of the Court's use at the dispositional hearing.

An action in the District Court pursuant to K.S.A. 38-1601, et. seq., is initiated by the filing of a verified complaint; the complaint sets forth the allegation(s) of the offense(s); the juvenile is referred to as the respondent; the juvenile may be adjudicated upon plea of guilty, plea of nolo contendere, or after trial or hearing, a "juvenile offender"; after adjudication a sentencing is had, frequently after a home study or presentence investigation and report is completed by a Court Services Officer or social worker for the Court's use at the sentencing hearing.

Detention is the temporary care of a child or youth who requires secure custody pending a detention hearing, an adjudication by the Court, the sentencing and the execution of same.

DCR 3.503

(Ex Parte Temporary Custody Orders)

Ex parte temporary custody orders shall not be issued without a verified application establishing probable cause of circumstances warranting the issuance of same.

DCR 3.504

(Detention and Temporary Custody)

Detention hearings and temporary custody hearings shall be held prescribed by law (K.S.A. 38-1543; 38-1632) unless waived by the child, the guardian ad litem for the child and the child's parent, guardian or other legal custodian unless the latter is unavailable. Such hearings are scheduled each working day, except holidays, at 1:30 p.m. or at such other time as may be directed by the Judge.

DCR 3.505
(Docket Calls)

General docket calls shall be held on each Monday for proceedings under the Kansas Code for the Care of Children (K.S.A. 38-1501, et seq.), excluding holidays, beginning at 8:30 a.m. and 1:30 p.m. Dockets which would be scheduled for court approved holidays shall be held on the Wednesday immediately following at the same times.

General docket calls shall be held on each Tuesday for proceedings under the Kansas Juvenile Justice Code (K.S.A. 38-1601 et seq.) beginning at 8:00 a.m. and 2:00 p.m.. No general docket call shall be had on the fifth (5) Tuesday of any given month.

Children who are detained shall receive priority scheduling on docket calls, adjudicatory trials and sentencing hearings.

DCR 3.506

(Appointment of Counsel)

Actions pursuant to K.S.A. 38-1501 et.seq.:

A guardian ad litem, who is an attorney in compliance with Supreme Court Administrative Order No. 100, shall be appointed for each respondent upon the filing of a petition.

An attorney shall be appointed for each parent or legal guardian of the respondent upon request and determination of indigency or inability to retain counsel pursuant to the financial affidavit as executed and provided to the Court. The form of the financial affidavit shall be approved by the Court and made available to parents or legal guardians by the Clerk of the District Court.

Actions pursuant to K.S.A. 38-1601 et.seq.:

An attorney shall be appointed to represent the respondent upon the filing of a complaint. A respondent may retain counsel in lieu of appointed counsel.

Adopted: 4-15-98

DCR 3.507

(Answer to Petitions and Complaints)

Petitions pursuant to K.S.A. 38-1501, et. seq.:

No responsive pleading shall be required. Personal appearance of the respondent and both parents or a legal guardian shall be sufficient to answer, in person, the allegations. The parents or guardian may admit (by stipulation) or deny the allegations. No pleas of “guilty”, “not guilty”, or “not guilty and stipulation” will be entertained by the Court.

Complaints pursuant to K.S.A. 38-1601, et. seq:

No responsive pleading shall be required. Personal appearance of the respondent and one parent or legal guardian shall be sufficient to answer, in person, the allegations. The respondent may plead “guilty”, “not guilty”, or “nolo contendere” to the complaint.

DCR 3.508

(Continuances, Trial Settings and Disposition Hearings)

The prompt disposition of pending actions shall be encouraged and continuances may be granted only upon good cause shown and then only to a date and time certain. No indeterminate or general continuances shall be granted.

Trials or adjudicatory hearings shall be afforded to all youth without unnecessary delay and disposition or sentencing shall be afforded all youth within thirty (30) days after adjudication, except for good cause shown. Motions to continue scheduled pre-trial, trial, disposition or sentencing settings shall be discouraged. Such motions shall be made and reduced to writing at least seven (7) days prior to the setting and for good cause shown. Motions to continue for administrative purposes shall be directed to the Clerk of the District Court on the appropriate form available from the Clerk. Any party seeking a continuance of setting or administrative continuance shall notify all other interested parties of the request and secure a setting from the Court or Clerk as appropriate.

Trials by jury may be granted in juvenile offender cases upon written request at the discretion of the Court.

Revised: 4-15-98

DCR 3.509

(Evidence)

Unless modified by statute or other ruling authority, civil rules of evidence shall apply throughout.

No extrajudicial admission or statement by the child under the age of 14 to a law enforcement officer shall be admitted into evidence unless the person offering the statement demonstrated to the satisfaction of the Court that, before making the statement, the child and his/her parents were informed and intelligently comprehended that he/she need not make a statement, that any statement made may be used against him in a court proceeding, and that he/she had a right to consult with an attorney before or during the making of the statement at any time, and that if such child and his/her parents are unable to hire or retain an attorney, one will be appointed by the Court.

*******REPEALED 11-19-2003*******

Revised: 3-26-98

DCR 3.510
(Standard of Proof)

The facts alleged in a verified complaint pursuant to K.S.A. 38-1601 et. seq. shall be proven beyond a reasonable doubt. The standard of proof shall be by clear and convincing evidence in proceedings pursuant to K.S.A. 38-1501, et. seq. Fundamental fairness in all proceedings shall be the cardinal objective.

Revised: 3-26-98

DCR 3.511
(Dismissal of Petition)

The Court may at any time during or at the conclusion of any hearing dismiss a petition and terminate the proceeding(s) relative to the respondent child/youth, if such action is in the interest of justice, the child and the community.

Unless otherwise specified, all dismissals shall be without prejudice.

DCR 3.512

(Pretrial and Post-trial Settlement of Issues)

The determination of legal issues in pretrial conferences shall be encouraged and mandatory in all Child in Need of Care proceedings wherein a severance of parental rights is sought. All attorneys of record shall be notified at least seven (7) days prior to such pre-trial conferences. Depositions shall not be taken without court approval and, unless waived, by all parties, requests for the taking of depositions shall be made orally at the pre-trial or by written request prior to pre-trial. Predisposition conference between attorneys and other interested parties shall be encouraged in Child in Need of Care actions, especially in those actions in which children have been or may likely be placed outside the home of their parent(s), custodian(s), or guardian(s).

Any court requested reports, testing, evaluation or home study shall be in writing and filed with the court, at least five (5) business days prior to disposition or special docket calls excluding Saturday, Sunday and holidays. Failure to submit said reports on time may result in a continuance at the request of the District Attorney, Guardian ad Litem or other party or attorney. A citation for contempt may issue for any party or attorney causing unexcusable delay.

DCR 3.513
(Subpoenas)

Subpoenas shall be issued only upon written request, preferably in the form of praecipis and at least ten (10) days excluding Saturday, Sunday and holidays should be allowed for service.

Revised: 3-28-98

DCR 3.514

(Reviews of Dispositions/Sentencing)

Requests for review of disposition/sentencing shall be made by motion and reduced to writing, except in cases wherein review is scheduled as an element of the disposition/sentencing or wherein review is scheduled upon the Court's own motion.

On any motion for a review of disposition/sentencing or reassertion of jurisdiction, summons shall issue to the respondent and his/her parents, guardian or other lawful custodian, unless such motion is scheduled in open Court with all the parties and/or their attorneys being present.

Revised: 3-26-98

DCR 3.515

(Confidentiality of Juvenile Records)

Any confidential information and records pertaining to a child or youth subject to the court's jurisdiction is privileged and any disclosure of any child's or youth's name or other identifying information to any unauthorized person, or the news media unless authorized by statute or the judge is prohibited.

The District Attorney or designated representative of that office is authorized to release to the Executive Director and volunteer mediators of the Juvenile Offender Mediation Program for the Third Judicial District all information necessary to facilitate the goals of the program. This Rule shall apply to both the legal and social files of the court and the files of the District Attorney.

The Juvenile Offender Mediation Program, its Executive Director and volunteer mediators shall not disclose any such information except to facilitate the goals of the program.

Ref: K.S.A. 38-1607: 1608: 1609.

Revised: 11-14-01

DCR 3.516

(Motions to Dismiss or to Suppress Evidence or Confessions)

Motions to dismiss, to suppress evidence or to suppress confessions shall be made and reduced to writing at least ten (10) days prior to time of trial, and notice thereof shall be given, in writing by serving a copy of such motion on the prosecuting attorney.

Revised: 3-26-98

DCR 3.517

(Record checks on Military Personnel or Enlistees)

Information in response to military record checks of military personnel or enlistees may be furnished by the court staff only when the Court is provided with an authorization therefore signed by the person who incurred a record as a juvenile if now over 18 years of age, and, if not, by the parent or guardian of said juvenile.

Only adjudicated offenses which would constitute a felony if respondent were adult and sentencing thereof shall be reported on such checks.

DCR 3.518

(Diversion)

Any respondent charged with an offense which would constitute a misdemeanor or a non-person felony, and who had no prior adjudication within the juvenile system and no prior diversion may apply for diversion through the District Attorney's office subject to approval by the court. Diversion shall be monitored by Court Services subject to the standard terms and conditions of probation. If diversion is granted and successfully completed, the complaint will be dismissed. If diversion is denied or the respondent fails to successfully complete the diversion agreement, the complaint shall be subject to resolution in the ordinary course of practice or procedures within the Kansas Juvenile Justice Code.

Revised: 3-26-98

DCR 3.519

(Extended Jurisdiction)

Upon designation as an **extended jurisdiction juvenile prosecution** pursuant to K.S.A. 38-1636(f)(2), proceedings shall be transferred forthwith to the criminal assignment judge for scheduling in due course within the adult criminal process. The respondent shall be entitled to the full protections of the Kansas code of criminal procedure.

The criminal assignment judge shall schedule a pretrial and such further hearings as necessary to facilitate trial by jury and timely prosecution of the pending charges. Upon conviction, the case shall be transferred to the juvenile division for imposition of sentence in compliance with K.S.A. 38-1663 and K.S.A. 38-16, 126.

Adopted: 3-18-98

DCR 3.520

(Juvenile Placement Alternative Task Force)

This district court rule establishes the Shawnee County Juvenile Placement Alternative Task Force (Task Force). The purpose of the Task Force shall be to develop and implement procedures to assist Shawnee County in ensuring that the resident population at the Shawnee County Juvenile Detention Center (SCJDC) remains within its licensed capacity by ensuring that placement at the SCJDC is reserved for juveniles for whom secure detention is clearly indicated.

1. Members of the Task Force shall be the administrative judge of the Third Judicial District, or his or her designee, who shall chair the Task Force, the director of the Shawnee County Department of Corrections, and the Commissioner of the Juvenile Justice Authority, or their designees. In addition, the chair shall also appoint an educator, a mental health professional, an at-large member of the community, a juvenile judge from the Third Judicial District, and a juvenile advocate or agency representatives to provide it with information or to otherwise participate in its function.
2. The Chair shall convene the Task Force as necessary. The Task Force may establish its own rules and procedures and may create subcommittees to perform delegated functions.
3. The role of the Task Force shall be to monitor resident population levels at the Shawnee County Juvenile Detention Center to ensure that detention at the Shawnee County Juvenile Detention Center is restricted and available only to those children for whom secure detention is clearly indicated.
4. Whenever the number of children detained at the Shawnee County Juvenile Detention Center reaches its licensed capacity, the Director of the Shawnee County Department of Corrections, or his or her designee, shall notify the Chair of the Task Force of that fact, who shall then convene a meeting of the Task Force. The Task Force shall:
 - a. Review and screen the resident population to determine which, if any, residents may be released.
 - b. Prepare a list of residents who the Task Force reasonably believes:
 - (1) may be released as the juvenile is not dangerous to self or others and is likely to appear for further proceedings pursuant to K.S.A. 38-1632 and 38-1640;

(2) could be placed in the custody of a parent or other suitable person or youth residential facility pursuant to K.S.A. 38-1632, or other appropriate placement; or

(3) could be placed in the custody of the Commissioner of the Juvenile Justice Authority pursuant to K.S.A. 38-1632.

5. From the above-mentioned list, the Task Force shall prepare recommendations of juveniles who may be considered for release from the Shawnee County Juvenile Detention Center. These recommendations shall be presented to the judge who is responsible for issuing orders for detention at the Shawnee County Juvenile Detention Center. If the judge finds that the recommended release of a juvenile from the Shawnee County Juvenile Detention Center would be appropriate, the judge shall enter an order releasing the juvenile, based on the criteria set forth in subsections (b)(1) and (b)(2) of paragraph four above. If the judge finds that the recommended release of a juvenile from the Shawnee County Detention Center would not be appropriate, the matter shall be submitted to the District Administrative Judge for final resolution.

The judge may also order that the juvenile be placed in the custody of the Commissioner of the Juvenile Justice Authority and/or Kansas Juvenile Justice Authority, pursuant to subsection (b) (3) of paragraph four above, which shall then be responsible for securing an alternative placement for the juvenile. Prior to the dispositional order, however, no juvenile alleged to be a juvenile offender who is ordered to be detained at the Juvenile Detention Center shall be placed in the custody of the Commissioner of Juvenile Justice Authority, except for the purpose of securing the provision of medical or psychological services for such juvenile. If such a placement is made, the Court shall make specific findings of fact upon which the decision is based.

6. The Task force shall develop clear criteria for secure detention at the Shawnee County Juvenile Detention Center, consistent with the provisions of K.S.A. 38-1624 and 38-1640, and shall develop an objective Risk Assessment and Screening Instrument for use in determining the need for secure detention at the Shawnee County Juvenile Detention Center. These admission criteria and Risk Assessment and Screening Instrument shall be utilized by the judges of the Third Judicial District in determining the need for secure detention of juveniles alleged to be juvenile offenders or children in need of care. A copy of the Risk Assessment and Screening Instrument currently in use is set out in Appendix A. The Task Force shall have the continuing responsibility for reviewing and modifying, as

necessary, the Risk Assessment and Screening Instrument, in order to ensure its adequacy to maintain population levels at the Shawnee County Juvenile Detention Center within the limits established by law. Screening of juveniles for whom admission to the Shawnee County Juvenile Detention Center is sought without a court order of detention will be performed by trained juvenile intake service personnel presently located at the Children and Adolescent Assessment Center, using the above-referenced Risk Assessment and Screening Instrument. In the event that the Kansas Children's Service League is no longer able or willing to perform this screening, the Administrative Judge of the Third Judicial District shall designate another entity to perform this function.

7. The Task Force shall review the existence of other, less restrictive, placement alternatives to secure detention in Shawnee County and determine the need, if any, for the creation of additional alternatives to secure detention. Such alternatives may include, but are not limited to, home detention, electronic monitoring, intensive supervised probation, day reporting, group homes and foster homes. The conclusions and recommendations of the Task Force shall be presented to the Board of County Commissioners of the County of Shawnee, Kansas and the Commissioner of the Juvenile Justice Authority for their consideration.

8. The Task Force shall consider ways to expedite the movement of children through the juvenile court system and thereby reduce the length of time spent by children in temporary secure detention. The conclusions and recommendations of the Task Force shall be presented to all affected parties for their consideration and shall be adopted and implemented, as appropriate, by the judges in the Third Judicial District.

10-14-98

DCR 3.600

(Probate Proceedings)

GENERAL PROVISIONS

A. FORM OF PLEADINGS

1. In all cases coming under Chapter 59, K.S.A. applications made to the court are to be made in the form of a written petition, signed by the petitioning party, and verified upon oath taken before a notary public or other person authorized to administer oaths. Every application made to the court shall comply in form to the requirements of K.S.A. 59-2201, K.S.A. 59-2202 and K.S.A. 59-103(b) in a probate proceeding.

2. Every petition shall contain the following:

- a. the specific title of the pleading which shall specifically identify the document being filed;**
- b. the name, residence and address of petitioner;**
- c. the interest of the petitioner and his or her right to apply to the court;**
- d. the jurisdictional facts;**
- e. the pertinent allegations of fact and law in simple, concise and direct terms, which shall be in numbered paragraphs, with each paragraph containing a statement of a single set of facts; and**
- f. a concise and complete statement of all relief sought by the petitioner.**

Orders or journal entries submitted to the Court shall recite the factual basis for the requested relief in the same manner as the petition.

3. All new filings shall contain a completed Cover Sheet as established by Shawnee County District Court.

B. SCHEDULING OF CASES

1. It shall be the duty of the filing attorney (or pro se petitioner) to obtain, at the time of the filing of the petition, a hearing date for the hearing of the petition filed, and to provide an "Order for Hearing" presented to the Court for execution and filing.

COMMENT: Commencement of any action requires both the filing of the petition and the obtaining of an "Order for Hearing" (or equivalent). Just filing the petition will not result in the matter being scheduled for hearing and may result in substantial prejudice to the petitioning party.

2. Cases shall be scheduled for hearing by contacting the Court's Administrative Assistant/Bailiff to obtain the calendar setting. (In her absence matters requiring emergency attention may be scheduled by the supervising clerk of the probate section in the Clerk of the District Court's office.) The Order for Hearing shall be presented to the Judge's office for signing.

3. Any order that is for the purpose of scheduling only shall be executed by the Bailiff and shall have the same effect as though signed by the Judge in person.

4. It shall be the duty of the filing attorney to know the law with respect to notice requirements and time limitations imposed by statute as it applies to the case being filed. It shall not be the duty of the Bailiff/Administrative Assistant to give advice either on substantive or procedural aspects of the law.

C. STANDING ORDERS; SCHEDULING APPROVAL OF ANNUAL ACCOUNTINGS

The Court shall issue an order to the Clerk directing the scheduling of Petitions to Approve Annual Accountings -- Trusts, Conservatorships, Curatorships. Any order setting such hearing which is signed by the Clerk, or a duly appointed deputy, shall have the same effect as if signed personally by a Judge of the District Court.

Approved: 7-16-08

DCR 3.601

DECEDENTS' ESTATES

A. INVENTORY AND VALUATION

An inventory and valuation shall be filed within 30 days of issuance of letters testamentary or letters of administration. The inventory shall be filed within the required time even if all asset information may not be available. An inventory shall be supplemented when new asset information is discovered within 30 days of such discovery pursuant to K.S.A. 59-1203. If an amendment is required, petitioner shall file the proposed amended inventory along with a petition for authority to amend the inventory, order for hearing, notice as may be required and order granting authority to amend the inventory.

B. CREDITORS' DEMANDS

All creditor demands shall be presented within the later of: (a) four (4) months from the date of the first publication of notice under K.S.A. 59-2236; or (b) if the identity of the creditor is known or reasonably ascertainable, 30 days after actual notice was given to the creditor.

C. EXTENSION OF TIME FOR FINAL SETTLEMENT

The verified accounting, as required by K.S.A. 59-1502, shall be filed at the same time as the petition requesting an extension of time with notice given to all affected parties. Any approval of the extension shall require approval of the accounting before an extension is granted. Notice of the request for extension shall be given to all interested parties, except where written consent or waiver has been executed and filed.

D. NOTICE TO PROVIDERS OF MEDICAL ASSISTANCE

When a petition is filed for the probate of a will, for the determination that the consent of a spouse to a will is valid, for administration or for refusal to grant letters, notice shall be provided to the appropriate agency or department of any state having provided medical assistance under K.S.A. 39-309(e) to the decedent or a predeceased spouse of the decedent. A petition for final settlement shall contain a statement that neither the decedent nor a predeceased spouse of the decedent were paid medical assistance or in the event assistance under K.S.A. 39-709(e) was provided, that the state making the payment was duly notified of the filing of the petition.

E. NOTICE OF ELECTIVE SHARE

Written notice of elective share rights shall be provided to the surviving spouse by the administrator, executor, petitioner or attorney under K.S.A. 59-2233. When the surviving spouse is the administrator, executor, petitioner or applicant, the surviving spouse may acknowledge by a pleading or an affidavit that he or she is aware of the elective share rights.

Adopted: 7-16-08

DCR 3.602

TRUSTS

A. TESTAMENTARY TRUSTS; TRUSTS FOR PERSONS SUBJECT TO CONSERVATORSHIPS

Chapter 59 of the Kansas Statutes Annotated and the Rules of the District Court of the Third Judicial District applicable to Probate Proceedings shall apply to legal proceedings to supervise the administration of trusts and powers created by wills admitted to probate, and trusts and powers created by written instruments other than wills in favor of persons subject to conservatorship; to appoint and remove trustees for such trust, to make all necessary orders relating to such trust estates, to direct and control the official acts of such trustees, and to settle their accounts. See K.S.A. 59-103(a)(7). As required by K.S.A. 59-103(b), every petition to commence an action pursuant to Chapter 59 shall state, immediately below the clause showing the name of the court, parties and case docket number, the following: "Petition pursuant to Chapter 59 of the Kansas Statutes Annotated." The filing of annual accountings is required in every trust proceeding under Chapter 59, unless waived by the trust instrument or in writing by all beneficiaries. Unless excused by the Court in advance, no approval of accountings will be considered except where a petition for approval is filed and notice given to all beneficiaries.

B. KANSAS UNIFORM TRUST CODE PROCEEDINGS

Every petition to commence an action pursuant to the Kansas uniform trust code, K.S.A. 58a-101, *et seq.* shall state, immediately below the clause showing the name of the court, parties and case docket number, the following: "Petition pursuant to Chapter 58a of the Kansas Statutes Annotated." The Kansas Code of Civil Procedure, K.S.A. 60-201 *et seq.*, and the Rules of the District Court of the Third Judicial District applicable to Probate Proceedings shall apply to actions under the Kansas uniform trust code. See K.S.A. 60-201 and 60-265.

Adopted: 7-16-08

DCR 3.603

UNIFORM TRANSFERS TO MINORS ACT

A. DESIGNATION AS "TRUST" CASES

Any action brought pursuant to K.S.A. 38-1701, *et seq.*, shall, for administrative purposes, be designated a trust case and shall be assigned and dealt with in the same manner as actions involving trusts in accordance with K.S.A. 59-103, see DCR 3.602A.

Adopted: 7-16-08

DCR 3.604

ADOPTIONS

A. REQUIRED ACCOUNTING

The accounting required by K.S.A. 59-2121 is to be filed at the time of filing the case. No case will be set for hearing without the accounting having first been filed. It shall be signed by all petitioners and by the attorney representing the petitioner(s).

B. REQUIRED "ASSESSMENT"

The Assessment as required by K.S.A. 59-2132 shall be done by a court approved social worker licensed to practice in the State of Kansas or by a licensed child placing agency of the advisability of the adoption. The choice, subject to the above requirement, is left to the petitioner but shall be someone disinterested in the outcome of the proposed adoption. The Assessment must have been completed not more than one year prior to the filing of the Petition for Adoption. The Assessment should be filed not less than ten (10) days before the hearing on the Petition.

C. RIGHTS OF MISSING FATHER -- NOTICE

In all adoptions where "identity" of father is unknown or whereabouts unknown, notice by publication is required. An attorney, appointed by the Court, will represent the absent, or unknown, father's interest and aid in providing him notice.

The Petitioner's attorney is required to make known, at the time of scheduling the hearing on the Petition, the fact of an "unknown" or "unknown whereabouts" status.

D. VENUE

"In an independent adoption, venue shall be in the county in which the Petitioner resides or in the county in which the child to be adopted resides" -- K.S.A. 59-2126(A)

Pursuant to K.S.A. 59-2126(e), where the residence of the child serves as a basis for venue, a sworn Affidavit shall be filed with the Petition setting forth the factual basis for the child's residency.

E. A Civil Cover Sheet is required for all new adoption cases filed.

F. The person subject to the adoption shall be present for the final hearing.

Adopted: 7-16-08

DCR3.605

INVOLUNTARY COMMITMENT FOR CARE AND TREATMENT

A. HEARINGS

1. PETITIONER TO BE PRESENT- No person may cause an action to be commenced, ie., be a petitioner, and then fail to appear at the hearings necessary to fully adjudicate the matter. Failure to appear will be considered cause for the matter to be dismissed and the costs in the matter, including all attorney fees, to be assessed against such petitioner.

2. LOCATION OF HEARINGS - All hearings shall be held at the Shawnee County Courthouse. Provided, the Court may, in its discretion, determine the interests of justice are better served by holding the hearing at the treatment facility and appropriate facilities are available to conduct such hearing.

3. PROPOSED PATIENT AS WITNESS - The proposed patient may be called as a witness by either party.

4. JUDICIAL NOTICE OF EARLIER PRESENTED EVIDENCE - Upon request by either party the Court may take judicial notice of and consider, as evidence, all testimony or evidence otherwise admitted in any earlier hearing conducted in the same case.

[Comment: An example would be any evidence presented at the temporary custody hearing, in conformity with the rules of evidence, may be considered at the trial when the matter is tried to the Court only.]

5. WRITTEN REPORTS AS EVIDENCE - The written report required by K.S.A. 59-2914(a), when submitted in accordance with the requirements thereof, shall be considered as a part of the evidence of the case at any hearing held in the matter if the doctor who prepared such report is present for cross-examination or if such doctor has been excused by agreement of the parties and with approval of the Court.

Adopted: 7-16-08

DCR3.606

COMMITMENT OF SEXUAL PREDATORS

(RESERVED)

Adopted: 7-16-08

DCR 3.607

GUARDIANSHIPS and CONSERVATORSHIPS

A. PETITION:

In addition to the content of the petition prescribed by the statute [59-3059(b)] the petition shall include a statement of the reason for the need of a guardianship.

B. CONSENT OF PARENT'S REQUIRED; EXCEPTIONS:

Consent of both natural parents is required in order to establish a guardianship of a minor.

Exceptions are as follows:

1. Where the parent or parents are deceased;
2. Where the parental rights have been terminated by a separate court proceeding;
3. Where the child is the product of rape (no consent of the father shall be required);
4. Where lawful notice has been given to the parent and such parent then fails to appear at the time scheduled for hearing or otherwise answer;
5. Where, upon proper hearing, petitioner is able to establish, by clear and convincing evidence, that the non-consenting parent is an unfit parent.

C. NOTICE REQUIREMENTS:

The duty to provide notice shall be on the petitioner. Notice shall be given to the lawful custodian and to the parents (except where written consent has been obtained and filed in the record). Where the identity or whereabouts of a parent is unknown the Court may require that notice be given by publication.

D. HEARINGS; REQUIRED APPEARANCES:

Minors 14 years of age and older shall appear in person at the hearing on the petition for appointment of a guardian and/or conservator. In all other cases, the proposed ward and/or conservatee shall appear in person at the hearing on the petition unless such appearance has been excused, in advance, by the Court.

In all cases the nominee(s) for guardian and/or conservator shall appear personally before the Court at the time of the scheduled hearing. The petitioner shall have the duty to present evidence sufficient to show the nominee(s) to be qualified to serve in the position for which he or she has been nominated.

E. GUARDIANSHIP; QUALIFICATION TO SERVE

EFFECT OF PRIOR ABUSE CONFIRMATION: Any person whose name appears on (Child Abuse registry) such a report as having been confirmed for abuse shall be presumed to be ineligible to serve as guardian of a minor.

Every petitioner seeking to establish a guardianship for a minor shall have the duty to obtain and file with the court, prior to the hearing on the petition, a written report from (Child Abuse registry) with respect to the nominee(s).

EFFECT OF CRIMINAL RECORD

Any person who has a record of having committed, within the past 10 years, any crime identified as a felony or any crime of violence or of dishonesty shall be presumed to be ineligible to serve as guardian or other position of trust. Such presumption shall not be overcome by proof that the nominee is a relative of the proposed ward and or conservatee.

F. BOND; SURETY REQUIRED; USE OF "ORDER FREEZING ASSETS"

Bond with sufficient sureties shall be required in all conservatorships (and curatorships).

"Personal bonds" shall not be accepted except where supported by sufficient non-exempt property with proof of same filed as part of the record.

The amount of the bond shall be set at 125% of the annual income plus the value of all the assets, not including real property, of the conservatorship estate. The amount of the bond requirement may be reduced by reducing the amount of the assets at risk by use of an "Order Freezing Assets("

USE OF "ORDER FREEZING ASSETS"

Any asset otherwise subject to the bond requirement may be deposited in any federally insured banking institution or federally regulated brokerage firm authorized and doing business in Kansas and approval of the Court subject to an "Order Freezing Assets". The amount of the bond to be required shall then be calculated excluding the amount subject to the "Order Freezing Assets". No such order shall be effective unless the institution, by a qualified officer, agrees in writing to be subject to such order of the court. Release of all or part of assets subject to an Order Freezing Assets shall only be made upon proper application to and approval by the Court. The "ORDER FREEZING ASSETS" shall be filed on Probate Court Form F 3.607(F).

G. CUSTODY OF MINORS - LIMITATION ON CHANGES

No guardian, having been given custody of a minor, may thereafter return the minor to his or her parents or to any other person without first obtaining written authorization from

the Court to do so. Violation of this provision shall be regarded as contempt of court and punished accordingly.

H. MOVE OUT OF STATE WITHOUT COURT CONSENT PROHIBITED

No guardian shall permit or cause the ward under his or her care to be moved to any other state or foreign country without first having obtained the approval of the supervising court. Violation of this provision shall be grounds for immediate termination of authority of the guardian and such other action as necessary to protect the rights of the ward/conservatee.

I. "REPORT ON THE CONDITION OF THE GUARDIAN'S WARD" OR "ANNUAL ACCOUNTING" REQUIRED FORM; DATE DUE

The "REPORT ON THE CONDITION OF THE GUARDIAN'S WARD" shall be filed on Probate Court Form F 3.607(I)(a). The "ANNUAL ACCOUNTING" shall be filed on Probate Court Form F 3.607(I)(b).

The due date shall be 30 days after the end of the calendar year or 30 days after the end of the 12-month period immediately following and including the month in which the case is filed. The period shall be considered to have started on the first day of the month in which the case is filed and the reporting period shall be for the 12-month period following that date and like periods thereafter. The Order establishing the guardianship or conservatorship shall include a statement of the due date of the Report or Accounting.

J. GUARDIANSHIPS/CONSERVATORSHIPS OF MINORS - TERMINATION

Upon a ward reaching his or her 18th birthday the Clerk shall enter in the record that the guardianship/conservatorship is terminated and shall send notice to the guardian/conservator of the termination. The case shall then be removed from active docket with no other action required by the parties or the court.

Letters of Guardianship (for Minors) shall bear the date of birth of the ward and shall also bear a stamp as follows: "This document is not valid after the 18th birthday of the ward. "

Upon a minor who is a conservatee reaching his or her 18th birthday, the Clerk shall enter in the record that the conservatorship is terminated and shall notify the conservator of such fact and that a final accounting is due within 30 days. Discharge shall not occur until the Court has approved the final accounting or where final accounting is waived, in writing, by the conservatee and accepted by the Court.

A written order is required to show the final discharge.

K. GUARDIANSHIP/CONSERVATORSHIP CASES - RECORDS, LIMITATION OF ACCESS

No medical examination reports or other medical information used in establishing or maintaining a guardianship/conservatorship or curatorship case shall be made available to anyone without a written order of the supervising court. Provided, such prohibition shall not apply to: (1) the attorney representing the ward conservatee, (2) the appointed guardian or conservator, or (3) the attorney representing the petitioner in establishing the guardianship/conservatorship or appointing any successor.

The medical information shall be maintained in an envelope in the file and may not be checked out with the file.

L. ISSUANCE OF SUBPOENAS - LIMITATION

The Clerk shall not issue a subpoena in any guardianship/ conservatorship/curatorship case except where there is pending a hearing set by the Court for which the subpoena is intended to produce the appearance of a witness or production of records for such hearing.

M. CURATORSHIPS - ACCOUNTING PROCEDURE

Approval of accountings will not be considered unless same has been first submitted to and approved by the Veterans Administration Regional Office or such requirement is waived by that agency.

N. INVENTORY

Inventory of all real and personal property shall be filed on the form "INVENTORY & VALUATION" Probate Court Form F 3.607(I)(a).

O. FORMS

Guardianship and Conservatorship forms are, generally, those provided by Kansas Judicial Council, and the same are adopted by reference.

Adopted: 7-16-08

(Court Appointed Attorney/Guardian Ad Litem Fees)

1. In Probate, Juvenile and Domestic Relations (including paternity) proceedings, except as noted below*, counsel appointed as attorney or guardian ad litem will be paid at the rate of \$300 per appointment. This rule contemplates the standard appointment fee to include up to six hours of time and all expenses. In extraordinary cases where it is necessary for counsel to expend more than 6 hours or where extraordinary expenses are incurred, payment will be approved at the hourly rate of \$80 per hour for documented time exceeding 6 hours.

[This amount is based on a presumption that the "average" amount of time is 3.75 hours in a case and that \$80 per hour is a reasonable allowance considering the general nature of the work and the budget constraints being met by the courts. No time or expense records will need to be filed for cases falling within this applicable range.]

2. This standard fee rate shall be applicable in all cases without regard to whether payment is to be made from private or public funds.

3. All orders submitted to the Court for payment of attorney fees from public funds shall also make provision for reimbursement of those by assessment against one or more of the parties to the case as appropriate or for waiver of such reimbursement when that is appropriate.

***This schedule shall not apply to those cases designated generally as "care and treatment cases" where the presently published schedule shall remain in effect. Likewise, this schedule of fees shall not affect any fee contract for juvenile cases.**

Adopted: 2-18-98 / Revised: 7-16-08

ANNUAL INVENTORY

For the period ending THE FINAL DAY OF THE MONTH OF _____, 20__.

REAL ESTATE

1.	_____	\$ _____.
2.	_____	\$ _____.
3.	_____	\$ _____.
4.	_____	\$ _____.
Total Real Estate		\$ _____.

PERSONAL PROPERTY

1. Financial Institution Accounts

(a) Checking	_____	\$ _____.
(b) Savings	_____	\$ _____.
(c) Certif.of Deposit	_____	\$ _____.
(d) Other	_____	\$ _____.

2. Stocks & Bonds _____ \$ _____.

3. Other Personal Property _____ \$ _____.

Total Personal Property _____ \$ _____.

TOTAL REAL ESTATE AND PERSONAL PROPERTY \$ _____.

STATE OF KANSAS,

County of _____ ss:

I, _____ of lawful age, being first duly sworn, upon my oath state that I am the conservator above-named, that I have read the above annual accounting, know the content thereof and that all the statements made therein are true and correct.

Conservator's Signature

Subscribed and Sworn to Before Me this _____ Day of _____, 20__.

Notary Public Court Clerk

**IN THE THIRD JUDICIAL DISTRICT
DISTRICT COURT OF SHAWNEE COUNTY KANSAS**

In the Matter of the Guardianship of

Case No. _____

Pursuant to K.S.A. Chapter 59

[] Annual [] Final REPORT ON THE CONDITION OF THE GUARDIAN'S WARD

From _____ 20__ to _____ 20__

Comes now,

(Name of Guardian)

,

(Street address)

,

(City)

(State)

(Zip Code)

(phone number)

guardian for the above entitled matter and submits the following report on the ward's condition:

(Ward's name)

(Year of Birth)

1. During the reporting period the ward resided at the following places:

address

type of resident

length of stay

2. I had contact with the ward the following number of times and in the manner described:

Times in person

By Phone

Other (explain*)

Ward resides with me _____

Date last seen by me:

3. A summary of the medical, social, educational, vocational, and other professional services received by the ward during this period is as follows:

4. The ward [] is (or) [] is not institutionalized at [] K.N.I. [] O.S.H [] and my investigation into the nature and appropriateness of the ward's care and treatment shows the following:

5. I have observed the following changes in the mental or physical condition of the ward: [] none (or)[]

For Court Use Only

Accepted

More Information Needed

Set for Hearing

Form F 3.607(I)(a)

DISTRICT COURT RULE
PERFORMANCE OF WEDDINGS

- (A) Any judge may perform weddings but none is required to do so;
- (B) A judge may perform weddings during the business hours of the court (8:00 a.m. - 5:00 p.m.) To the extent such does not interfere with his or her other duties;
- (C) A judge may not charge a fee for any wedding performed during any business day of the court if the ceremony is to occur during the period from 8:00 a.m. - 5:00 p.m. Any remuneration or gratuity provided to the judge for any such wedding must not be accepted as his or her own but must be remitted immediately and in full to the Clerk;
- (D) A judge may charge such fee amount as he or she deems appropriate under the circumstances, including distance of travel, time of day, or other considerations. The fee recommended is:
- (1) at the Courthouse, immediately before or after business hours - \$35
 - (2) at places away from the Courthouse or at the Courthouse involving return to the building - \$75;
- (E) Any responsibility for reporting the amounts received for income tax purposes shall belong to the individual receiving the income and shall not be the responsibility of the Court Administrator or any other official of the court.

Adopted: 7-16-08