

Twenty-Sixth Judicial District
of the
State of Kansas

LOCAL COURT RULES

Including Amendments through July, 2013

Hon. Bradley E. Ambrosier	Chief District Judge, Div. I
Hon. Clinton B. Peterson	District Judge, Div. II
Hon. Linda P. Gilmore	District Judge, Div. III
Hon. Margaret L. Alford	Magistrate Judge, MOI
Hon. Tom B. Webb	Magistrate Judge, MO2
Hon. Thomas A. Kemp	Magistrate Judge, MO3
Hon. Vernon L. Butt	Magistrate Judge, MO4
Hon. Paula J. Sosa	Magistrate Judge, MO5

ORDER

Pursuant to Supreme Court Rule 105, the District Court of the Twenty-Sixth Judicial District hereby adopts the attached local rules for the administration of the affairs of the district court and repeals all local rules previously published. These rules are effective January 1, 2014, and upon filing with the Clerk of the Kansas Supreme Court.

Bradley E. Ambrosier
Chief District Court Judge

TABLE OF CONTENTS

LOCAL DISTRICT COURT RULES

Rule 101	Adoption of Rules	3
Rule 102	Administrative Judge	3
Rule 103	Closing of Cases on Clerk's Docket	3
Rule 104	Name of Judge on Journal Entries and Orders	3
Rule 105	Civil Post-Trial Motions	3
Rule 106	Guardian Ad Litem and Attorney for Minors	4
Rule 107	Review of Electronic Tapes of Court Proceedings	4
Rule 108	Removal of Court Files from Courthouse	4
Rule 109	Disclosure of Information on Affidavits or Sworn Testimony	5
Rule 110	Reviewing or Copying Closed Adoption Proceedings	5
Rule 111	Media Coordinator	5
Rule 112	Interpreters	6
Rule 113	Transcripts	6
Rule 114	Facsimile Signatures	6
Rule 115	Limitation on Frequency of Garnishments	7
Rule 116	Attorney Fee Vouchers	7
Rule 117	Form Preparation by Counsel of Record	7
Rule 118	Continuances	8
Rule 119	Extended Juvenile Jurisdiction Prosecution	9
Rule 120	Criminal Sentencing Procedures	9
Rule 121	Settlement Conferences	10
Rule 122	Pre-Trial Conference	11
Rule 123	Child Related Mediation	12
	Appendix A – Court Ordered Mediation	13
Rule 124	Preparation of Court Pleadings Affecting More than One Case	14
Rule 125	Assignment of District Judges (updated yearly)	14

Rule No. 101

ADOPTION OF RULES

Local Court Rules adopted pursuant to Supreme Court Rule No. 105 shall be in writing, published by the court, and made available to counsel and any other interested party or person upon request. Rules promulgated as hereinafter provided shall be effective upon filing with the Clerk of the Kansas Supreme Court and shall remain in effect as long as they do not conflict with applicable statutes or rules legislated by the Kansas Supreme Court or are otherwise amended or repealed by this court.

Rule No. 102

ADMINISTRATIVE JUDGE

The administrative judge shall perform those duties as provided in the Rules of the Kansas Supreme Court and the Kansas Statutes Annotated, as amended. In the absence of the administrative judge, such duties shall be performed by the person designated by said administrative judge.

Rule No. 103

CLOSING OF CASES ON CLERK'S DOCKET

The clerk shall not close any civil or domestic case on the appearance docket until a journal entry of final disposition on the case is filed in the office of the clerk.

When cases are settled or judgment is granted, a journal entry will be filed in the case within thirty (30) days from the date of settlement or judgment. If a journal entry is not filed within thirty (30) days, the court will dismiss the case.

Rule No. 104

NAME OF JUDGE ON JOURNAL ENTRIES AND ORDERS

All journal entries and orders shall show the name of the judge who heard the matter.

Rule No. 105

CIVIL POST-TRIAL MOTIONS

All post-trial motions will be heard at a date and time set by the judge who tried the case, unless otherwise ordered by the administrative judge.

Rule No. 106

GUARDIAN AD LITEM and ATTORNEY FOR MINORS

In domestic relations proceedings, the assigned judge, on the court's own motion or on the motion of one of the parties, may appoint an attorney as guardian ad litem to represent the interests of minor children. The guardian ad litem, as appointed, shall enter his or her appearance and shall be notified of all hearings, received subsequent pleadings, and actively participate in the action. Costs of the guardian ad litem shall be assessed as costs in the case to a party or to the county general fund where proper.

Rule 107

REVIEW OF ELECTRONIC TAPES OF COURT PROCEEDINGS

Counsel may review the electronic tape recording of court proceedings only upon first obtaining the consent of the judge to whom the case is assigned. The judge may designate the time, place, and manner of review and shall designate a court employee to assist counsel and monitor the review. Under no circumstance shall the tape recordings be taken from the court or the office of the judge of the district court.

Rule No. 108

REMOVAL OF COURT FILES FROM COURTHOUSE

Abstractors and attorneys of record whose place of business is within the district and who are in good standing shall be permitted to check out a court file with the clerk of the court upon execution of signed receipt as provided by the clerk. No file shall be held by an abstractor or attorney for more than seven (7) working days without the permission of the assigned judge or, in the absence of the assigned judge, the administrative judge.

Files shall be returned to the court no later than 5:00 p.m. the last work day before scheduled hearings on a case, even if the file has been checked out for less than seven (7) days.

Depositions filed with the clerk may only be checked out with permission of the judge assigned to the case or, in his absence, the administrative judge.

Files checked out shall not be entrusted to anyone other than the attorney, abstractor, or their employees. Said files shall not be removed from the county of the clerk's office without consent of the clerk or by order of the judge.

Rule No. 109

DISCLOSURE OF INFORMATION ON AFFIDAVITS OR SWORN TESTIMONY
PER K.S.A. 22-2302(2)

In criminal proceedings and pursuant to K.S.A. 22-2302(2), a written order of the court is required before affidavits or sworn testimony supporting a complaint can be made available for examination to anyone other than the defendant or defendant's counsel. In light of the statutory requirements, this rule shall act as the Order of the Court permitting law enforcement officers, court services officers, and community corrections officers to examine such affidavits or sworn testimony without further written authority of the court. The clerks of the district court are accordingly authorized to assist the forenamed persons in releasing such information.

Rule No. 110

REVIEWING OR COPYING CLOSED
ADOPTION PROCEEDINGS

All adoption proceedings judicially closed shall be sealed by the clerk of the district court. Access not allowed by state law shall be upon approval of the district magistrate of the county or the district judge assigned to the county. In the absence of either the district magistrate or the district judge, the administrative judge may grant permission.

Rule No. 111

MEDIA COORDINATOR

Pursuant to Kansas Supreme Court Rule No. 1001, the administrative judge's administrative assistant is hereby appointed media coordinator to work with the administrative judge, the trial judge, and the media in implementing the privilege conferred by Supreme Court Rule and amendments thereto.

Any request by the news media or educational television to photograph and/or record public proceedings in the district courts of this district shall be in writing, addressed to the attention of the media coordinator as herein designated. The media coordinator shall thereafter promptly confer with the trial judge in developing the conditions and procedures provided by the Supreme Court's Rule and as directed by the trial judge.

In the absence of the administrative assistant, the administrative judge shall fulfill the functions designated herein.

Requests not made at least one week prior to the hearing may be rejected by the trial judge without further consideration.

Rule 112

INTERPRETERS

Attorneys involved in hearings where their client or witnesses will need an interpreter shall give notice to the administrative judge's administrative assistant of the hearing date, time and duration as well as the type of interpreter skills needed.

Notice shall be given in a timely fashion. Interpreters will be used from a list approved by the chief judge.

Rule 113

TRANSCRIPTS

All original transcripts of court proceedings shall be filed with the clerk of the district court in the county where the case is filed. Access to said transcripts shall be pursuant to state laws and court rules. In case of individual purchases of a transcript, a copy of said transcript shall be delivered to the buyer.

Requests for transcripts of court proceedings shall be submitted in writing to the presiding judge for approval. The presiding judge will enter approval or denial and file the original with the clerk of the district court in the county where the case is filed. This rule is not applicable to matters covered by Supreme Court Rule 3.03.

Upon receipt of a request for transcript, the clerk of the district court shall file the original and promptly provide a copy to each official court reporter and the administrative district judge's administrative assistant. A copy of the tape or disk shall also be provided to the administrative assistant, if the hearing was recorded. A copy of any request that is denied shall also be provided to the requesting party. The court reporter assigned to the transcript shall confirm that the transcript is to be prepared before transcription is done.

Requests not timely made may be denied. When a requesting party elects to withdraw the request, he or she shall be responsible for notifying the assigned reporter or transcriptionist prior to transcription. Notification after completion or partial completion of the transcript will not relieve the party of costs incurred to the point of notification.

Rule No. 114

FACSIMILE SIGNATURES

Pursuant to Chapter 110 of the 1988 Session Laws of Kansas, the clerks of the district court are authorized to use a facsimile signature in lieu of the clerk's manual signature.

Rule No. 115

LIMITATION ON FREQUENCY OF GARNISHMENTS

Except as hereinafter provided, no more than two garnishments shall be issued out of the courts of this district applicable to the same claim or claims and against the same judgment debtor in any thirty (30) day period.

A judge of the courts of this district may order an exception to this rule in any case in which the party asking for the garnishment shall in person or attorney certify in writing:

- a. that the garnishment is not for the purpose of harassment of the debtors,
and
- b. state facts demonstrating to the satisfaction of the judge that there is reason to believe the garnishee has property or credits of the debtor which are not exempt from execution.

Notwithstanding the above, in the event a wage garnishment is returned/answered showing that the judgment debtor is no longer employed and no wages were attached, the party may ask for issuance of one additional wage garnishment in that thirty (30) day period.

Rule No. 116

ATTORNEY FEE VOUCHERS

In cases where costs are paid from county funds, court appointed attorneys shall submit their vouchers to the clerk of the district court every thirty (30) days, if possible, or within thirty (30) days after the case is terminated. All vouchers shall be submitted within sixty (60) days of the case closing. If vouchers are not submitted, within the sixty (60) days, they shall not be paid.

Rule No. 117

FORM PREPARATION BY COUNSEL OF RECORD

Any attorneys regularly practicing before the courts of this Judicial District shall be responsible for preparing, in completed form and in accordance with applicable Statutes of the State of Kansas and Supreme Court Rules, all documents including, but not limited to, the following documents for filing with the Clerk of the Court:

- Summons;
- Third Party Summons;
- Summons Notice by Mail - by Party;
- Subpoena(s);

Subpoena - Business Records (by Mail);
Subpoena Duces Tecum;
Subpoena Duces Tecum - Business Records;
Praecipe for Execution;
Writs of Execution;
Request for Garnishment;
Order of Garnishment;
Answer of Garnishee;
Subpoena - Juvenile;
Child Support Enforcement pursuant to K.S.A. 23-4, 107 and K.S.A. 60-1613.

All such forms presented to the clerk of the court for filing are subject to his or her review for completeness. Any form not meeting the statutory prerequisites or standards established by Supreme Court Rule may be returned by the clerk before filing.

Rule No. 118

CONTINUANCES

No continuance of a trial or scheduled hearing in a contested matter or where witnesses have been subpoenaed and/or a jury panel has been called shall be granted unless the following procedure is complied with:

1. Applications for continuances of hearings and trials shall be made in writing specifying the grounds in support thereof and a copy thereof shall be served upon the opposing party.
2. Written orders granting the continuance will be prepared by the moving party and shall be made available to the court at the time the application is heard.
3. Continuance by agreement of the parties will not be effective without approval in writing by the court more than seventy-two (72) hours prior to the time set for the hearing or trial unless the court finds that exceptional circumstances exist or that no one will be unduly inconvenienced by the continuance, including the court.
4. No application for continuances shall be considered by the court unless filed more than seventy-two (72) hours prior to the time set for hearing or trial, except where the court finds an emergency or exceptional circumstances exist or the court finds that no one will be unduly inconvenienced, including the court.
5. Each party shall be responsible for notifying their subpoenaed witnesses if the continuance is granted.

Rule No. 119

EXTENDED JUVENILE JURISDICTION PROSECUTION

In juvenile proceedings assigned to a limited jurisdiction judge in which a motion is filed pursuant to K.S.A. 38-1636, the presiding judge shall notify the administrative district judge of the district court who shall cause the case to be reassigned to a general jurisdiction judge for all further proceedings.

Rule No. 120

CRIMINAL SENTENCING PROCEDURES

In all criminal prosecutions for crimes occurring after July 1, 1993, the following procedures will be followed to implement the Sentencing Guidelines required by Chapter 21 of the Kansas Statutes:

1. Upon conviction of a felony offense by either plea or trial, the presiding judge shall set a date and time of sentencing or a date and time for a scheduling conference.
2. Immediately after conviction, if the defendant is free on bond, defense counsel shall escort the defendant to the court service officer to begin the presentence investigation process.
3. The court service officer shall deliver, in person, by mail, or by fax, a copy of the presentence report to the county attorney and the defense counsel at least ten (10) days prior to the date of sentencing.
4. If either the State or the defendant objects to the criminal history of the defendant contained in the presentence report, the objection must be in writing and filed with the court and served upon the opposing counsel and the court service officer who prepared the report within five (5) days of the date of sentencing. The objection must individually identify each conviction that is being contested. If a party fails to file an objection within five (5) days of the sentencing date, or fails to designate a particular conviction as being contested, then the criminal history contained in the presentence report shall be deemed admitted.
5. If an objection to the defendant's criminal history is filed, the court shall hold a hearing on the date set for sentencing or, only upon order of the court, continue the hearing date to give either party a reasonable time to obtain evidence to determine the criminal convictions of the defendant.
6. All motions for departure must be filed and served upon opposing counsel ten (10) days prior to the date of sentencing. All motions shall state with particularity the aggravating or mitigating circumstances that are being relied upon. At the departure hearing only those mitigating or aggravating circumstances set forth in the motion may be argued to the court.
7. All notices of intention to depart by the court must be filed five (5) days prior to the date of sentencing. Such a notice by the court shall set forth with particularity the aggravating or

mitigating circumstances the court intends to rely on. At the time of the departure hearing each party will be given an opportunity to address the court concerning the notice of intent to depart.

8. No party shall allege in a motion for departure or argue at the hearing “social factors”. All aggravating or mitigating circumstances raised shall be limited to those set forth by statute, be circumstances pertaining to the crime for which the defendant has been convicted, or pertaining to his past criminal history.
9. A departure hearing will be held at the time set for sentencing or at a later date only upon order of the court.
10. “Social factors” may only be raised or argued to the court when the issue of the terms of probation are being considered.
11. The ten (10) day limitation for the required filing of motions for departure or five (5) days for objection to criminal history as provided above shall be rigidly enforced. No extension of the limitations shall be allowed except for good cause shown.

Rule No. 121

SETTLEMENT CONFERENCES

A settlement conference shall be held by order of the presiding judge in each case filed pursuant to K.S.A. Chapter 60 upon the following conditions:

1. When all parties are represented by an attorney; and,
2. When one or more attorneys to the litigation request a settlement conference; and/or,
3. When required by statute that a settlement conference be held; and/or,
4. When the presiding judge on the case determines that a settlement conference would be beneficial to resolve the litigation.

The settlement conference shall be conducted pursuant to the following procedure:

1. Within thirty (30) days of the order for settlement conference, the attorneys to the litigation shall schedule a time for the conference;
2. The conference shall be conducted by a judge who is not the presiding judge of the case;
3. The conference is limited to one hour;
4. No record shall be made of the statements or comments made by any participant during the conference;

5. Each real party in interest shall be personally present with their attorney. In the event that a real party in interest is a corporation having its principal place of business outside of the State of Kansas, the actual presence of the party may be waived in lieu of a telephone conference by order of the settlement judge;
6. The attorney participating in the conference shall be one of the attorneys who will be present at the trial of the case;
7. The conference shall be conducted only in the presence of the attorneys and the judge;
8. In the event the conference does not result in a resolution of all of the issues in the case, no statement or comment made in the attempt to obtain an offer of settlement or compromise made during the settlement conference shall be admissible at the time of trial.

If the settlement conference results in a settlement agreement, the conference judge may, upon request of the parties, approve the agreement on the record of the case.

Rule No. 122

PRETRIAL CONFERENCE

Attorneys for each of the parties shall prepare and file a pretrial questionnaire at least ten (10) days before the scheduled pretrial conference. At the pretrial hearing, attorneys shall be prepared to pre-mark and admit all exhibits and to enter into stipulations. Each attorney shall provide a copy of their questionnaire to the attorney for all other parties and the court in chambers at the time of filing.

Attorneys may, with the permission of the presiding judge, submit an agreed upon pretrial order.

In all domestic cases, a pretrial questionnaire shall be filed. The joint property and debt list shall be finalized and filed at the pretrial conference.

The parties shall be present for all pretrial conferences.

The pretrial conference will be conducted pursuant to Kansas Supreme Court Rule 140.

Rule No. 123

CHILD RELATED MEDIATION

A. VISITATION AND CUSTODY

Unless otherwise ordered by the court, the district court shall not hold a final hearing upon the issue of parenting time and residential custody until the order for mediation has been complied with and the appointed mediator has reported the mediation was unsuccessful.

Upon the filing, by any party, of a motion of mediation concerning visitation which is not responded to in writing within ten (10) days of service upon the opposing party, the courts of the 26th Judicial District shall issue an order requiring mediation.

Any adverse party objecting to a motion for mediation shall respond in writing setting forth specific objections to said motion and shall serve same upon movant with ten (10) days of service of the motion for mediation concerning visitation.

If an objection is filed to a motion of mediation concerning visitation which sets forth specific objections by the opposing party, the court shall set the matter for hearing and the party raising such objections shall have the burden of proof to convince the court why no order for mediation should be issued.

B. COURT'S GUIDELINES FOR MEDIATION

All orders for mediation shall be served, along with a copy of Court's Guidelines for Mediation, in the form of Appendix A, attached hereto, by mail upon the opposing party or attorney of record.

C. COST

The cost of the mediation shall be divided equally between the parties unless otherwise ordered by the court. Payment arrangements shall be made directly with the mediator. Non-payment is subject to enforcement under the contempt powers of the court.

D. ALTERNATE SELECTION OF MEDIATOR

The parties shall have the right to jointly agree upon and select a mediator other than the one assigned by the court. However, if an agreement cannot be reached with regard to the alternate mediator, the one assigned shall be used.

The court may grant judgment against any party who fails or refuses to comply with an order for mediation. The presiding judge may waive mediation requirements for good cause shown.

Appendix A

COURT ORDERED MEDIATION

You and the other parent of your children are required by the court to attend mediation. Mediation is a process where a neutral professional assists parents in reaching their own agreements about custody and/or visitation. It has been shown to help parents focus on the needs of their children, communicate better about their children, have more control over the process, and feel more positive about the outcome of the divorce.

You may feel that mediation is a waste of your time because of failed efforts you and the other parent may have had in reaching agreements about your children. However, with the help of a mediator who is trained to assist parents to focus attention on what is in the best interest of the children, often lines of communication can be opened between the parties. The decision of what is in the best interest of your children is left up to you, the parents, instead of to a judge.

Although the mediator may be an attorney, he or she does not represent either of the parties in mediation. The mediator will not, under any circumstances, offer legal advice. Further, under Kansas law, a mediator cannot be subpoenaed or otherwise compelled to reveal any matter disclosed in setting up or conducting mediation.

In court-ordered mediation of custody and visitation issues, mediators are required to report child abuse and to treat all other matters as confidential. However, privilege is not established for information about a crime committed during the mediation or the expressed intent to commit a crime in the future.

If an agreement is reached at the conclusion of the mediation, a written memorandum of agreement is prepared for both parents to sign. The attorney for one of the parents will put the mediation agreement into the form of a court order and each attorney will approve it. It will then be submitted to the court. At that point, the mediation agreement becomes an order of the court.

As parents you are asked to enter mediation in good faith and with a genuine willingness to resolve the difficult issue facing the family.

If you cannot agree to a workable solution after good faith efforts have been made at mediation, your attorneys will be notified that you are at impasse. At that point, unless your attorneys are able to reach some agreement, a full evidentiary hearing will be set.

Although the mediator will be actively involved in the process of helping you discuss possible visitation/custody arrangements, you must approach mediation with the intent of reaching an agreement which will be best for your children. As parents, you are in the best position to make that determination.

Mediation is not marriage counseling. You and the other parent are divorced but you both should remain as fully involved in your children's lives as possible. It is your responsibility to contact the mediator assigned to your case to set up the first appointment within five (5) working days. The cost of the mediation will be divided equally between the parents, unless the court specifically orders otherwise. Payment arrangements are to be made directly with the mediator.

You and the other parent may agree to submit other issues relating to your case, such as property division issues, to mediation. However, arrangements for payment of costs for additional mediation shall be made by the parents with the mediator. The decision to submit other issues must be by mutual agreement and is strictly voluntary.

Rule No. 124

PREPARATION OF COURT PLEADINGS
AFFECTING MORE THAN ONE CASE

It is required by the court that all attorneys shall prepare and have signed an original pleading for each case file except only as to cases consolidated by order of the court.

Rule No. 125

ASSIGNMENT OF DISTRICT JUDGES
FOR THE TERM OF JANUARY 1, 2014 TO DECEMBER 31, 2014

125.1) Division No. 1:

The Hon. Bradley E. Ambrosier, Chief District Court Judge, Division No. 1, is hereby assigned:

1. All odd numbered Chapter 60 cases in Seward County.
2. All Chapter 60 cases in Grant, Haskell, Stanton, and Stevens Counties.
3. All appeals from District Magistrate Judges of limited civil or small claims decisions in Grant, Haskell, Stanton, and Stevens Counties.
4. All adoptions in the District.
5. All severance of parental rights in Grant, Haskell, Stanton, and Stevens Counties.
6. All Domestic in Grant, Haskell, Stanton, and Stevens Counties.
7. Any other matters as may from time to time arise by assignment from the Chief Judge or Order of the Kansas Supreme Court, and any matter within the Twenty-Sixth Judicial District in the absence of the regularly assigned Judge.

125.2) Division No. 2:

The Hon. Clinton Peterson, District Judge, Division No. 2, is hereby assigned:

1. All Felony cases in Grant, Haskell, Morton, Seward, Stanton, and Stevens Counties.
2. All Juvenile Certifications as an Adult, Extended Juvenile Jurisdiction Prosecutions and Appeals from District Magistrate Judges of criminal or juvenile offender decisions in Haskell, Grant, Morton, Seward, Stanton and Stevens Counties. All appeals from Municipal Court in Haskell, Grant, Morton, Seward, Stanton and Stevens Counties.
3. All Probate cases in Seward County.
4. Any other matters as may from time to time arise by assignment from the Chief Judge or Order of the Kansas Supreme Court, and any matter within the Twenty-Sixth Judicial District in the absence of the regularly assigned Judge.

125.3) Division No. 3:

The Hon. Linda P. Gilmore, District Judge, Division No. 3, is hereby assigned:

1. All even numbered Chapter 60 cases in Seward County.
2. All Chapter 60 cases in Morton County.
3. All Domestic cases in Seward and Morton Counties, including PFA/PFS.
4. Severance of parental rights in Morton and Seward Counties. All appeals from Magistrate Judges in Child in Need of Care cases in Morton and Seward Counties.
5. All appeals from District Magistrate Judges of limited civil or small claim's decisions in Morton and Seward Counties.
6. Any other matters as may from time to time arise by assignment from the Chief Judge or Order of the Kansas Supreme Court, and any matter within the Twenty-Sixth Judicial District in the absence of the regularly assigned Judge.

Dated this _____ day of _____, 2013.

Bradley E. Ambrosier
Chief District Court Judge