Rules Of Practice
Of The
United States District Court
For The
District Of Kansas

Part I Scope Of Rules

Part II Commencement Of Action; Process; Service And Filing Of Pleadings, Motions, And Orders

Part III Pleadings And Motions

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Effective March 17, 2010

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
ORDER OF ADOPTION

Pursuant to the authority vested in this Court by Rule and Statute:

IT IS ORDERED that the rules attached hereto and designated "Rules of Practice of the United States District Court for the District of Kansas" are adopted and shall become effective March 17, 2010, and shall supersede the Court's existing rules which are repealed effective March 17, 2010.

DATED this 17th day of March, 2010.

FOR THE COURT

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
Chief Judge

ATTEST:

s/ Timothy M. O'Brien
TIMOTHY M. O'BRIEN
CLERK OF COURT

(SEAL)

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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Kansas City, KS 66101

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Eric F. Melgren
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401 North Market
Wichita, KS 67202

SENIOR JUDGE
Wesley E. Brown
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401 North Market
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Please see www.ksd.uscourts.gov for the most current telephone contact information.

* * * * * * * * *

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* * * * * * * * * *

COMMITTEE OF THE COURT

Bench-Bar Committee

Hon. Chief Judge Kathryn H. Vratil, *ex officio*

Honorable J. Thomas Marten, Chair
Hon. James P. O'Hara
Mr. Lanny D. Welch
Mr. Toby J. Crouse
Mr. Christopher M. Joseph
Mr. Aaron L. Kite
Mr. Michael K. Seck
Mr. Jeffrey D. Morris

Hon. Carlos Murguia
Hon. Robert E. Nugent
Ms. Cyd K. Gilman
Mr. Terrence J. Campbell
Ms. Jacquelyn E. Rokusek
Ms. Gaye B. Tibbets
Ms. Susan A. Berson
Mr. John W. Johnson

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- I -
SCOPE OF RULES

RULE 1.1
SCOPE AND MODIFICATION OF RULES; DEFINITIONS; CITATION

(a) Scope. These rules govern the procedure in all proceedings before this court.

(b) Modification. In special cases, the court may modify these rules as necessary or appropriate to:

(1) meet emergencies; or

(2) avoid injustice or great hardship.

(c) Definitions. As used in these rules, the term "judge" refers to a United States District Judge, and the term "court" refers to either a United States District Judge or a United States Magistrate Judge.

(d) Citation. These rules should be cited as D. Kan. Rule 1.1, e.g.

* * *

As amended 2/16/95.

- II -
COMMENCEMENT OF ACTION; PROCESS; SERVICE AND FILING OF PLEADINGS, MOTIONS, AND ORDERS

RULE 3.1
COMMENCEMENT OF ACTIONS

A civil docket cover sheet, in a form supplied by the clerk, must be completed and submitted with any complaint commencing an action or any notice of removal from state court.

* * *

As amended 3/17/10, 11/16/90.

RULE 4.1
SERVICE OF PROCESS IN ACCORDANCE WITH STATE PRACTICE

Where the Federal Rules of Civil Procedure authorize service of process in accordance with state practice, the parties seeking such service must give the clerk: (1) forms of all necessary orders; (2) sufficient copies of all papers to comply with state requirements; and (3) specific instructions for making service.

* * *

RULE 4.2
APPOINTMENT OF STATE OFFICERS TO SERVE PROCESS

Whenever service is attempted on behalf of the United States or an officer or agency of the United States under Fed.R.Civ.P. 4(d), and waiver of service is requested but not waived, the following persons may make personal service: a United States Marshal or a Deputy United States Marshal, or a sheriff, undersheriff, or deputy sheriff of any county of the State of Kansas. In such cases, the court hereby specially appoints duly elected or appointed sheriffs, undersheriffs, and deputy sheriffs of counties of the State of Kansas for serving process of this court within the territorial limits of their respective counties.

* * *

As amended 6/95.

RULE 5.1
FORM OF PLEADINGS AND PAPERS

(a) Form. Pleadings, motions, briefs, and other papers submitted for filing must be typewritten or printed on letter size paper. The pages must be fastened at the upper left corner without manuscript cover. Typewritten documents must be double-spaced. Documents filed electronically must comply with this rule to the extent practicable.

(b) Signing of Pleadings. The original of every pleading, motion, or other paper filed by an attorney must bear the genuine signature of at least one attorney of record. The original of every pleading, motion, or other paper filed by a party not represented by an attorney must bear the genuine signature of the pro se party. Stamped or facsimile signatures on original pleadings, motions, or other papers filed by pro se parties or by attorneys are not acceptable. D. Kan. Rule 5.4.8 governs signatures on documents filed electronically.

(c) Contact Information and Bar Registration Numbers.

(1) *Requirements for Pro Se Parties and Attorneys.* Parties or attorneys signing papers submitted for filing must include:

(A) their names;
(B) addresses;
(C) telephone numbers;
(D) facsimile numbers; and
(E) e-mail addresses.

(2) *Additional Requirements for Attorneys*. Attorneys must also include their state supreme court registration numbers or, where an attorney is not admitted to practice in Kansas, the equivalent. Attorneys admitted from the Western District of Missouri, by reciprocal admission, must include their Kansas District Court registration number.

(3) *Duty to Update Contact Information.* Each attorney or pro se party must notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or pro se party is sufficient notice.

(d) Entry of Appearance by Attorneys. An attorney enters his or her appearance by:

(1) signing and filing a formal entry of appearance; or

(2) signing the initial pleading, motion, or notice of removal filed in the case.

Entries of appearance must comply with subsection (c) of this rule.

(e) Attorney Appearances in Removed and Transferred Cases.

(1) *Duty to Clients*. The transfer or removal of a case to the District of Kansas does not relieve attorneys who appeared in the other court of their obligations to their clients.

(2) *Attorneys Admitted in this Court.* Attorneys admitted to practice in this court will be entered as attorneys of record in the action in this court.

(3) *Attorneys Not Admitted in this Court.* Attorneys not admitted to practice in this court must, within 21 days of the removal or transfer, either:

(A) obtain admission to practice in this court, if eligible;

(B) associate with an attorney admitted to practice in this court, who must move to admit the attorney not admitted to practice in this court in accordance with D. Kan. Rule 83.5.4; or

(C) move to withdraw in accordance with D. Kan. Rule 83.5.5.

(f) Exhibits to Pleadings or Papers. Bulky or voluminous materials should not be filed in their entirety or incorporated by reference unless the court finds the materials essential and grants leave to file them. The court may strike any pleading or paper filed in violation of this rule.

(g) Certificates of Service. Certificates of service of papers

pursuant to Fed.R.Civ.P. 5(d) must state:

(1) the name and address of the attorney or party served;

(2) the capacity in which such person was served (i.e., as attorney for plaintiff or a particular defendant);

(3) the manner of service; and

(4) the date of service.

* * *

As amended 12/1/09, 4/13/06, 3/17/04, 6/22/98, 2/27/98, 10/20/93.

RULE 5.3
COPIES REQUIRED FOR A THREE-JUDGE COURT

(a) In General. This rule governs actions or proceedings that an Act of Congress requires be heard and determined by a district court of three judges.

(b) Conventional filings. All pleadings, papers, and documents filed subsequent to the designation of the court, as provided in 28 U.S.C. § 2284(a), must be filed with the clerk in quadruplicate—an original and three copies—only if the pleading, paper, or document is filed in conventional paper format. The clerk must timely distribute the documents to the designated judges.

(c) Electronic Filings. If the pleading, paper, or document is filed electronically, additional copies should not be provided to the court in conventional paper format. *See* D. Kan. Rule 7.1(d).

* * *

As amended 3/17/04.

RULE 5.4.1
SCOPE OF ELECTRONIC FILING

(a) In General. As authorized by Fed. R. Civ. P. 5(d)(3), the court will accept for filing all documents submitted, signed, or verified by electronic means that comply with procedures established by the court.

(b) Electronic Filing Requirement. All civil cases are assigned to the Electronic Filing System unless the court orders otherwise. All petitions, motions, memoranda of law, or other pleadings and documents filed in a case assigned to the Electronic Filing System must be filed electronically unless:

(1) otherwise permitted in these rules;

(2) otherwise permitted in the administrative procedures guide; or

(3) or unless otherwise authorized by the court.

(c) Administrative Procedures Guide. The Administrative procedures guide—authorized by D. Kan. Rule 5.4.13—governs the filing of initial papers, including the complaint, and the issuance and service of the summons.

(d) Cases Pending on March 3, 2003. All civil cases that were pending on March 3, 2003, have a two-part file consisting of:

(1) a conventional paper file containing documents filed before March 3, 2003; and

(2) an electronic file containing documents filed on or after March 3, 2003.

* * *

Adopted 3/17/04.

RULE 5.4.2
ELIGIBILITY, REGISTRATION, PASSWORDS

(a) In General. Attorneys admitted to the bar of this court—including those admitted pro hac vice—and pro se parties may register as Filing Users of the court's Electronic Filing System.

(b) Registration Requirements. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, and e-mail address. If the registrant is an attorney, he or she must also provide a declaration that the attorney is either admitted to the bar of this court or has been admitted pro hac vice.

(c) Attorneys Admitted Pro Hac Vice.

(1) *Access to Electronic Filings.* Attorneys who are admitted pro hac vice and who register as Filing Users are granted access to the court's Electronic Filing System through PACER and will receive the automatically-generated notices of electronic filing.

(2) *Filing Prohibition.* Attorneys who are admitted pro hac vice may not file documents electronically unless they are employed by the United States of America.

(3) *Local Counsel's Involvement.* The court requires meaningful participation by local counsel and, to that end, requires local counsel to sign all pleadings and other papers filed. *See* D. Kan. Rule 83.5.4(c).

(d) Unrepresented Parties. A party who is not represented by an attorney may register as a Filing User in the Electronic Filing System. If, during the course of action, an attorney appears on the party's behalf, the attorney must immediately advise the clerk to terminate the party's Filing User registration.

(e) Effect of Registration. Registration as a Filing User constitutes consent to electronic service of all documents. *See* Fed. R. Civ. P 5(b)(2)(E). This consent extends not only to documents filed with the court, but also to electronic service of disclosure and discovery documents that must be served upon other parties but not filed with the court pursuant to D. Kan. Rule 26.3.

(f) Security. After registering, the Filing User will receive notification of the user log-in and password. Filing Users must protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. The court may sanction Filing Users who fail to comply with this provision.

* * *

Adopted 3/17/04.

RULE 5.4.3
CONSEQUENCES OF ELECTRONIC FILING

(a) Effect of Electronic Transmissions. Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes:

(1) filing of the document for all purposes of the Federal Rules of Civil Procedure and the local rules of this court; and

(2) entry of the document on the docket kept by the clerk under Fed. R. Civ. P. 58 and 79.

(b) Legibility. Before filing a scanned document with the court, a Filing User must verify its legibility.

(c) Official Record. The official record of an electronically-filed document is the electronic recording of the document as stored by the court. The filing party is bound by the document as filed.

(d) Time of Filing. An electronically-filed document is considered filed at the date and time stated on the Notice of Electronic Filing from the court, except where the document is first filed in paper form and later submitted electronically.

(e) Filing Deadlines. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight central time to be considered timely filed that day.

* * *

Adopted 3/17/04.

RULE 5.4.4
ENTRY OF COURT ISSUED DOCUMENTS

(a) Entry in the Civil Docket. All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry in the civil docket under Fed. R. Civ. P. 58 and 79. The court or court personnel will file all such documents electronically.

(b) Electronic Signature. Any such document filed electronically without the original signature of a judge, magistrate judge, or clerk has the same force and effect as if the judge, magistrate judge, or clerk, respectively, had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

(c) "Text-only" Orders. Orders may also be issued as "text-only" entries on the docket without an attached document. Such orders are official and binding.

(d) Summons. The court may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

(e) Proposed Orders. A Filing User must not submit a proposed order (whether pursuant to D. Kan. Rule 7.1(b), 77.2, or otherwise) by electronic filing, either as an attachment to a corresponding motion or otherwise. Rather, proposed orders must be submitted directly to the appropriate judge, magistrate judge, or clerk in the form and manner set forth in the administrative procedures guide.

* * *

Adopted 3/17/04.

RULE 5.4.5
ATTACHMENTS AND EXHIBITS

(a) Electronic Form Generally Required. Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the administrative procedures guide or the court permits conventional filing. Voluminous exhibits must be filed as set forth in the administrative procedures guide.

(b) Use of Excerpts.

(1) *In General.* A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter before the court. Excerpted material must be clearly and prominently identified as such.

(2) *Right of Filers.* Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document.

(3) *Right of Responding Parties.* Responding parties may timely file:

(A) additional excerpts that they believe are directly germane; or

(B) the complete document that they believe is directly germane.

(4) *Right of the Court.* The court may require parties to file additional excerpts or the complete document.

* * *

Adopted 3/17/04.

RULE 5.4.6
SEALED DOCUMENTS

(a) Procedure for Requesting Leave to File Under Seal.

(1) *Motion.* A party filing a motion for leave to file documents under seal in civil cases must file that motion electronically, under seal, in the Electronic Filing System.

(2) *Exhibit(s).* The motion for leave to file under seal must attach as sealed exhibits the document(s) the party requests to be filed under seal.

(3) *Proposed Order.* The party must email a proposed order to KSD_<Judge'sLastName>_chambers@ksd.uscourts.gov

(4) *Provision to Other Parties.* Finally, the party must simultaneously provide the document(s) it requests to be filed under seal to all other parties in the case.

(b) Order Granting Leave. If the court grants the motion for leave to file under seal, the assigned judge will enter electronically an order authorizing the filing of the document(s) under seal. The assigned judge will also direct the clerk's office to grant access to all attorneys who have entered an appearance in that case (and whose appearance has not been terminated) the ability to view sealed documents in that case (assuming this access has not previously been granted). The filing party may then file its document(s) electronically under seal.

(c) Order Denying Leave. If the court denies the motion for leave to file under seal, the assigned judge will enter electronically an order denying the filing of the document(s) under seal.

(d) Notification of Termination. Once the court has granted an attorney access to sealed documents in a case, that attorney is responsible for notifying the clerk's office if he or she is terminated from the case and the parties request that terminated attorneys no longer have access to sealed documents in that case.

* * *

As amended 3/17/08 (formerly D.Kan.S.O. 07-3).
Adopted 3/17/04.

RULE 5.4.7
RETENTION REQUIREMENTS

Filing Users must maintain in paper form all electronically-filed documents that require original signatures of non-Filing Users until 6 years after all time periods for appeals expire. If the court requests, the Filing User must provide original documents for review.

* * *

Adopted 3/17/04.

RULE 5.4.8
SIGNATURES

(a) Effect of User Log-In and Password. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed. R. Civ. P. 11, the Federal Rules of Civil Procedure, the local rules of this court, and any other purpose for which court proceedings require a signature.

(b) Requirements of Electronically-Filed Documents. Each document filed electronically must, if possible, indicate that it has been electronically filed. Electronically-filed documents must include a signature block in compliance with D. Kan. Rule 5.1(c). In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

(c) Signature of Non-Filing Users. Documents containing signatures of non-Filing Users must be filed electronically either as a scanned image or with the signature represented by an "s/" and the name typed in the space where the signature would otherwise appear.

(d) Security. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(e) Signature of Multiple Parties. Documents requiring signatures of more than one party must be electronically filed by:

(1) submitting a scanned document containing all necessary signatures;

(2) representing the consent of the other parties on the document as permitted by the administrative procedure governing multiple signatures;

(3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than 7 days after filing; or

(4) in any other manner the court approves.

* * *

As amended 12/01/09. Adopted 3/17/04.

RULE 5.4.9
SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

(a) Parties Who Have Consented to Electronic Service. The notice of electronic filing automatically generated by the court's Electronic Filing System constitutes service of the filed document on all parties who have consented to electronic service.

(b) Parties Who Have Not Consented to Electronic Service. Parties who have not consented to electronic service are entitled to service of paper copies of the notice of electronic filing and the electronically-filed pleading or other document. The filing party must serve such paper copies according to the Federal Rules of Civil Procedure and the local rules.

(c) Certificate of Service. All electronically-filed documents must include a certificate of service. The certificate must indicate:

(1) that service was accomplished through the Notice of Electronic Filing for parties and attorneys who are Filing Users; and

(2) how service was accomplished on any party or attorney who is not a Filing User.

* * *

Adopted 3/17/04.

RULE 5.4.10
NOTICE OF COURT ORDERS AND JUDGMENTS

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Civ. P. 77(d). The clerk must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Civil Procedure.

* * *

Adopted 3/17/04.

RULE 5.4.11
TECHNICAL FAILURES

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

* * *

Adopted 3/17/04.

RULE 5.4.12
PUBLIC ACCESS

(a) In-Person Review. A person may review unsealed filings at the clerk's office.

(b) Online Review. A person may also access the Electronic Filing System at the court's Internet site, www.ksd.uscourts.gov, by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents.

(c) Electronic Filing. Only the following persons may file documents electronically, unless the court permits otherwise:

(1) a Filing User who is an attorney admitted to the bar of this court; and

(2) an unrepresented party registered as a Filing User.

See D. Kan. Rule 5.4.2.

* * *

As amended 3/17/10. Adopted 3/17/04.

RULE 5.4.13
ADMINISTRATIVE PROCEDURES

To facilitate implementation of the foregoing rules, the clerk is authorized to develop, adopt, publish, and modify as necessary *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Civil Cases* ("administrative procedures guide"), which will include the procedures for registration of attorneys and distribution of passwords to permit electronic filing and notice of pleadings and other papers.

* * *

Adopted 3/17/04.

RULE 6.1
TIME

(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 must show:

(1) whether there has been prior consultation with other parties and the views of other parties;

(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; and

(4) the cause for the requested extension.

Parties must file the motion before the specified time expires. Absent a showing of excusable neglect, the court will not grant extensions requested after the specified time expires.

(b) Motions for Continuance. A party must file motions to continue a pretrial conference, a hearing on a motion, or the trial of an action reasonably in advance of the hearing date and must specify the views of other parties.

(c) Joint or Unopposed Motions. Subject to Fed. R. Civ. P. 29, stipulations for extensions of time are subject to court approval. The court will not continue pretrial conferences, hearings, or trial upon stipulation of the parties.

(d) Time for Filing of Responses and Replies. Unless the court orders otherwise, the following time periods apply to the filing of responses and replies. These time periods include the additional 3-day period allowed under Fed. R. Civ. P. 6(d) and, therefore, apply regardless of the method of service.

(1) *Non-dispositive motions*. Responses to nondispositive motions (motions other than motions to dismiss or for summary judgment) must be filed and served within 14 days. Replies must be filed and served within 14 days of the service of the response.

(2) *Dispositive motions*. Responses to motions to dismiss or for summary judgment must be filed and served within 21 days. Replies must be filed and served within 14 days of the service of the response.

* * *

As amended 12/1/09, 3/17/04, 9/00.

RULE 6.2
EFFECTIVE DATE OF COURT FILINGS FOR PURPOSES OF CALCULATING LIMITATION PERIODS

Unless specifically provided otherwise, in determining the filing deadlines under both the federal procedural rules and the local rules of this court, the relevant date for calculating a limitation period dependent on the filing of a court order is: (1) for a conventionally-filed order, the file-stamp date appearing on the order; or (2) for an electronically-filed order, the date stated on the Notice of Electronic Filing. Neither the date on which the judge or magistrate judge signs the order nor the date on which the clerk's office enters the order on the docket is relevant in calculating the limitation period.

* * *

As amended 3/17/04. Adopted 6/11/98.

-III-
PLEADINGS AND MOTIONS

RULE 7.1
MOTIONS IN CIVIL CASES

(a) Form and Filing. All motions, unless made during a hearing or at trial, must be filed in writing with the clerk. A brief or memorandum must accompany all motions unless:

(1) the motion is joint or unopposed;

(2) the motion is filed pursuant to D. Kan. Rule 6.1 or 77.2;

(3) these rules otherwise provide; or

(4) the court relieves the parties of complying with the requirement.

(b) Joint or Unopposed Motions. If a motion is joint or unopposed, the caption and the body of the motion must so state. Also, the movant must submit a proposed order with the motion. If the motion is filed electronically, the movant must submit a proposed order directly to the appropriate judge, magistrate judge, or the clerk, as set forth in D. Kan. Rule 5.4.4 and the administrative procedures guide.

(c) Responses and Replies to Motions. Within the time provided in D. Kan. Rule 6.1(d), a party opposing a motion must file a responsive brief or memorandum. The moving party may file and serve a written reply brief or memorandum.

(d) Additional Copies of Documents.

(1) *Electronically-Filed Documents.* Parties should not provide the court with paper copies of electronically-filed documents unless the court specifically requests paper copies or they are otherwise required by:

(A) court order;
(B) this court's rules; or
(C) the administrative procedures guide.

(2) *Conventionally-Filed Documents.* Copies of documents filed in conventional paper format must be filed with the clerk in duplicate, including an original and one copy.

(e) Page Limitations. The arguments and authorities section of briefs or memoranda must not exceed 30 pages absent a court order.

* * *

As amended 3/05, 3/04, 9/00.

RULE 7.2
ORAL ARGUMENTS ON MOTIONS

The court ordinarily will resolve motions on the parties' written briefs or memoranda. But the court may set any motion for oral argument or hearing at the request of a party or on its own initiative.

* * *

RULE 7.3
MOTIONS TO RECONSIDER

A party may file a motion asking a judge or magistrate judge to reconsider an order or decision made by that judge or magistrate judge.

(a) Dispositive Orders and Judgments. Parties seeking reconsideration of dispositive orders or judgments must file a motion pursuant to Fed. R. Civ. P. 59(e) or 60. The court will not grant reconsideration of such an order or judgment under this rule.

(b) Non-dispositive Orders. Parties seeking reconsideration of non-dispositive orders must file a motion within 14 days after the order is filed unless the court extends the time. A motion to reconsider must be based on:

(1) an intervening change in controlling law;
(2) the availability of new evidence; or

(3) the need to correct clear error or prevent manifest injustice.

* * *

As amended 12/01/09, 6/11/98.

RULE 7.4
FAILURE TO FILE AND SERVE MOTION PAPERS

(a) Motions. The court may summarily deny a motion not accompanied by a required brief or memorandum.

(b) Responsive Briefs or Memorandums. Absent a showing of excusable neglect, a party or attorney who fails to file a responsive brief or memorandum within the time specified in D. Kan. Rule 6.1(d) waives the right to later file such brief or memorandum. If a responsive brief or memorandum is not filed within the Rule 6.1(d) time requirements, the court will consider and decide the motion as an uncontested motion. Ordinarily, the court will grant the motion without further notice.

* * *

As amended 3/05.

RULE 7.5
APPLICATION OF THIS RULE

Local Rules 7.1 through 7.6 apply to all motions in civil cases, including motions and objections relating to discovery, to appeals in bankruptcy, and to motions to review orders of magistrate judges.

* * *

RULE 7.6
BRIEFS AND MEMORANDA

(a) Contents. All briefs and memoranda filed with the court must contain:

(1) a statement of the nature of the matter before the court;

(2) a concise statement of the facts, with each statement of fact supported by reference to the record;

(3) a statement of the question or questions presented; and

(4) the argument, which must refer to all statutes, rules, and authorities relied upon.

(b) Exhibits. The filing party must separately label any exhibits attached to motion briefs or memoranda and file an index of such exhibits.

(c) Citation of Unpublished Decisions. If an unpublished decision cited in a brief or memorandum is unavailable electronically (e.g., via Westlaw or LEXIS), it must be attached as an exhibit to the brief or memorandum. But parties should not furnish electronically-available unpublished decisions to the court. Parties should furnish electronically-available unpublished decisions to opposing parties only upon request. Unpublished decisions should be cited as follows: Smith v. Jones, No. 02-1234-KHV, 2003 WL 8763523, at *2 (D. Kan. Jan. 7, 2003).

* * *

As amended 3/04, 5/03, 9/00.

RULE 9.1
HABEAS CORPUS, MOTIONS TO VACATE AND CIVIL RIGHTS COMPLAINTS BY PRISONERS

(a) Use of Official Forms Required. The following filings must be in writing, signed, and verified (meaning sworn under penalty of perjury):

(1) petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 2254;

(2) motions to vacate sentence pursuant to 28 U.S.C. § 2255; and

(3) motions to correct or reduce sentence pursuant to Fed. R. Crim. P. 35 by persons in custody pursuant to a judgment of a court.

Such petitions, motions, and civil rights complaints by prisoners under 42 U.S.C. § 1983 and pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S. Ct. 1999, 29 L.Ed.2d 619 (1971), must be on forms approved by the court. Upon request, the clerk of the court will supply forms without charge.

(b) Required Information. Every petition, motion to vacate, and motion to correct or reduce sentence must contain the following information:

(1) petitioner's full name and prison number (if any);

(2) name of the respondent;

(3) place of petitioner's detention;

(4) name and location of the court that imposed sentence;

(5) case number and the offense or offenses for which sentence was imposed;

(6) the date on which sentence was imposed and the terms of the sentence;

(7) whether a finding of guilty was made after a plea of guilty, not guilty, or *nolo contendere;*

(8) in the case of a petitioner who has been found guilty following a plea of not guilty, whether that finding was made by a jury or a judge without a jury;

(9) whether petitioner appealed from his or her conviction or the imposition of sentence, and if so, the name of each court to which he or she appealed, the results of such appeals, and the date of such results;

(10) whether petitioner was represented by an attorney at any time during the course of the proceedings under which sentence was imposed, and the name(s) and address(es) of such attorney(s) and the proceedings in which petitioner was represented; whether the attorney was one of petitioner's own choosing or appointed by the court;

(11) whether a plea of guilty was entered pursuant to a plea bargain, and if so, the terms and conditions of the agreement;

(12) whether petitioner testified at trial (if any);

(13) whether petitioner has any petition, application, motion, or appeal currently pending in any court, and if so, the name of the court and the nature of the proceeding;

(14) whether petitioner has filed in any court, state or federal, previous petitions, applications, or motions with respect to this conviction; if so, the name and location of each such court, the specific nature of each proceeding, the disposition thereof, the date of each disposition, and citations (if known) of any written opinions or orders; and

(15) in concise form, the grounds upon which petitioner bases his or her allegations that he or she is held in custody unlawfully or his or her sentence is illegal, imposed in an illegal manner, or should be reduced; the facts that support each of the grounds; whether any such grounds have been previously presented to any court by petition, motion, or application; if so, which grounds have been previously presented and in what proceedings; and if any grounds have not been previously presented, which grounds have not been so presented and the reasons for not presenting them.

(c) Additional Information in Challenges of a State Conviction. A petitioner challenging a state conviction must supply the following additional information:

(1) if petitioner did not appeal from the judgment of conviction or imposition of sentence,

(2) the reasons why he or she did not do so, and

(3) a showing that he or she has exhausted his or her remedies in state court.

(d) Additional Information Required in Challenges to Federal Custody Pursuant to 28 U.S.C. § 2255. A petitioner in federal custody seeking a writ of habeas corpus or relief by motion pursuant to 28 U.S.C. § 2255 must provide the following additional information:

(1) the name of the judge who imposed sentence;

(2) in concise form, the grounds on which petitioner bases his or her allegation that the sentence imposed upon him or her is invalid; the facts that support each of the grounds; whether any such grounds have been presented to any federal court by way of petition for writ of habeas corpus, motion pursuant to 28 U.S.C. § 2255, or any other petition, motion, or application; if so, which grounds have been previously presented and in which proceedings; and if any grounds have not been previously presented, which grounds have not been so presented and the reasons for not presenting them;

(3) whether petitioner has filed in any court petitions for habeas corpus, motions pursuant to 28 U.S.C. § 2255, or any other petitions, motions, or applications with respect to the conviction; if so, the name and location of each such court, the specific nature of each proceeding, the disposition thereof, the date of each such disposition, and citations, if known, of any written opinion or order entered therein or copies (if available) of such opinions or orders; and

(4) if a previous motion pursuant to 28 U.S.C. § 2255 was not filed or if such a motion was filed and denied, the reasons petitioner's remedy by way of such motion was inadequate or ineffective to test the legality of his detention.

(e) All Grounds for Relief Required; Successive Petitions. Petitions and motions for post-conviction relief submitted pursuant to this rule must specify all grounds for relief available to the petitioner or movant and of which he or she has knowledge or, by the exercise of reasonable diligence, should have knowledge. Before filing a second or successive habeas corpus application, the applicant must file a motion, pursuant to 28 U.S.C. § 2244(b)(3), with the Tenth Circuit Court of Appeals for an order authorizing this court to consider the application.

Absent such authorization from the Tenth Circuit Court of Appeals, the second or successive habeas corpus application must be dismissed.

(f) Information in Section 1983 Cases and Bivens Cases. A prisoner who is a plaintiff in a civil rights action filed pursuant to 42 U.S.C. §1983 must supply the following information:

(1) plaintiff's full name;

(2) place of plaintiff's residence;

(3) names of defendants;

(4) places of defendants' residences;

(5) title and position of each defendant;

(6) whether the defendants were acting under color of state law or as federal agents at the time the claim alleged in the complaint arose;

(7) a brief statement of the facts;

(8) the grounds upon which plaintiff bases his or her allegations that constitutional rights, privileges, or immunities have been violated, together with the facts that support each of those grounds;

(9) a statement of prior judicial and administrative relief sought; and

(10) a statement of the relief requested.

(g) Proceedings Without Prepayment of Fees, or *In Forma Pauperis*.

(1) *In General.* A pro se petitioner, movant, or plaintiff who tenders a petition, motion, or complaint for filing without prepayment of fees must:

(A) complete the motion for leave to proceed without prepayment of fees on the form supplied by the clerk;

(B) complete a supporting affidavit on the form supplied by the clerk; and

(C) set forth information regarding his or her ability to prepay the costs and fees of the proceeding or give security therefor.

(2) *Inmates.*

(A) Where a petitioner, movant, or plaintiff is an inmate of a penal institution and desires to proceed without prepayment of fees, he or she must also submit a certificate executed by an authorized officer of the institution in

which he or she is confined. The certificate must state the amount of money or securities on deposit to his or her credit in any account in the institution.

(B) The court may consider the certificate when it rules on the motion for leave to proceed without prepayment of fees.

(3) *Service.* If the court grants leave to proceed without prepayment of fees, the court may proceed under Fed. R. Civ. P. 4(d) to obtain waiver of service of summons on behalf of an inmate plaintiff. If waiver is not obtained, the court will order the United States Marshal or a Deputy United States Marshal to serve the summons and complaint.

(h) Tender of Pleadings to Clerk. Petitioners, movants, and plaintiffs need only submit the original petition, motion, or complaint to the clerk for filing. Additional copies are not required. If tendered for filing by mail, any petition, motion, or complaint must be addressed to:

Clerk of the United States District Court
for the District of Kansas
490 U.S. Courthouse
444 Southeast Quincy
Topeka, Kansas 66683

(i) Failure to Comply With Rules. The clerk may return a petition, motion, or complaint that does not comply with this rule, together with a copy of this rule and a statement of the reason or reasons for its return. The clerk will retain one copy of each noncomplying document returned. If the clerk cannot tell whether a document complies with this rule, the document will be referred to the court for determination. The clerk will return the document if the court so directs.

(j) Filing and Docketing. When the clerk receives a petition, motion, or complaint complying with this rule that is tendered for filing without prepayment of fees, the clerk will:

(1) docket the petition, motion, or complaint;

(2) refer it to the court for further proceedings; and

(3) serve a copy of the petition or motion, together with a notice of its filing, on the Attorney General of the state involved or on the United States Attorney for the district in which

the judgment under attack was entered.

The filing without prepayment of fees of such petition, motion, or complaint does not require an answer or other responsive pleading unless the court orders otherwise.

(k) Case Management. All cases filed by a prisoner are exempt from requirements under the Federal Rules of Civil Procedure that mandate a scheduling order, Fed. R. Civ. P. 16(b); disclosure of information, Fed. R. Civ. P. 26(a); and a planning meeting between the parties or their attorneys, Fed. R. Civ. P. 26(f). But the court may impose any or all of these requirements if necessary to effectively manage an action.

* * *

NOTE: This is a mandated rule.
As amended 3/17/10, 2/27/98.

RULE 11.1
SANCTIONS

(a) Sanctions Under These Rules, Fed. R. Civ. P. 11, 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, Fed. R. Civ. P. 11, 28 U.S.C. § 1927, or other provisions of the federal rules or statutes. The court will state the reasons for issuing the show cause order. Unless otherwise ordered, all parties may respond within 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*. A party may raise the issue of sanctions by a timely-filed motion. The responding party may respond in the same manner as specified above.

(3) *Procedure*. After the response time passes and without further proceedings, the court may rule on the issues of violation and the nature and extent of any sanction imposed. Discovery and evidentiary hearings on sanctions are permitted only by court order. The court will articulate the factual and legal bases for its rulings on sanctions.

(b) Imposition of Sanctions. If the court finds a violation of local rule or court order, the court may impose sanctions pursuant to Fed. R. Civ. P. 11 or other federal rules or statutes. In addition, the court may issue such orders as are just under the circum-

stances, including the following:

(1) an order that designated matters or facts are 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; and

(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) Sanctions Within the Discretion of the Court. The court has discretion whether to impose sanctions for violation of a local rule or order. In considering sanctions, the court may consider whether a party's failure was substantially justified or whether other circumstances make sanctions inappropriate.

* * *

As amended 12/01/09.

RULE 15.1
MOTIONS TO AMEND AND FOR LEAVE TO FILE

(a) Requirements of Motion. A party filing a motion to amend or a motion for leave to file a pleading or other document that may not be filed as a matter of right must:

(1) set forth a concise statement of the amendment or leave sought;

(2) attach the proposed pleading or other document; and

(3) comply with the other requirements of D. Kan. Rules 7.1 through 7.6.

(b) Where Motion Granted. If the court grants the motion, the moving party must file and serve the pleading within 14 days of the court's order granting the motion, or as the court otherwise directs.

* * *

As amended 12/01/09, 3/17/04, 12/19/00, 4/8/99, 10/22/98.

RULE 16.1
PRETRIAL CONFERENCES, SCHEDULING, CASE MANAGEMENT

(a) General Procedure. After a case is docketed, the clerk will forward it to a judge or magistrate judge for pretrial conferences, case supervision, and management as provided in Fed. R. Civ. P. 16. In cases other than those identified in subsection (b) of this rule, the court will hold conferences and hearings and issue orders in accordance with Fed. R. Civ. P. 16.

(b) Exempt Cases. Unless the court orders otherwise in a particular case, the following categories of actions are exempt from the requirements of Fed. R. Civ. P. 16(b):

(1) Social Security cases and other actions for review of administrative decisions;

(2) all cases filed by pro se prisoners or directly related to the litigant's incarceration;

(3) governmental administrative enforcement proceedings;

(4) forfeiture proceedings;

(5) eminent domain proceedings; and

(6) bankruptcy appeals.

In exempt cases, the court ordinarily will not issue scheduling orders, require compliance with the disclosure provisions of Fed. R. Civ. P. 26(a), or require compliance with Fed. R. Civ. P. 26(f) relating to planning meetings between the parties.

* * *

RULE 16.2
FINAL PRETRIAL CONFERENCE

(a) General Provisions.

(1) *Pretrial Conference.* The pretrial conference contemplated by Fed. R. Civ. P. 16(d) will be held before a judge or magistrate judge with court participation throughout unless the court otherwise directs. Parties may be present at the pretrial conference and must be present when the court orders.

(2) *Discovery.* Ordinarily the parties should have completed discovery before the pretrial conference. If a party discovers additional witnesses or evidence after the pretrial conference, the discovering party must immediately alert all parties and the court in writing.

(3) *Pretrial Order.* The court will prepare the pretrial order or designate that the attorneys do so. At a time ordered by the

court under Fed. R. Civ. P. 16, the parties must submit a proposed final pretrial order in the prescribed form.

(4) *Good Faith Duty.* The parties are jointly responsible for attempting in good faith to formulate an agreed order the judge or magistrate judge can sign at the conference. If the parties disagree on any particulars, they each must submit proposed language on the points in controversy for the court to rule on at the conference. To attempt in good faith to formulate an agreed order means more than mailing or faxing a form or letter to the opposing party. It requires the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so.

(5) *Objections.* Objections to the pretrial order must be made in writing and within such time as the court may specify.

(b) Procedure at Final Pretrial Conference. The court will conduct the final pretrial conference substantially in conformity with the following procedural steps:

(1) The parties must state the basis for the court's jurisdiction and any objections to jurisdiction, venue, or propriety of the parties.

(2) The parties must state concisely their factual contentions and the theories of their claims, defenses, and claims for relief.

(3) The court may rule upon any proposed amendments.

(4) The court and attorneys will confer regarding undisputed matters and attempt to obtain admissions and stipulations.

(5) The parties must state the issues of fact and law.

(6) The court and attorneys will discuss uncompleted discovery. The court may permit parties to complete discovery and establish guidelines for completion.

(7) Provision must be made for the exchange and filing of lists of witnesses to be called at trial and exhibits to be offered at trial. Ordinarily, only witnesses and exhibits listed pursuant to pretrial orders may be used at trial. But the court may permit a party to call a witness not previously listed under such circumstances as the court considers just.

(8) The parties must identify pending motions and anticipated motions.

(9) A determination as to whether the case is for trial to the court or to a jury must be made.

(10) The court and the attorneys will consider the position of the parties relative to settlement and explore the possibility of settlement, including the feasibility of a settlement conference, summary trial, mediation, arbitration, or other alternative methods of dispute resolution.

(c) Effect of Pretrial Order. The pretrial order, when approved by the court and filed, together with any memorandum entered by the court at the conclusion of the final pretrial conference, controls the subsequent course of the action unless modified by:

(1) consent of the parties and court; or

(2) an order of the court to prevent manifest injustice.

(d) Sanctions. If an attorney or a pro se litigant fails to appear at the pretrial conference or fails to comply in good faith with this rule, the court may enter a judgment of dismissal or default. Alternatively, or in addition, the court may impose any sanction provided for in Fed. R. Civ. P. 16(f) or D. Kan. Rule 11.1.

(e) Witness and Exhibit Disclosures. At times ordered by the court under Fed. R. Civ. P. 16(b) and (c)(7), the parties will exchange and file witness and exhibit disclosures pursuant to Fed. R. Civ. P. 26(a)(3).

(1) *Content of Witness Disclosures.* Witness disclosures must set forth the following for each witness:

(A) the witness's address;

(B) the subject matter of the testimony; and

(C) a brief synopsis of the substance of the facts to which each witness is expected to testify.

(2) *Witnesses Previously Disclosed.* Witness and exhibits disclosed by one party may be called or offered by the other party.

(3) *Witnesses Previously Undisclosed.* If a witness or exhibit not previously included in a Rule 26(a)(1) disclosure (or timely supplement thereto) appears on a final Rule 26(a)(3) disclosure, that witness or exhibit probably will be excluded at trial. *See* Fed. R. Civ. P. 37(c)(1). This restriction does not apply, however, to rebuttal witnesses or documents, the necessity of which could not reasonably be anticipated as of the deadline for filing final witness and exhibit disclosures.

(4) *Deposition Exhibits.* The parties' disclosures must also identify specific deposition exhibits to be used.

(5) *Expert Witnesses.* Witnesses expected to testify as experts must be so designated.

(6) *Trial Exhibits.* Before exhibits, the parties must

exchange copies of all proposed exhibits and attempt to agree as to their authenticity and relevancy.

(7) *Testimony by Deposition.*

(A) *Deposition Designations.* With respect to any witness who will appear by deposition, the disclosure must designate by page and line (or other appropriate designation in the case of a videotaped deposition) those portions of the deposition the offering party intends to present.

(B) *Counter Designations.* The opposing party must then counter designate those portions of the deposition the opposing party believes in fairness ought to be considered with the part the offering party has designated in accordance with Fed. R. Civ. P. 32(a)(4).

(C) *Disputes Regarding Deposition Testimony.* The parties must notify the court of any disputes concerning deposition testimony, including any unresolved evidentiary objections, by filing an appropriate document in accordance with deadlines set forth in the pretrial order. The objecting party must deliver a copy of the deposition to the judge along with this filing.

(D) *Copies and Exhibits.* A party intending to offer deposition evidence at trial must provide the trial judge a copy of the deposition before the commencement of trial. For any depositions used at trial, the offering party must re-mark all exhibit designations to correspond to the trial exhibit designations.

* * *

As amended 3/04, 9/00, 3/20/92.

RULE 16.3
ALTERNATIVE DISPUTE RESOLUTION

(a) Authorization for and Purpose of Mediation. Pursuant to 28 U.S.C. § 652, the court may require litigants in civil cases to consider the use of an alternative dispute resolution ("ADR") process. The court's primary ADR procedure is mediation facilitated by a private mediator chosen by the parties. The mediation process

is intended to improve communication among the parties and provide the opportunity for greater litigant involvement in the earlier resolution of disputes, with the ultimate goal of securing the just, speedy, and inexpensive disposition of civil cases.

(b) Summary Description of ADR Procedures.

(1) *Mediation*. Mediation utilizes a neutral third party to facilitate discussions among the parties to help them find a mutually acceptable resolution of the case. The goal of the mediator, who may meet with the parties jointly and separately, is to help them identify their underlying interests, improve communication, and generate settlement options. A mediator may employ traditional facilitative strategies (aimed at solutions to problems underlying the litigation), evaluative strategies (designed to present the strengths and weaknesses of the case, or its relative value), or a combination of both approaches. In limited circumstances, the court may conduct the mediation.

(2) *Other ADR Procedures*. In appropriate cases, the court will facilitate other forms of ADR, as authorized by 28 U.S.C. §§ 654-658, including, but not limited to, early neutral evaluation, mini-trial, and arbitration.

(c) Referral of Cases to Mediation. Consistent with Fed. R. Civ. P. 16, the court will discuss ADR procedures at the scheduling conference. In most cases, the court will direct the parties, at the earliest appropriate opportunity, to mediate their dispute with a private mediator.

(1) *Referral and Selection Process*. The court may refer a case to mediation at any appropriate time. If the court orders mediation, the parties will jointly select the mediator. The parties may select any person to serve as mediator, and the person need not be included on the court-maintained list of mediators. Absent substantial countervailing considerations, the court will appoint the jointly-selected mediator. If the parties cannot agree on a mediator, the parties will submit their nominations to the court, who will select the mediator.

(2) *Attendance at Mediation Session by Persons with Settlement Authority*. Attendance by a party or its representative with settlement authority at the mediation is mandatory, unless the court orders otherwise. The purpose of this requirement is to have the party or representative who can settle the case present at the mediation. A unit or agency of government satisfies this attendance requirement if represented by a person who has, to the greatest extent feasible,

authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements. The parties' attorney(s) responsible for resolution of the case must also be present.

(3) *Notice to Interested Nonparties*. Attorneys must coordinate with the mediator and identify any nonparties who have an interest in the case (including, but not limited to, primary and excess liability insurance carriers, subrogees, and lienholders). The attorneys must provide written notice to all interested nonparties informing them of the date and location of the mediation and that their participation is strongly encouraged. A copy of such notice must be provided to all parties and the mediator.

(4) *Requests to be Excused*. Unless all parties agree, only the court may excuse the presence of a person with settlement authority from attending the mediation in person.

(5) *Sanctions*. In appropriate circumstances, the court may impose sanctions pursuant to Fed.R.Civ.P. 16(f).

(d) List of Mediators. The ADR administrator will maintain a list of mediators who have expressed a desire to mediate cases pending in this court and have complied with the requirements of this paragraph.

(1) *Minimum Qualifications and Training*. For placement on the list of mediators, the person must be a lawyer and:

(A) must have been a member of a state or federal bar in good standing for the preceding five years and satisfy one of the following additional requirements:

(i) participated in 40 hours of approved mediation training within the past two years;

(ii) approved as a mediator for civil cases pursuant to the rules adopted by the Kansas Supreme Court; or

(iii) participated as mediator, co-mediator, or attorney in 10 mediations in court cases in the past 3 years;

(B) must abide by the disclosure rule set forth in paragraph (g) below;

(C) must agree to participate periodically in court-approved ADR orientation or refresher training;

(D) must agree:

(i) to permit participants in the mediation sessions they conduct to give feedback to the court about how the process was conducted; and

(ii) to submit reports upon conclusion of the mediation; and

(E) must agree to serve as a mediator on a pro bono basis or, in the court's discretion, at a reduced fee in two cases per year.

(2) *Placement on the List of Mediators*. All applicants must complete the required application form. The ADR administrator will review the applications and place applicants meeting the minimum requirements on a list of mediators. Being on the list of mediators is not an indication a person is an effective mediator, and no certification results by placement on the list. The list serves as a resource of persons who offer mediation services and appear to meet the court's minimum requirements.

(3) *Evaluation*. The ADR administrator is authorized to develop an evaluation program to evaluate the mediation services of private mediators. Any comments or complaints concerning mediators on the list should be made to the ADR administrator.

(4) *Removal from the List of Mediators*. The ADR administrator may remove any person from the list of mediators for any reason consistent with the effective management of the program.

(e) Compensation of Private Mediators. Except when serving pro bono, private mediators must be compensated at the rate negotiated by the attorneys and the mediator. The fee must be divided by agreement of the parties or as ordered by the court.

(f) Mediation with Indigent Parties. If a party is indigent, the mediation services will be provided pro bono or at a reduced rate to that party. The court will determine whether a party is indigent.

(g) Required Disclosures by Mediator. The mediator must immediately disclose to the parties the relevant facts giving rise to any potential conflict of interest, including, but not limited to, the following:

(1) any basis upon which the mediator's impartiality might reasonably be questioned;

(2) any bias or prejudice concerning a party to this case;

(3) personal knowledge of evidentiary facts that are disputed in this case;

(4) the mediator or the mediator's spouse is serving as a lawyer in the case;

(5) any lawyer in the mediator's firm has served or is serving as a lawyer in the case;

(6) the mediator or the mediator's spouse is a party to the case or an officer, director, or trustee of a party to the case;

(7) the mediator or the mediator's spouse has been or is likely to be a material witness in the case;

(8) a lawyer with whom the mediator currently practices has been or is likely to be a material witness in the case; and/or

(9) the mediator (directly or as a fiduciary), the mediator's spouse, or any of the mediator's minor children who live with the mediator have a financial interest in the case or in any party to the case.

(h) Withdrawal. If a party requests the mediator to withdraw because of the disclosures made pursuant to paragraph (g) above, the mediator must withdraw, and the parties must agree on another mediator.

(i) Confidentiality. Except as provided in paragraph (j) below, this court, the mediator, all attorneys, the parties, and any other persons involved in the mediation must treat as "confidential information" the contents of written mediation statements, anything that happened or was said, any position taken, and any view of the merits of the case formed by any participant in connection with any mediation. "Confidential information" must not be:

(1) disclosed to anyone not involved in the mediation process;

(2) disclosed to the trial judge; or

(3) discoverable or subject to compulsory process or used for any purpose, except as provided in paragraph (j) below, in any pending or future proceeding in any court unless a court determines that such testimony or disclosure is necessary to:

(A) prevent manifest injustice;

(B) help establish a violation of law or ethical violation; or

(C) prevent harm to the public health or safety,of such magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

(j) Limited Exceptions to Confidentiality. Paragraph (i) above does not prohibit:

(1) disclosures as may be stipulated by all parties and the mediator;

(2) disclosure of an agreement, by all parties to the agreement, which appears to constitute a settlement contract, if necessary in proceedings to determine the existence of a binding settlement contract;

(3) a report to or an inquiry by the ADR administrator regarding a possible violation of these local rules;

(4) a report of a possible violation of a court order to the judge or magistrate judge signing the order;

(5) any participant or the mediator from responding to an appropriate request for information duly made by persons authorized by the court to monitor or evaluate the court's ADR program; or

(6) disclosures as are otherwise required by law.

* * *

As amended 3/05 (formerly D.Kan.S.O. 04-1 and 03-6), 4/8/99, 2/28/97, 2/3/95.

-IV-
PARTIES

RULE 23.1
CLASS ACTIONS

(a) Class Action Complaint. The complaint in a class action case must bear next to its caption the legend, "Complaint — Class Action." The complaint must contain, under a separate heading styled "Class Action Allegations," the following:

(1) A reference to the portion or portions of Fed. R. Civ. P. 23 under which it is claimed that the suit is properly maintainable as a class action.

(2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

(A) the size and definition of the alleged class;

(B) the basis upon which the plaintiff claims

(i) to be an adequate representative of the class; or

(ii) if the class is comprised of defendants, that

those named as parties are adequate representatives of the class;

(C) the alleged question of law or fact claimed to be common to the class; and

(D) for actions sought to be maintained under Fed. R. Civ. P. 23(b)(3), allegations thought to support the findings required by that subdivision.

(b) Motion for Class Action Determination. Consistent with Fed. R. Civ. P. 23(c)(1), as early as is practicable, a party seeking certification of a class action must file a motion to determine whether the case may be maintained as a class action. If a party wishes to present oral testimony to support the class action motion, it must inform the court in its motion. In ruling on such a motion, the court may:

(1) allow the action to be so maintained;

(2) disallow and strike the class action allegations; or

(3) order postponement of the determination pending discovery or such other preliminary procedures as appropriate and necessary in the circumstances. Whenever possible, where the court postpones determination, the court will set a date for renewing the motion.

(c) Class Action Counterclaims or Crossclaims. The foregoing provisions apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for or against a class.

(d) Burden of Proof; Notice. Any party seeking to maintain a case as a class action bears the burden of presenting an evidentiary basis to the court showing that the action is properly maintainable as such. If the court determines that an action may be maintainable as a class action, the party obtaining that determination must, unless the court orders otherwise, initially bear the expenses of and be responsible for giving such notice as the court may order to members of the class.

* * *

As amended 9/28/87.

-V-
DEPOSITIONS AND DISCOVERY

RULE 26.1
COMPLETION TIME FOR DISCOVERY

In civil cases other than patent infringement cases and antitrust cases, the parties should complete discovery within 4 months after the case becomes at issue, or within 4 months after the court issues its Rule 16(b) scheduling order. In patent and antitrust cases, the parties should complete discovery within eight months. For good cause, the court may establish longer or shorter periods for the completion of discovery.

* * *

RULE 26.2
MOTIONS FOR PROTECTIVE ORDERS

(a) Stay of Discovery. The filing of a motion for a protective order pursuant to Fed. R. Civ. P. 26(c) or 30(d) stays the discovery at which the motion is directed pending order of the court.

(b) Stay of Deposition. A properly-noticed deposition is automatically stayed if:

(1) one of the following motions has been filed:

(A) motion to quash or modify a deposition subpoena pursuant to Fed. R. Civ. P. 45(c)(3)(A); or

(B) motion to order appearance or production only upon special conditions pursuant to Fed. R. Civ. P. 45(c)(3) (C); and

(2) the objecting party has filed and served the motion upon the attorneys or parties

(A) by delivering a copy within 14 days after service of the deposition notice; and

(B) at least 48 hours prior to the noticed time of the deposition.

(c) No Appearance at Deposition Required. Pending resolution of any motion that stays a deposition under this rule, neither the objecting party, witness, nor any attorney is required to appear at the deposition to which the motion is directed until the court rules on the motion or it is otherwise resolved.

* * *

As amended 12/01/09.

RULE 26.3
DISCLOSURES AND DISCOVERY NOT TO BE FILED

(a) Papers Not to be Filed. The following papers must be served upon other attorneys or unrepresented parties, but not filed with the clerk:

(1) disclosures required under Fed. R. Civ. P. 26(a)(1) and (2);

(2) interrogatories under Fed. R. Civ. P. 33;

(3) requests for production or inspection under Fed. R. Civ. P. 34;

(4) requests for admissions under Fed. R. Civ. P. 36; and

(5) the responses thereto.

(b) Conventionally-Served Verification. As stated in D. Kan. Rule 5.4.2, registration as a Filing User constitutes consent to electronic service of these documents. However, a party's original signature verifying answers to interrogatories must be served conventionally. The verification may be served as a separate document if it references the interrogatory answers with adequate specificity (*e.g.*, "plaintiff's answers to defendant's Interrogatory Nos. 1 through 10, which answers were served by e-mail on March 1, 2003").

(c) Certificate of Service. A party serving such disclosures and discovery must, at the time of service, file with the clerk a certificate of service stating the type of disclosure or discovery or response served, the date and type of service, and the party served.

* * *

As amended 3/04, 2/16/95.

RULE 26.4
EXPERT WITNESSES

(a) Court-Appointed Experts. If a judge determines that the appointment of expert witnesses in an action may be desirable, the judge will order the parties to show cause why expert witnesses should not be appointed. After opportunity for hearing, the judge may request nominations and appoint one or more such witnesses. If the parties agree in the selection of an expert or experts, the judge will appoint the agreed expert or experts. Otherwise, the judge may make the selection. The judge will determine the duties of the witness and inform the witness thereof at a conference at which the

parties will have an opportunity to participate. A witness so-appointed must advise the parties of the findings of the witness, if any. The judge or any party may call the witness to testify. Any party may examine and cross-examine the witness.

This rule does not limit the parties in calling their own expert witnesses.

(b) Compensation. Expert witnesses appointed pursuant to this rule are entitled to reasonable compensation in such sum as the judge may allow. Such compensation must be paid as follows:

(1) In a criminal case, by the United States as the judge orders out of available funds;

(2) In a civil case, by the parties in equal portions, unless the judge otherwise directs, and the compensation taxed as costs in the case.

(c) Stipulations Regarding Experts. Notwithstanding Fed. R. Civ. P. 26(a)(2)(B), no exception to the requirements of the rule will be allowed by stipulation of the parties unless the stipulation is in writing and filed and approved by the court.

* * *

As amended 9/00.

RULE 30.1
NOTICE OF DEPOSITIONS

The reasonable notice provided by Fed. R. Civ. P. 30(b)(1) for the taking of depositions is 7 days. For good cause, the court may enlarge or shorten such time. Fed. R. Civ. P. 6 governs the computation of time.

* * *

As amended 12/01/09.

RULE 30.2
DEPOSITIONS; NOT TO BE FILED; DELIVERY

(a) Depositions Not Filed. Parties are not to file depositions unless the court orders them to do so.

(b) Delivery of Depositions. The originals of all stenographically-reported depositions must be delivered to the party noticing the deposition:

(1) upon signature by the deponent if he or she has requested to review the transcript and to make changes to same;

(2) upon completion if the deponent has not requested to review the transcript; or

(3) upon certification by the shorthand reporter that following reasonable notice to the deponent and deponent's attorney of the availability of the transcript for signature, the deponent has failed or refused to sign it.

(c) Retention of Originals. The party to whom it is delivered must retain the original of the deposition to be available for appropriate use by any party in a hearing or trial of the case.

* * *

RULE 30.3
TIME FOR TAKING DEPOSITIONS

The deposition of a material witness not subject to subpoena should ordinarily be taken during the discovery period. However, the deposition of a material witness who agrees to appear at trial, but who later becomes unable or refuses to attend, may be taken at any time prior to trial.

* * *

RULE 32.1
USE OF DISCOVERY AT TRIAL

If depositions, interrogatories, requests for production or inspection, or admissions, or responses thereto are to be used at trial, the party seeking to use them must file the portions to be used at the beginning of trial, insofar as their use reasonably can be anticipated.

* * *

RULE 33.1
ADDITIONAL INTERROGATORIES TO THOSE PERMITTED BY FED. R. CIV. P. 33(a)

If a party seeks leave to serve additional interrogatories to those permitted by Fed. R. Civ. P. 33(a), a motion must be filed that sets forth (1) the proposed additional interrogatories; and (2) the reasons establishing good cause for their service. Such motion is subject to D. Kan. Rule 37.2.

* * *

RULE 33.2
FORMAT FOR INTERROGATORIES

Sufficient space for the insertion of an answer must be left following each interrogatory served pursuant to Fed. R. Civ. P. 33. The interrogatory being answered must immediately precede each answer to an interrogatory.

* * *

RULE 35.1
TRIAL PREPARATION AFTER CLOSE OF DISCOVERY

Subject to any deadlines set in a scheduling order for seeking a Fed. R. Civ. P. 35 physical or mental examination of a party or person who is in the party's custody or under its legal control, the court may order the examination at any time prior to trial.

* * *

RULE 37.1
MOTIONS RELATING TO DISCOVERY

(a) Content of Motions. Motions under Fed. R. Civ. P. 26(c) or 37(a) directed at depositions, interrogatories, requests for production or inspection, or requests for admissions under Fed. R. Civ. P. 30, 33, 34 or 36, or at the responses thereto, must be accompanied by copies of the notices of depositions, the portions of the interrogatories, requests, or responses in dispute. Motions under Fed. R. Civ. P. 45(c) directed at subpoenas must be accompanied by a copy of the subpoena in dispute.

(b) Time for Filing Motions. Any motion to compel discovery in compliance with D. Kan. Rules 7.1 and 37.2 must be filed and served within 30 days of the default or service of the response, answer, or objection that is the subject of the motion, unless the court extends the time for filing such motion for good cause. Otherwise, the objection to the default, response, answer, or objection is waived.

* * *

As amended 9/00.

RULE 37.2
DUTY TO CONFER CONCERNING DISCOVERY DISPUTES

The court will not entertain any motion to resolve a discovery dispute pursuant to Fed. R. Civ. P. 26 through 37, or a motion to quash or modify a subpoena pursuant to Fed. R. Civ. P. 45(c), unless the attorney for the moving party has conferred or has made reasonable effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed. R. Civ. P. 26(c) and 37 and this rule related to the efforts of the parties to resolve discovery or disclosure disputes must describe with particularity the steps taken by all attorneys to resolve the issues in dispute.

A "reasonable effort to confer" means more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so.

* * *

As amended 9/00.

-VI-
TRIALS

RULE 38.1
RANDOM SELECTION OF GRAND AND PETIT JURORS

The selection of grand and petit jurors will be as follows:

(a) Places for Holding Court and Designation of Counties. The counties designated as constituting each jury division are as follows:

(1) *Kansas City - Leavenworth Division*. Atchison, Doniphan, Douglas, Franklin, Johnson, Leavenworth, Miami, and Wyandotte.

(2) *Wichita-Hutchinson Division*. Butler, Cowley, Harper, Harvey, Kingman, Marion, McPherson, Reno, Rice, Sedgwick, and Sumner.

(3) *Topeka Division*. Brown, Chase, Clay, Dickinson, Geary, Jackson, Jefferson, Lyon, Marshall, Morris, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Wabaunsee, and Washington.

(4) *Dodge City Division*. Barber, Barton, Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearney, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Pratt, Rush, Scott, Seward, Stafford, Stanton, Stevens, and Wichita.

(5) *Fort Scott Division*. Allen, Anderson, Bourbon,

Chautauqua, Cherokee, Coffey, Crawford, Elk, Greenwood, Labette, Linn, Montgomery, Neosho, Wilson, and Woodson.

(6) *Salina Division*. Cheyenne, Cloud, Decatur, Ellis, Ellsworth, Gove, Graham, Jewell, Lincoln, Logan, Mitchell, Norton, Osborne, Ottawa, Phillips, Rawlins, Republic, Rooks, Russell, Saline, Sherman, Sheridan, Smith, Thomas, Trego, and Wallace.

(b) Applicability. This rule, except as otherwise provided, applies separately to each division designated herein.

(c) Management of the Jury Selection Process. Pursuant to 28 U.S.C. § 1863 (b)(1), the clerk is hereby authorized to manage the jury selection process in the District of Kansas. The clerk acts under the general supervision and control of the chief judge of the court.

Pursuant to 28 U.S.C. § 1863(a), the court may authorize other persons to assist the clerk in the jury selection process.

The clerk must keep one book for the entire district known as the "Jury Selection Journal." In the book, the clerk must enter chronologically:

(1) each order of the court pursuant to this rule; and

(2) a minute entry of each act the clerk performs under this rule.

(d) Source of Names. The names of prospective grand and petit jurors must be selected at random from the official lists of registered voters in each of the counties comprising the divisions herein designated. The names selected must be assigned serial numbers by division as determined by the clerk. The clerk must maintain a record of the names and numbers assigned to each name.

(e) Name Selection Procedures. At the clerk's option, and after consultation with the court, the clerk may use a properly programmed electronic data processing system to make the following selections by a purely randomized process:

(1) names from complete source list databases in electronic media for the master jury wheel;

(2) names from the master wheel for the purpose of determining qualification for jury service; and

(3) names from the qualified wheel for summoning persons to serve as grand or petit jurors.

Each county within the jury division must be substantially proportionally represented in the master jury wheel in accordance with 28 U.S.C. § 1863(b)(3). And the mathematical odds of any

single person being picked from the source list, the master wheel, and the qualified wheel must be substantially equal.

(f) Master Jury Wheel. Each jury division must be provided with a master jury wheel into which the clerk must proportionately place the names of those selected from the voter registration lists under this rule.

The minimum number of names to be placed initially in each master jury wheel are as follows:

(1) *Kansas City - Leavenworth Division*: 7,500 names.
(2) *Wichita - Hutchinson Division*: 7,000 names.
(3) *Topeka Division*: 5,000 names.
(4) *Dodge City Division*: 1,000 names.
(5) *Fort Scott Division*: 1,000 names.
(6) *Salina Division*: 1,000 names.

The chief judge may order additional names to be placed in the master jury wheel as necessary. The additional names must be selected as provided in subsection (e) of this rule.

The master jury wheel must be emptied and refilled every 2 years.

(g) Drawing of Names from the Master Jury Wheel and Completion of Qualification Form.

(1) *Initial Draw.*

(A) *In General.* From time to time, as the court directs, the clerk must draw at random from each divisional master jury wheel, the names or numbers of as many persons as may be required for jury service. The clerk may draw either manually or by use of a properly programmed data computer. Whenever a divisional master jury wheel is maintained on a data computer, the names to be drawn from the master jury wheel must be selected by using the random number formula, as the court directs.

(B) *Public Notice.* The clerk or jury commission must post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn.

(C) *Alphabetical List.* The clerk may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Such

list must not be disclosed to any person except upon court order, and except as required by 28 U.S.C. §§ 1867-1868.

(D) *Jury Qualification Form.* Upon drawing names or numbers from a divisional master jury wheel, the clerk must mail a jury qualification form (as defined in 28 U.S.C. § 1869(h)) to every person whose name or number is drawn, for each person to fill out and return—duly signed and sworn—to the clerk by mail or through the court's Internet site within 10 days. If it appears there is an omission, ambiguity, or error in a filled-out and returned qualification form, the clerk may return the form with instructions to:

(i) make such additions and corrections as may be necessary; and

(ii) return the form to the clerk within 10 days.

(2) *Supplementation For Undeliverable and Non-Responding Juror Qualification Forms.* For all juror qualification forms returned to the court as "undeliverable" or those to which no response has been received (after the clerk has sent a follow-up letter to the person who has not responded), the clerk—as soon as practicable—must issue the same number of new juror qualification forms to be mailed to addresses within the same zip code area to which the undeliverable or non-responding juror qualification forms had been sent. The clerk must draw these names or numbers from the Master Jury Wheel.

(3) *National Change Of Address Database*. The clerk must submit the names on the Master Jury Wheel once a year to be updated and corrected through the national change-of-address system of the United States Postal Service.

(h) Qualified Jury Wheel.

(1) *In General.* The clerk must maintain a qualified jury wheel for each division of the court. Into each divisional qualified jury wheel, the clerk must place the names of all persons previously drawn from the divisional master jury wheels, in accordance with subsection (g) of this rule, who have been determined to be qualified as jurors and not exempt or excused pursuant to this rule.

(2) *Periodic Drawings.* From time to time, at the direction of any judge of this district, the clerk must draw at random as many names or numbers of persons as may be required for

assignment to grand and petit jury panels. The clerk must draw from a divisional qualified jury wheel, either manually or by use of a properly programmed data computer. Whenever a divisional qualified jury wheel is maintained on the computer, the names to be drawn from said wheel must be selected by using the random number formula, as directed by the court. The clerk must prepare or cause to be prepared a separate alphabetical list of names of all persons so drawn and assigned to each grand and petit jury panel.

(3) *Public Notice.* The clerk or jury commission must post a general notice for public review in the clerk's office and on the court's website explaining the process by which names are periodically and randomly drawn.

(4) *Summons.* When the court orders a grand or petit jury to be drawn, the clerk must issue a summons for the required number of jurors. Persons drawn for jury service may, in accordance with 28 U.S.C. §1866(b), be served personally or by mail addressed to such persons at their usual residence or business address.

(5) *Disclosure of Names.*

(A) *Petit Jurors.* The names of petit jurors drawn from the qualified jury wheel may be disclosed to the parties, the public, or the media on the day following the drawing upon leave of the court and the request of any party, member of the public, or the media. But the court in which any of the prospective jurors concerned are expected to serve may, by special order, require that the clerk keep these names confidential where the interests of justice so require.

(B) *Grand Jurors.* The names of grand jurors drawn from the qualified jury wheel must not be maintained in any public record or otherwise disclosed to the public, except upon the order of the judge in charge of the grand jury on a showing that exceptional circumstances have created a demonstrated need for disclosure.

(6) *Assignment of Jurors to Panels.*

(A) *Petit Jury Panels and Panels to be Assigned to the Bankruptcy Court.* In assigning prospective jurors to petit jury panels or to panels to be assigned to the bankruptcy court, the clerk must place the names or numbers of available

petit jurors drawn from the divisional qualified jury wheel, as provided in this rule, and who are not excused, in a jury wheel. The clerk must then draw such necessary names and assign them to particular panels for each jury case as the court directs.

(B) *Grand Jury Panels.* Separate grand jury panels as may be required for service at the places in the district where court is held must be drawn at random as ordered by the court, either manually or by use of a programmed data computer, or by a combination thereof, from the qualified jury wheels on a divisional basis as follows:

(i) At Kansas City, Leavenworth, and Fort Scott: From the Kansas City - Leavenworth and Fort Scott jury wheels.

(ii) At Topeka and Salina: From the Topeka and Salina jury wheels.

(iii) At Wichita, Hutchinson, and Dodge City: From the Wichita - Hutchinson and Dodge City jury wheels.

The required number of names for each centralized grand jury panel must be taken at random from the qualified jury wheels in proportion as nearly as possible to the number of registered voters in each division every two years. For example, if the total number of registered voters in the Kansas City - Leavenworth and Fort Scott jury divisions was 150,000 and 90,000, respectively, and if 48 prospective jurors were to be summoned for grand jury service at Kansas City, Leavenworth, or Fort Scott, then 30 names should be selected at random from the Kansas City - Leavenworth qualified jury wheel and 18 names from Fort Scott's qualified wheel.

(C) *Summons.* The clerk must issue summonses for the required number of jurors to be called to be served personally or by mail addressed to their usual residence or business address.

(i) Disqualification or Exemption from Jury Service. Pursuant to 28 U.S.C. § 1865(a), the chief judge or clerk of this court under the supervision of the court, or, in his or her absence, any other district court judge, shall determine whether a prospective grand or petit juror is unqualified for, or exempt, or to be excused from jury service. The judge or clerk will make the determination

from information provided on the juror qualification form and other competent evidence. The clerk shall enter such determination in the space provided on the juror qualification form or in the juror records in the database from a divisional master jury wheel.

(1) *Disqualification.* Pursuant to 28 U.S.C. § 1865(b), any person shall be determined to be qualified to serve on either grand or petit juries in the district court unless he or she:

(A) is not a citizen of the United States 18 years of age who has resided for a period of one year within the judicial district;

(B) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(C) is unable to speak the English language;

(D) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(E) has a charge pending against him for the commission of, or has been convicted in a state or federal court of record of, a crime punishable by imprisonment for more than one year and his civil rights have not been restored.

(2) *Exemption.* Pursuant to 28 U.S.C. § 1863(b), the following persons shall be exempt from jury service:

(A) members in active service in the Armed Forces of the United States;

(B) members of the fire or police departments of any state, district, territory, possession, or subdivision thereof; and

(C) public officers in the executive, legislative, or judicial branches of the government of the United States, or any state, district, territory or possession or subdivision thereof, who are actively engaged in the performance of official duties.

(j) Individual Excuse from Jury Service. In addition to the members of groups and classes subject to excuse from jury service on request, as provided in subsection (i) of this rule, any person summoned for jury service may be excused by the court, or the clerk under the supervision of the court upon a showing of undue hardship or extreme inconvenience, or both, pursuant to 28

U.S.C. §1866(c). The names of deferred persons are to be reinserted into the qualified jury wheel.

Whenever a person is excused for reason of undue hardship or extreme inconvenience, the clerk must note the reason for the excuse in the space provided on the jury qualification form or in the juror records in the database from a divisional master jury wheel.

(k) Groups and Classes, Members of Which are Subject to Excuse on Request. Pursuant to 28 U.S.C. § 1863(b)(5), and by the adoption of this rule, it is hereby found that jury service by the following groups of persons and occupational classes of persons would entail undue hardship or extreme inconvenience to the members thereof and that the excuse from jury service of the members thereof on request would not be inconsistent with 28 U.S.C. § 1861-1862:

(1) Persons over 70 years of age.

(2) Persons who have, within the past 2 years, served on a federal grand or petit jury.

(3) Persons having active care and custody of a child or children under 10 years of age whose health and/or safety would be jeopardized by their absence for jury service; or a person who is essential to the care of aged or infirm persons.

(4) Any person whose services are so essential to the operation of a business, commercial, or agricultural enterprise that said enterprise must close if such person were required to perform jury duty.

(5) Volunteer safety personnel if they serve without compensation as firefighters or members of a rescue squad or ambulance crew for a "public agency." "Public agency" for this purpose means the United States, any state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or other territory of the United States, "or any unit of local government, department, or instrumentality of any of the foregoing."

(l) Maintenance and Inspection of Records.

(1) *Disclosure Prior to Emptying and Refilling a Master Jury Wheel.* Pursuant to 28 U.S.C. § 1867(f), prior to the emptying and refilling of any master jury wheel, the contents of records and papers used by the clerk in connection with the juror selection process shall not be disclosed, except as provided elsewhere in this plan or upon written order of the court.

(2) *Disclosure After Emptying and Refilling a Master Jury Wheel.* Pursuant to 28 U.S.C. § 1868, after any master jury wheel is emptied and refilled as provided in this rule, and after all persons selected to serve as jurors before the master wheel was emptied have completed such service, all of the records and papers compiled and maintained by the clerk before the master wheel was emptied shall be preserved in the custody of the clerk for 4 years or for such longer period as may be ordered by the court, and upon leave of the court, shall be available for public inspection at the office of the clerk of court during normal business hours for the purpose of determining the validity of the selection of any jury. No one may copy any document or remove any document from the premises, without leave of the court.

* * *

NOTE: Rule 38.1 is a mandated rule.
As amended 3/17/10, 3/17/09, 3/17/08, 3/17/06, 4/8/99, 2/28/97, 3/13/92.

RULE 39.1
ORAL ARGUMENT AT JURY TRIALS

At trial, the party having the burden of proof has the right to open and close the jury argument regardless of whether the defendant has offered evidence. If each of the parties has the burden of proof on one or more issues, the court will determine the order of arguments. The court may set time limitations on arguments.

* * *

As amended 3/04. Formerly Rule 122(a).

RULE 40.1
ASSIGNMENT OF CASES

The chief judge is responsible for the business of the court and the assignment of cases to the judges. In the interest of justice or to further the efficient disposition of the business of the court, a judge may return a case to the clerk for reassignment or, with the approval of the chief judge, may transfer the case to another judge who consents to such transfer.

* * *

RULE 40.2
DETERMINATION OF PLACE OF TRIAL

(a) In General. At the time the complaint is filed, the plaintiff must file a request stating the name of the city where the plaintiff desires the trial to be held. Unless the court orders otherwise, the plaintiff's request governs where the case is filed, docketed, and maintained. If a case is conventionally filed, the plaintiff must file a sufficient number of copies of the request to enable service to be made upon all parties.

(b) Request for Location Without Record Office. If the plaintiff requests trial in a location where there is no record office of the court, the case will be docketed and maintained at the record office of the court where the case is filed, unless the court orders otherwise.

(c) Removed Actions. A removing party, at the time of filing the notice of removal as set forth in D. Kan. Rule 81.1, must also file a designation of place of trial.

(d) Responding Party's Request. The following parties must file a request stating the name of the city where they desire the trial to be held and, unless the court orders otherwise, serve the request upon each party affected thereby:

(1) each defendant, at the time it files its first pleading; and

(2) the plaintiff in a removed action, within 14 days after notice of the removal.

(e) Court Not Bound. The court is not bound by the requests for place of trial. It may determine the place of trial upon motion or in its discretion.

* * *

As amended 12/01/09, 11/16/90.

RULE 40.3
SETTLEMENT OF CASES SET FOR TRIAL

(a) Duty to Notify Court. The parties must immediately notify the court if they reach an agreement that resolves the litigation as to any or all parties.

(b) Failure to Timely Notify Court. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of by agreement in advance of the trial date, except for good cause, jury costs paid or incurred must be assessed equally against the parties and their attorneys or otherwise assessed as the court directs. Jury

costs include attendance fees, per diem, mileage, and parking.

(c) Timely Notification. No jury costs will be assessed if notice of settlement or disposition of the case is given to the jury coordinator at least one full business day prior to the scheduled trial date.

* * *

RULE 41.1
DISMISSAL FOR LACK OF PROSECUTION

At any time, the court may issue an order to show cause why a case should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the show cause order, the court may enter an order of dismissal. The dismissal will be with prejudice unless the court otherwise specifies.

* * *

RULE 47.1
COMMUNICATION WITH JURORS AFTER TRIAL

(a) Court Order Required. No one—including the parties, their attorneys, or the agents or employees of either—is permitted to examine or interview any juror, either orally or in writing, except:

(1) by order of the court in its discretion; and

(2) under such terms and conditions as the court establishes.

(b) Restrictions on Interviews. If the court permits examination or interviews of jurors, the following restrictions apply, in addition to any other restrictions the court imposes:

(1) Jurors may refuse all interviews or comments.

(2) If a juror refuses to be interviewed or questioned, no person may repeatedly ask for interviews or comments.

(3) If a juror agrees to an interview, he or she must not disclose any information with respect to:

(A) the specific vote of any juror other than the juror being interviewed; or

(B) the deliberations of the jury.

(c) Notice of Rule. When discharging or excusing empaneled jurors, the court will advise them of this rule.

* * *

As amended 6/18/97, 10/6/87.

RULE 51.1
JURY INSTRUCTIONS

(a) Filing Proposed Jury Instructions. All proposed jury instructions must be filed and served prior to trial, except for isolated unforeseeable instructions, which are addressed in subsection (c)(1). Jury instructions are to be submitted in accordance with the following requirements:

(1) *Joint Submission.* The parties must jointly submit one set of agreed instructions. To this end, the parties must serve their proposed instructions upon each other, then meet, confer, and submit one complete set of agreed instructions.

(2) *Supplemental Individually-Proposed Instructions.* If the parties cannot agree upon one complete set of instructions, they must submit one set of those instructions that have been agreed, and each party must submit a supplemental set of instructions that are not agreed.

(3) *Consultation Requirement.* It is not sufficient that the parties merely agree upon general instructions, and then each submit their own set of substantive instructions. The parties are expected to meet, confer, and agree upon the substantive instructions for the case, if possible.

(b) Format of Proposed Instructions.

(1) *Annotation.* Each proposed instruction must indicate the number of the proposed instruction and the authority supporting the instruction.

(2) *Neutrality Requirement.* All instructions must be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper, will not be given, and should not be submitted.

(3) *Single Legal Proposition.* Each proposed instruction must, as far as possible, embrace a single legal proposition.

(4) *Modification of Form Instructions.* Any modifications of instructions from statutory authority, Devitt and Blackmar, PIK, or other form instructions must specifically state the modification made to the original form instruction, along with the authority supporting the modification.

(c) Waiver.

(1) *Waiver of Instruction.* Instructions not requested as set forth above and not timely filed will be considered not properly requested within the meaning of Fed. R. Civ. P. 51, and may be deemed waived unless the subject of the request is one arising in the

course of trial that could not have been anticipated prior to trial from the pleadings, discovery, or nature of the case.

(2) *Waiver of Objection.* The failure to timely file objections, consistent with the pretrial order, may constitute a waiver of such objection.

(d) Additional Copy of Proposed Instructions. In addition to filing proposed jury instructions, the parties must submit the instructions directly to the appropriate judge or magistrate judge in the form and manner used by that judge. The court utilizes WordPerfect 7.0 and 9.0.

* * *

As amended 3/17/10. Renumbered 3/04. Formerly Rule 39.1(b).

RULE 52.1
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

(a) Requirements.

(1) *Plaintiff's Proposed Findings of Fact.* Plaintiff must organize proposed findings of fact as follows:

In consecutively numbered paragraphs and simple declarative sentences, plaintiff must set forth all of the facts relied on in support of plaintiff's claim for relief. Each finding must reference in parenthesis the supporting trial exhibit and/or pages in the trial transcript.

(2) *Plaintiff's Proposed Statement of Conclusions.* Plaintiff's statement of conclusions must set forth all conclusions necessary to demonstrate liability. Plaintiff must consecutively number and clearly and concisely state each conclusion. Plaintiff must include only one conclusion per paragraph, and must include a supporting citation to legal authority for each conclusion.

(3) *Defendant's Proposed Findings, Conclusions, and Response.* Defendant must prepare its proposed findings and conclusions in the manner described above. In addition to its own proposed findings and conclusions, defendant must respond to plaintiff's proposed findings and conclusions. Each response must bear the same number as the proposed finding or conclusion to which it is addressed.

(b) Definitions. As used in Rule 52.1(a), the term plaintiff includes plaintiffs as well as counterclaimants, crossclaimants, intervenors, and any other parties who assert affirmative claims for relief. The term defendant includes defendants as well as counterclaim defendants, crossclaim defendants, and any other

parties who are defending against affirmative claims for relief.

* * *

As amended 3/04.

- VII -
JUDGMENT

RULE 54.1
TAXATION AND PAYMENT OF COSTS

(a) Procedure for Taxation. The party entitled to recover costs must file a bill of costs on a form provided by the clerk within 30 days after:

(1) the expiration of time allowed for appeal of a final judgment or decree; or

(2) receipt by the clerk of an order terminating the action on appeal.

(b) Waiver. The failure of a prevailing party to timely file a bill of costs will constitute a waiver of any claim for costs.

(c) To Whom Payable. All costs taxed are payable directly to the party entitled thereto—not to the clerk—except in the following cases:

(1) where the court orders otherwise;

(2) in criminal cases;

(3) in suits for civil penalties for violations of criminal statutes; and

(4) in government cases not handled by the Department of Justice.

* * *

As amended 11/16/90.

RULE 54.2
AWARD OF STATUTORY ATTORNEY'S FEES

(a) Consultation Required. A party who moves for statutory attorney's fees pursuant to Fed. R. Civ. P. 54(d)(2) must promptly initiate consultation with the other party or parties.

(b) Where the Parties Agree. If the parties reach agreement, they must file an appropriate stipulation and request for an order.

(c) Where the Parties Disagree. If they are unable to agree, the moving party must file the following within 30 days of filing the motion:

(1) a statement that, after consultation in accordance with this rule, the parties have been unable to reach an agreement with regard to the fee award; and

(2) a memorandum setting forth the factual basis for each criterion that the court is asked to consider in making an award.

(d) Statement of Consultation. The statement of consultation must set forth the date of the consultation, the names of those who participated, and the specific results achieved.

The court will not consider a motion for statutory attorney's fees made pursuant to Fed. R. Civ. P. 54(d)(2) until the moving party files the statement of consultation in compliance with this rule.

(e) Memorandum and Response. The memorandum in support of the Rule 54 motion must be supported by time records, affidavits, or other evidence. The memorandum need not be filed at the same time as the motion. This is an exception to Rule 7.1(a). Other parties have 14 days to file a response to the memorandum in compliance with this rule.

(f) Discovery. Discovery may not be conducted in connection with motions for awards of attorney's fees unless the court permits upon motion and for good cause.

* * *

RULE 56.1
MOTIONS FOR SUMMARY JUDGMENT

(a) Supporting Memorandum. The memorandum or brief in support of a motion for summary judgment must begin with a section that contains a concise statement of material facts as to which the movant contends no genuine issue exists. The facts must be numbered and must refer with particularity to those portions of the record upon which movant relies. All material facts set forth in the statement of the movant will be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of the opposing party.

(b) Opposing Memorandum.

(1) A memorandum in opposition to a motion for summary judgment must begin with a section containing a concise statement of material facts as to which the party contends a genuine issue exists. Each fact in dispute must be numbered by paragraph, refer with particularity to those portions of the record upon which the opposing party relies, and, if applicable, state the number of movant's fact that is disputed.

(2) If the party opposing summary judgment relies on any facts not contained in movant's memorandum, that party must set forth each additional fact in a separately numbered paragraph, supported by references to the record, in the manner required by subsection (a), above. All material facts set forth in this statement of the non-moving party will be deemed admitted for the purpose of summary judgment unless specifically controverted by the reply of the moving party.

(c) Reply Memorandum. In a reply brief, the moving party must respond to the non-moving party's statement of additional material facts in the manner prescribed in subsection (b)(1).

(d) Presentation of Factual Material. All facts on which a motion or opposition is based must be presented by affidavit, declaration under penalty of perjury, and/or relevant portions of pleadings, depositions, answers to interrogatories, and responses to requests for admissions. Affidavits or declarations must be made on personal knowledge and by a person competent to testify to the facts stated that are admissible in evidence. Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached.

(e) Duty to Fairly Meet the Substance of the Matter Asserted. If the responding party cannot truthfully admit or deny the factual matter asserted, the response must specifically set forth in detail the reasons why. All responses must fairly meet the substance of the matter asserted.

* * *

As amended 9/00.

RULE 58.1
JOURNAL ENTRIES AND ORDERS

In all cases where the court directs that a judgment be settled by journal entry pursuant to Fed. R. Civ. P. 58, it must be prepared in accordance with the directions of the court. Attorneys preparing the journal entry must, within 14 days—unless the court orders otherwise—serve copies on all other attorneys involved who must, within 14 days after service is made, serve on the attorney(s) preparing said journal entry any objections in writing. At the expiration of the time for serving objections, the attorney(s) preparing said journal entry must submit the original, together with any objections received, to the court for approval. If the attorneys

cannot agree as to the form of the journal entry, the court will settle the journal entry.

* * *

As amended 12/01/09.

RULE 62.1
MANDATES OF AN APPELLATE COURT

When an appellate court remands a case to this court for further proceedings, the clerk will refer the case to the judge who heard the case, unless the appellate court has otherwise directed. Any other order or mandate of an appellate court, when filed with the clerk of this court, automatically becomes the order or judgment of this court. The clerk will enter it as such without further order.

* * *

RULE 62.2
SUPERSEDEAS BONDS

A supersedeas bond staying execution of a money judgment must, unless the court otherwise directs, be in the amount of the judgment, plus 25% of that amount to cover interest and any award of damages for delay.

* * *

- VIII -
PROVISIONAL AND FINAL REMEDIES

RULE 65.1
RESTRAINING ORDERS AND TEMPORARY INJUNCTIONS

A request for a temporary injunction or restraining order set forth in a pleading is not sufficient to bring the issue before the court prior to trial. If a party desires a ruling before trial, the party must request relief by separate motion.

* * *

RULE 65.2
SURETIES

(a) Certain Persons Prohibited. No clerk or other court supporting personnel or any practicing attorney will be accepted as surety on any bond or undertaking in any action or proceeding in this court.

(b) Security. Unless the court directs otherwise, every bond or undertaking must be secured by:

(1) a cash deposit equal to the amount of the bond;

(2) a corporation authorized to execute bonds under 31 U.S.C. §§ 9304-9308; or

(3) an individual residing in the District of Kansas owning sufficient unencumbered real or personal property within the district above all homestead and exemption rights and all obligations as surety, to insure the payment of the amount of the bond and all costs incident to collecting the same.

(c) Minors or Incompetent Persons. In all cases where a minor or an incompetent person has sued and recovered by and through a representative, the bond to be made by the representative must, unless otherwise ordered by the court, be treated in all respects as provided by the existing laws of the State of Kansas with respect to the bond of such representative.

* * *

RULE 66.1
ADMINISTRATION OF ESTATES

(a) Authority for Rule. This rule is promulgated in the exercise of the authority granted to district courts by Fed. R. Civ. P. 66 and applies to the practice in the administration of estates by receivers or by other similar officers appointed by the court.

(b) Inventory by Receivers. Unless otherwise ordered, a receiver or other similar officer appointed by the court must file:

(1) an inventory of all property of which he has taken possession or control, as well as of any that he has not been able to reduce to possession and control;

(2) a list of the then-known liabilities of the estate; and

(3) a report explaining such inventory.

Such filing must be made as soon as practicable after appointment, but in any event not later than 30 days thereafter.

(c) Accountings of Receivers. From time to time thereafter, at intervals of six months or as otherwise ordered, a receiver must file a current report and account of his receipts and disbursements and of his acts as such officer.

(d) Administration of Estates. In all other respects, the administration of estates by receivers or other officers must follow the procedure in bankruptcy cases as nearly as possible. But the court will ascertain and award the allowance of compensation of:

(1) receivers or similar officers or their attorneys; and

(2) all those whom the court appointed to aid in the administration of the estate.

* * *

RULE 67.1
REGISTRY FUNDS

(a) Orders Pursuant to Fed. R. Civ. P. 67. Any party who seeks a court order for the deposit of funds pursuant to Fed. R. Civ. P. 67 must prepare a proposed order for the court and serve the same upon the clerk of this court. Filing Users in cases assigned to the Electronic Filing System must submit this proposed order directly to the appropriate judge or magistrate judge in the form and manner set forth in the administrative procedures guide. Parties may and should utilize forms or proposed motions and orders that are maintained and available at each record office of the court for this purpose.

(b) Deposit in Non-Income-Earning Account. Unless the court orders otherwise, the clerk will deposit registry funds in a non-income-earning account.

(c) Investment in Income-Earning Account. Upon motion, the court may order the clerk to invest certain registry funds in an income-earning account. The motion and any proposed order directing investment in an income-earning account must provide for an investment that will comply with applicable provisions of the law regulating the investment of public monies, provide for proper disposition of future earnings, and set out with particularity the following:

(1) The form of deposit;

(2) The amount to be invested;

(3) The type of investment to be made by the clerk of the court, i.e., passbook savings, insured money fund, certificate of deposit, etc.;

(4) The name and address of the private institution where the deposit is to be made;

(5) The rate of interest at which the deposit is to be made, if possible;

(6) The length of time the money should be invested, whether it should be automatically reinvested, etc., keeping in the mind that some investments include a penalty for early withdrawal;

(7) The form of additional collateral to be posted by the private institution in the event that the standard F.D.I.C. or F.S.L.I.C. coverage is insufficient to insure the total amount of

deposit; and

(8) Such other information that may be considered appropriate under the facts and circumstances of the particular case.

(d) Disbursements from Income-Earning Account.

(1) All funds disbursed under this rule will be disbursed only on order of the court. Unless the court orders otherwise, the clerk will disburse the funds no earlier than 14 days after the date of the court order.

(2) All funds deposited in an income-earning account on or after December 1, 1990, will be assessed a charge of 10 percent of the income earned regardless of the nature of the case underlying the investment.

* * *

As amended 3/17/10, 3/05, 3/04, 3/13/92.

- IX -
SPECIAL PROCEEDINGS; MAGISTRATE JUDGES

RULE 71A.1
CONDEMNATION ACTIONS

When the United States files separate condemnation actions and a single declaration of taking relating to those separate actions, the clerk may establish a master file in which the declaration of taking may be filed. The filing of the declaration of taking in the master file constitutes a filing of the same in each of the actions to which it relates.

* * *

RULE 72.1.1
AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

(a) Duties Under 28 U.S.C. § 636(a). Each full-time United States Magistrate Judge of the court is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), and may:

(1) Exercise all of the powers and duties conferred or imposed upon United States Commissioners by law and by the Federal Rules of Criminal Procedure.

(2) Administer oaths and affirmations, and take acknowledgments, affidavits, and depositions.

(3) Order that arrested persons be released or detained pending judicial proceedings pursuant to 18 U.S.C. § 3141 *et seq*.

(4) Conduct extradition proceedings in accordance with 18 U.S.C. § 3184.

(b) Disposition of Misdemeanor Cases. A magistrate judge may:

(1) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this district in accordance with 18 U.S.C. § 3401;

(2) Direct the probation service of the court to conduct a presentence investigation in any misdemeanor case; and

(3) Conduct jury trials in misdemeanor cases where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(c) Determination of Nondispositive Pretrial Matters. In accordance with 28 U.S.C. § 636(b)(1)(A), a magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a civil or criminal case, other than the motions that are specified in subsection (d) of this rule. A magistrate judge is also authorized to conduct such hearings and conferences and to issue such orders as are provided for by Fed. R. Civ. P. 16.

(d) Recommendations Regarding Case-Dispositive Motions. In accordance with 28 U.S.C. § 636(b)(1)(B), a magistrate judge may submit to a judge of the court a report containing proposed findings of fact and recommendations for disposition by the judge of the following pretrial motions in civil and criminal cases:

(1) Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(2) Motions for judgment on the pleadings;

(3) Motions for summary judgment;

(4) Motions to dismiss or permit the maintenance of a class action;

(5) Motions to dismiss for failure to state a claim upon which relief may be granted;

(6) Motions to involuntarily dismiss an action;

(7) Motions for review of default judgment;

(8) Motions to dismiss or quash an indictment or information made by a defendant; and

(9) Motions to suppress evidence in a criminal case.

A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearings or other proceedings arising in the exercise of the authority conferred by this subsection.

(e) Prisoner Cases Under 28 U.S.C. §§ 2241, 2254, and 2255. A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States District Courts under 28 U.S.C. §§ 2241, 2254, and 2255. A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. When specifically designated by a judge of the court and upon the consent of the parties, a magistrate judge may conduct any or all proceedings in such cases and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c).

(f) Prisoner Cases Under 42 U.S.C. § 1983 and Bivens Cases. A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding, and submit to a judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 402 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d (1971). When specifically designated by a judge of the court and upon the consent of the parties, a magistrate judge may conduct any or all proceedings in such cases, including the conduct of a jury or nonjury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c).

(g) Special Master References. A magistrate judge may be designated by a judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any civil case, notwithstanding the limitations of Fed. R. Civ. P. 53(a)(2).

(h) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties. When specifically designated by a judge of the court and upon the consent of the parties, a full-time magistrate judge may conduct any or all proceedings in any civil case that is filed in this court, including the conduct of a jury or nonjury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, a magistrate judge may hear and determine any and all pretrial and post-trial motions

that are filed by the parties, including case-dispositive motions.

(i) Authority to Perform Additional Duties. Pursuant to 28 U.S.C. § 636(b)(3), magistrate judges are to perform additional functions and duties, including the following:

(1) conduct scheduling conferences; pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil and criminal cases;

(2) conduct calendar and status calls for civil and criminal calendars, and determine motions to expedite or postpone the trial of cases;

(3) conduct arraignments in cases not triable by the magistrate judge to the extent of taking a not guilty plea or noting a defendant's intention to plead guilty or *nolo contendere* and ordering a presentence report in appropriate cases;

(4) take a felony guilty plea when the defendant consents and the district judge does not object;

(5) receive grand jury returns in accordance with Fed. R. Crim. P. 6(f);

(6) accept waivers of indictments pursuant to Fed. R. Crim. P. 7(b);

(7) conduct voir dire and select petit juries for the court when the parties consent and the district judge does not object;

(8) accept petit jury verdicts in civil cases in the absence of a judge;

(9) conduct necessary proceedings leading to the potential revocation of probation;

(10) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings;

(11) order the exoneration of forfeiture of bonds;

(12) conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971 in accordance with 46 U.S.C. § 1484(d);

(13) conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(14) perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109 regarding proceedings for verification of appointment of counsel therein;

(15) conduct such hearings as are necessary or appropriate, and submit to a judge proposed findings of fact and recommendations for disposition of applications for judgment by

default pursuant to Fed. R. Civ. P. 55(b), or motions to set aside judgments by default pursuant to Fed. R. Civ. P. 55(c);

(16) require compliance with local rules with regard to pro se petitions under 42 U.S.C. § 1983, and enter orders appointing attorneys in civil rights cases; and

(17) perform any additional duty that is not inconsistent with the Constitution and laws of the United States.

(j) Part-time United States Magistrate Judges. Part-time United States Magistrate Judges are hereby authorized in accordance with the provision of 28 U.S.C. § 636 to perform all duties not otherwise prohibited by law, including but not limited to the following:

(1) issue summonses, warrants, and search warrants; to conduct proceedings under Fed. R. Crim. P. 5 and 32.1; appoint attorneys; and conduct proceedings under 18 U.S.C. § 3141 *et seq*., all as provided by the Federal Rules of Criminal Procedure;

(2) hear and dispose of misdemeanor and petty offenses as provided by 18 U.S.C. § 3401, in accordance with Fed. R. Crim. P. 58 and in such cases to direct the probation service of the court to conduct a presentence investigation;

(3) perform the duties set forth in §§ (e), (f), and (i) of this rule;

(4) conduct settlement conferences pursuant to D. Kan. Rule 16.3;

(5) appoint attorneys in civil rights and habeas cases referred to such magistrate judge;

(6) administer oaths and affirmations, and take acknowledgments, affidavits, and depositions; and

(7) perform such further duties as may be referred by a judge of the court in accordance with 28 U.S.C. § 636.

When a jury trial is requested in a misdemeanor case, such case will be transferred to a full-time magistrate judge sitting in Kansas City, Topeka, or Wichita.

* * *

As amended 3/17/10; 9/00, 10/22/98, 2/27/98, 2/2/95.

RULE 72.1.2
ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

(a) Criminal Cases.

(1) *Misdemeanor Cases.* All misdemeanor cases will be assigned upon the filing of an information, complaint, or violation notice, or the return of an indictment to a magistrate judge, who will proceed in accordance with 18 U.S.C. § 3401 and the rules of procedure for the trial of misdemeanors.

(2) *Felony Cases*. Upon the return of an indictment or the filing of an information or complaint, all felony cases will be assigned to a magistrate judge for proceedings pursuant to Fed. R. Crim. P. 5, the conduct of an arraignment, acceptance of waivers of indictment pursuant to Fed. R. Crim. P. 7(b), and such pretrial conferences including omnibus hearings as are necessary, and for the hearing and determination of all pretrial procedural and discovery motions.

(b) Civil Cases. The clerk of the court will assign civil cases to a magistrate judge or judge for the conduct of a Fed. R. Civ. P. 16(b) scheduling conference, the issuance of a scheduling order, and such other pretrial conferences as are necessary and appropriate, and for the hearing and determination of all pretrial, procedural, and discovery motions. Where the parties consent to the trial and disposition of a case by a magistrate judge under D. Kan. Rule 72.1.3, such case will, with the approval of the judge to whom it was assigned at the time of filing, be reassigned to a magistrate judge for the conduct of all further proceedings and the entry of judgment.

(c) Reservation of Proceedings by Judges. Nothing in these rules precludes a judge from reserving any proceedings for conduct by a judge, rather than by a magistrate judge.

* * *

RULE 72.1.3
CONSENT TO CIVIL TRIAL JURISDICTION

(a) Consent to Exercise of Civil Trial Jurisdiction.

(1) *In General.* A party who consents to the exercise of civil trial jurisdiction authorized in 28 U.S.C. § 636(c)(1) may communicate such consent to the clerk on a clerk-provided form signed by the party or his or her attorney.

(2) *Notice.* At the time an action is filed, the clerk will send notice to the plaintiff or his or her representative that they may

consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. The clerk will provide such notice to other parties as an attachment to copies of the complaint and summons when served. Additional notices may be furnished to the parties at later stages of the case, and may be included with pretrial notices and instructions.

(3) *Confidentiality.* A judge or magistrate judge must not be informed of a party's response to the clerk's notification unless all parties have consented to the referral to a magistrate judge.

(4) *Timing.* The consent must be filed with the clerk prior to the time of trial.

(b) Referral by the Court. After the consent form has been executed and filed, the clerk will transmit it to the judge to whom the case has been assigned for approval and referral of the case to a magistrate judge.

(c) Withdrawal of Consent. After a case has been referred, no party may withdraw its consent to the exercise of a magistrate judge's jurisdiction without court approval.

* * *

As amended 2/2/95.

RULE 72.1.4
OBJECTIONS; APPEALS; STAY OF MAGISTRATE JUDGE'S ORDERS

(a) Objections to Magistrate Judge's Order. The procedure for filing objections to an order of a magistrate judge in a nondispositive matter follows Fed. R. Civ. P. 72(a). Such objections must be made by filing a motion to review the order in question.

(b) Objections to Magistrate Judge's Recommendation. The procedure for filing objections to the recommendation of a magistrate judge on a dispositive or other matter follows Fed. R. Civ. P. 72(b).

(c) Appeal from Judgment. The procedure for appeal from a judgment in an action tried by consent to a magistrate judge follows Fed. R. Civ. P. 73.

(d) Application for Stay of Magistrate Judge's Order. Application for stay of a magistrate judge's order pending review of objections must first be made to the magistrate judge.

(e) Application in Criminal Cases. In criminal cases, motions for a judge to review a magistrate judge's order must be filed within 14 days of the date the magistrate judge's order is filed.

* * *

As amended 12/01/09, 6/18/97.

- X -
DISTRICT COURT AND CLERK

RULE 77.1
RECORD OFFICES; FILING OF PLEADINGS AND PAPERS

(a) Record Offices. The record offices of the court are located in Topeka, Wichita, and Kansas City, Kansas. In cases of emergency or other exigent circumstances, a judge may order the closing of the record office of the court at such judge's duty station, with provision being made for the filing of pleadings and papers.

(b) Filing of Pleadings and Papers. Pleadings and other papers must be filed at one of the record offices or via the court's Electronic Filing System. Under extraordinary circumstances, pleadings and other papers may be filed with a judge or magistrate judge under Fed. R. Civ. P. 5(d)(2)(B).

(c) FAX Filing.

(1) *Represented Parties.* Where compelling circumstances exist, the clerk may accept for filing papers transmitted by facsimile transmission equipment.

(A) *Form, Format, Service, and Signature.* Such papers, when placed in the transmission equipment, must comply with all provisions of these rules and the Federal Rules of Civil Procedure regarding the form, format, service, and signature of pleadings and papers.

(B) *Certificate of Counsel.* A part of such facsimile transmission must be a certificate of counsel setting forth the facts constituting the compelling circumstance.

(C) *Notice.* A copy of the papers transmitted to the clerk must also be immediately transmitted by facsimile transmission to all parties who have the capability of receiving facsimile trans-

missions. The filer must immediately notify parties not having such capability of the facsimile filing by telephone.

(D) *Court's Review.* Should the court later determine the certificate or affidavit does not describe compelling circumstances, or the allegations are untrue, the court will strike the papers filed by facsimile transmission and may impose other appropriate sanctions.

(2) *Unrepresented Parties.* Pro se filers may file papers by facsimile transmission equipment under any circumstance and do not need to provide an affidavit setting forth the facts constituting compelling circumstances.

* * *

As amended 3/17/10, 3/17/08 (incorporates former D.Kan.S.O. 07-04).

RULE 77.2
ORDERS AND JUDGMENTS GRANTABLE BY CLERK

(a) Orders and Judgments. The clerk may grant the following orders and judgments without direction by the court:

(1) Orders specially appointing a person to serve process under Fed. R. Civ. P. 4(c);

(2) Orders extending once for 14 days the time within which to answer, reply, or otherwise plead to a complaint, crossclaim, or counterclaim if the time originally prescribed to plead has not expired;

(3) Orders for the payment of money on consent of all parties interested therein;

(4) Consent orders for the substitution of attorneys;

(5) Consent orders dismissing an action, except in cases governed by Fed. R. Civ. P. 23 or 66; and

(6) Entry of default and judgment by default as provided for in Fed. R. Civ. P. 55(a) and 55(b)(1).

(b) Content of Proposed Orders. Any order submitted to the clerk under this rule must be signed by the party or attorney submitting it, and is subject to Fed. R. Civ. P. 11 and D. Kan. Rule 11.1. Any order submitted to the clerk for an extension of time under subparagraph (a)(2) of this subsection must specifically state:

(1) The date when the time for the act sought to be extended is due;

(2) The date to which the time for the act is to be

extended; and

(3) That the time originally prescribed has not expired.

(c) Clerk's Action Reviewable. For good cause, the court may suspend, alter, or rescind the actions of the clerk under this rule.

* * *

As amended 12/01/09, 2/1/95.

RULE 77.3
CASE NUMBERING SYSTEM

(a) Civil Cases. The clerk assigns each civil case a number upon filing. The number will begin with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the individualized case number of four digits, followed by another hyphen and the initials of the judge or magistrate judge to whom the case has been assigned. The four-digit individualized case numbers are as follows: Wichita cases begin with a "1" or a "6" (e.g., 98-1001-JTM); Kansas City cases begin with a "2" (e.g., 98-2001-KHV); and Topeka cases begin with a "4" (e.g., 98-4001-JAR). Prisoner cases begin with a "3" (e.g., 98-3001-KHV).

(b) Criminal Cases. The clerk assigns each criminal case a number upon filing. The number will begin with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the individualized case number of five digits, followed by another hyphen and the number assigned to each particular defendant in the case. The five-digit individualized case numbers are as follows: Wichita cases begin with a "1" (e.g., 98-10001-01); Kansas City cases begin with a "2" (e.g., 98-20001-01); and Topeka cases begin with a "4" (e.g., 98-40001-01). Prisoner cases begin with a "3" (e.g., 98-30001-01).

* * *

As amended 3/16/92.

RULE 77.4
SEAL OF THE COURT

The seal of this court is an American eagle, with outspread wings, occupying a circular field beneath thirteen stars arranged in a semicircle, holding in its left talon four arrows and in its right talon a fruited olive branch. The circular field is bordered by the words "United States District Court, District of Kansas."

* * *

RULE 77.5
DISSEMINATION OF INFORMATION BY COURT SUPPORTING PERSONNEL

(a) Requirements. Court supporting personnel must not disclose to anyone, without authorization by the court, the following information:

(1) information relating to a pending civil case or matter under investigation by the judges, magistrate judges, or clerk of the court that is not a part of the public records of the court;

(2) information concerning pending grand jury proceedings or relating to criminal cases, including, *inter alia*, grand jury subpoenas, search warrants, copies of the returns thereof, and all papers in connection therewith;

(3) *in camera* arguments; and

(4) hearings or conferences held in chambers or otherwise outside the presence of the public or not a part of the public records of the court.

(b) Definition. The term "court supporting personnel," as used in this rule, includes United States probation officers, United States marshals, deputy marshals, judges' chambers personnel, bailiffs, official court reporters and employees or subcontractors retained by them, court reporters retained by parties, and clerks of the court or their deputies.

(c) Punishment. Any person violating this rule will be subject to punishment as for criminal contempt of court.

* * *

As amended 3/16/92.

RULE 77.6
BENCH-BAR COMMITTEE

There is a Bench-Bar Committee appointed by the court.

(a) Membership. The committee consists of the chief judge, such other judges as may from time to time be appointed by the court, the United States Attorney or an assistant he or she designates, the district public defender or an assistant he or she designates, the chair of the bench-bar committee of the Kansas Bar Association, and nine actively-practicing members of the bar of the court, selected by the judges.

(b) Terms of Office. Each member from the United States Attorney's office, the public defender's office, and the active bar will serve a three-year term or such other term as the court may decide.

(c) Meetings. The Bench-Bar Committee will meet at such times as it determines and at the call of the chief judge.

(d) Duties. The Bench-Bar Committee serves general advisory and liaison roles with respect to the operation of the court and will, among other things:

(1) provide a forum for the continuous study of the operating procedures of the court;

(2) serve as liaison among the court, its bar, and the public;

(3) study, consider, and recommend the adoption, amendment, or rescission of the Rules of Practice of the court;

(4) study and promote a continuing legal education program; and

(5) make studies and render reports and recommendations as the court directs.

* * *

As amended 3/17/10, 5/03, 10/20/93.

RULE 79.1
ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the office of the clerk during normal business hours. Access to electronically-filed documents is available as set forth in D. Kan. Rule 5.4.12.

(b) Copies. The clerk will make and furnish copies of official public court records upon request and payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not public records within the meaning of this rule.

(d) Search for Cases by the Clerk. The office of the clerk of this court may make a search of the most recent 10 years of the master index maintained in the office and issue a certificate of such search. The clerk charges a fee of $26 for each name for which a search is conducted, payable in advance.

* * *

As amended 3/05, 3/04, 6/01, 6/13/88.

RULE 79.2
COURT LIBRARIES

The court's libraries are maintained for the exclusive use of the judges and magistrate judges and their staffs.

* * *

RULE 79.3
CUSTODY AND DISPOSITION OF TRIAL EXHIBITS, SEALED DOCUMENTS, AND FILED DEPOSITIONS

(a) Custody with the Clerk. Unless the court otherwise directs, all trial exhibits admitted into evidence in criminal and civil actions will be placed in the custody of the clerk, except as provided in section (b) below.

(b) Custody with the Offering Party. All exhibits not suitable for filing and transmission to the Court of Appeals as a part of a record on appeal must be retained in the custody of the party offering them, subject to the orders of the court. Such exhibits include, but are not 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, 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 must retain custody of them and preserve 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 must 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 is responsible for documentation of the chain of custody of such exhibits.

(c) Disposition of Exhibits, Sealed Documents, and Filed Depositions by Clerk. Any exhibit, sealed document, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has expired or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk if unclaimed after reasonable notice.

(d) Depositions. Depositions read into the record are considered exhibits for which the parties bear responsibility as provided in section (b) above. The clerk will retain custody of

depositions admitted into evidence but not read into the record and will dispose of them as authorized in section (c) of this rule.

* * *

RULE 79.4
SEALED FILES AND DOCUMENTS IN CIVIL CASES

(a) Documents/files sealed after the effective date of this rule.

(1) *10-Year Seal.* Any file, pleading, motion, memorandum, order, or other document placed under seal by order of this court in any civil action will be unsealed by operation of this rule 10 years after entry of a final judgment or dismissal unless the court otherwise ordered at the time of entry of such judgment or dismissal.

(2) *Renewal.* Any party may seek to renew the seal for an additional 10 years or less by filing a motion within 6 months of the time the seal is to be lifted and providing notice to the remaining parties. There is a rebuttable presumption that the seal will not be renewed. The moving party bears the burden to establish an appropriate basis for renewing the seal.

(b) Civil case application only. By its terms, this rule applies only to civil actions and does not apply to sealed files, documents, records, transcripts, or any other matter sealed in criminal cases.

* * *

As amended 3/17/10, New rule, adopted 10/22/98.

- XI -
GENERAL PROVISIONS

RULE 81.1
REMOVAL FROM STATE COURTS

(a) Notice of Removal. A defendant or defendants desiring to remove any civil action from a state court must file a notice of removal as required by 28 U.S.C. § 1446.

(b) Place of Filing Notice of Removal. Except in cases removed by the United States, notices of removal must be filed in the following record offices of the clerk of the court:

(1) In Kansas City—cases from the state court of the First, Sixth, Seventh, Tenth, Eleventh, Twenty-second, or Twenty-ninth Judicial Districts of Kansas;

(2) In Topeka—cases from the state court of the Second, Third, Fourth, Fifth, Eighth, Twelfth, Twenty-first, Twenty-eighth, or Thirty-first Judicial Districts of Kansas; and

(3) In Wichita—cases from the state court of the Ninth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-third, Twenty-fourth, Twenty-fifth, Twenty-sixth, Twenty-seventh, or Thirtieth Judicial Districts of Kansas.

(c) Notice.

(1) *Notice to the Parties.* The removing party must promptly serve written notice of the filing of the notice of removal on all adverse parties.

(2) *Notice to State Court.* The removing party must forthwith file a copy of the notice of removal with the clerk of the state court from which the case is removed. Such filing effects the removal.

(3) *Proof of Service.* The removing party must file a certificate with the clerk of the court showing proof of service of all notices and filings with the clerk of the state court.

* * *

As amended 12/16/08, 3/10/92.

RULE 81.2
COPIES OF STATE COURT PROCEEDINGS IN REMOVED ACTIONS

Within 21 days after filing the notice of removal, the removing party must file with the clerk of this court a copy of all records and proceedings had in the state court. The court may remand any case sought to be removed to this court for failure to comply with this rule.

* * *

As amended 12/01/09.

RULE 83.1.1
AMENDMENT OF RULES

The public notice provided in 28 U.S.C. § 2071 and Fed. R. Civ. P. 83 for making and amending these rules consists of (1) publishing a notice of the proposed adoption or amendment of these rules in The Journal of the Kansas Bar Association and (2) inviting written comment.

* * *

As amended 2/14/89.

RULE 83.1.2
STANDING ORDERS AND MANDATED RULES

(a) Standing Orders. By vote of a majority of the judges, the court may from time to time issue standing orders dealing with administrative concerns or with matters of temporary or local significance. Each standing order, unless expressly made effective until further order, will include the effective date and the expiration date. Standing orders have the same force and effect as other rules of the court. They are numbered consecutively by calendar year (e.g., 98-1) and are set out in Part XVI of these rules. They must be cited as D. Kan. S.O. 98-1, e.g.

(b) Mandated Rules. Mandated rules are those adopted (1) in compliance with statute or the Federal Rules of Procedure (civil or criminal); or (2) by direction of a superior court; or (3) subject to approval by an external reviewing panel.

(c) Amendment. D. Kan. Rule 83.1.1 does not apply to the adoption, amendment, or rescission of standing orders and mandated rules. Standing orders and mandated rules may be adopted, amended, or rescinded by action of a majority of the judges.

* * *

RULE 83.2.1
PHOTOGRAPHS, RECORDINGS, AND BROADCASTS

Except for devices used in connection with official court records, the following are prohibited in the courthouse: (1) radio or television broadcasting; and (2) the use of reproduction or recording equipment that is (a) photographic, (b) electronic, or (c) mechanical. Ceremonial proceedings such as the administration of oaths of office to appointed officials of the court, naturalization, and presentation of portraits or awards may be photographed in or broadcast from the courtroom, only with permission and under the supervision of the court. This rule does not apply to employees who work in the courthouse, or to use of courtrooms by other government agencies.

* * *

As amended 3/05 (formerly Amended D. Kan. S.O. 04-2), 9/28/87.

RULE 83.2.2
COURT SECURITY

(a) Application of Rule. This rule applies to any building occupied or used by the United States Courts in the District of Kansas, and to the environs of any such building. It is in effect at

all times that judges, magistrate judges, or court personnel are present, whether or not court proceedings are actively under way.

(b) Persons Subject to Search. All persons seeking entry to a courtroom, to the chambers of any district or magistrate judge, to any offices of the court, or to any of the halls or corridors adjacent thereto are subject to search by the United States Marshal, Deputy United States Marshals, or other officers designated by the Marshal or the court. Such search may include briefcases, parcels, purses, or other containers.

(c) Weapons.

(1) *In the Courthouse.* No weapons other than exhibits are permitted in the courthouse, with the exception of weapons carried by:

(A) the United States Marshal;
(B) Deputy United States Marshals;
(C) Court Security Officers;
(D) Federal Protective Officers;
(E) officers approved by the court, the United States Marshal, or by federal law; and
(F) authorized law enforcement officers whose official duty station is the courthouse.

(2) *In the Courtrooms.* No person other than a United States Marshal, Deputy United States Marshal, Court Security Officer, or officer approved by the court or United States Marshal is permitted to bring a weapon other than an exhibit into any courtroom, except as specifically permitted by this rule.

(3) *Exhibits.* Any firearm intended for introduction as an exhibit must be presented to the United States Marshal for a safety check before it is brought into any courtroom.

(d) Emergency Mutual Aid. This rule does not apply during emergency mutual aid situations occurring at any building occupied or used by this court. Exemptions include, but are not limited to, police response to calls for assistance, fire and/or first aid response to rescue calls, or law enforcement and emergency response to critical building emergencies. When possible, the United States Marshal and/or Court Security Officer should be notified of the need to exempt this rule.

* * *

As amended 2/95, 11/93.

RULE 83.2.3
SPECIAL ORDERS IN SENSATIONAL CASES

In a widely-publicized or sensational criminal or civil case, the court 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 the court finds necessary to ensure a fair trial.

* * *

RULE 83.2.4
ELECTRONIC COMMUNICATION DEVICES

(a) Definition. For purposes of this rule, an electronic communication device includes any computer, personal digital assistant, cellular telephone, digital camera or camcorder, pager, two-way radio, or other electronic communication device.

(b) Who May Possess. Federal law enforcement officers, employees, and tenants of the courthouse may bring electronic communication devices into the courthouse.

(c) Who May Possess Subject to Screening and Clearance. Possession of electronic communication devices is otherwise prohibited, except by:

(1) lawyers, including pro hac vice attorneys, who present photo identification and a current bar registration card from this or any other federal or state court;

(2) staff in the company of such lawyers; and

(3) individuals who are granted specific written permission from this court.

All such individuals and electronic communication devices are subject to proper screening and security clearance before entering the courthouse. Furthermore, lawyers are responsible for ensuring that their staff comply with all rules regarding use of electronic communication devices.

(d) Unauthorized Persons and Purposes. No person who is allowed to possess an electronic communication device in the courthouse may allow it to be used by any unauthorized person or for any unauthorized purpose.

(e) Use of devices in the courtroom. Laptop computers may be used in the courtroom. No other electronic communication device may be used in the courtroom except by federal law enforcement officers and court personnel.

(f) Limit on Use. No electronic communication device may be

used in violation of Rule 83.2.1.

(g) Sanctions. Any electronic communication device used in violation of this rule or Rule 83.2.1 is subject to immediate, permanent confiscation. In addition, in the discretion of the court, the violator or other responsible party may be subject to other sanctions (including financial sanctions).

* * *

As amended 3/05 (formerly D.Kan.S.O. 04-3).
New rule, adopted 7/9/99.

RULE 83.2.5
CONFLICTS INVOLVING SPOUSES AND CHILDREN OF JUDGES

The following rule is designed to give guidance to parties and attorneys regarding the potential disqualification of a judge in a case involving the children and/or spouse of the judge. For purposes of this rule, the term "spouse" includes a person other than a spouse who maintains both a household and intimate relationship with the judge or child.

A judge of the court will be disqualified if the judge's spouse, child, or a spouse of a child is:

(a) a party in a case;

(b) likely to be a material witness in a case (to the judge's knowledge);

(c) an attorney involved in the case; or

(d) has an ownership interest in a law firm to come before the court.

In other situations involving a judge's spouse, child or child's spouse, a judge is not deemed subject to a conflict of interest and will not recuse unless additional aggravating factors warranting recusal are present. Mere employment of a spouse, child, or child's spouse by a law firm does not mandate that the judge per se recuse from every matter in which the law firm is involved. For example, the court would expect law firms to take reasonable steps to "wall off" any judge's spouse, child or child's spouse from working on or being privy to information about any cases pending before that judge for additional protection from a conflict. Additional aggravating factors and/or other relatives who might present potential conflicts will be individually considered pursuant to the applicable canons, advisory opinions and case law.

* * *

Adopted 3/17/09 (formerly D. Kan. S.O.08-2).

RULE 83.5.1
ROLL OF ATTORNEYS

(a) Members. The bar of this court consists of those attorneys admitted to practice before this court who have taken the oath prescribed by the rules in force at the time they were admitted; who have signed the roll of attorneys maintained by the clerk; and who remain in good standing.

(b) Non-Members. Law firms, law partnerships, and corporations may not be members of the bar of this court. No attorney will be permitted to appear in any action or proceeding merely because he or she is associated in a firm, partnership, or corporation, one or more members of which are admitted to practice in this court.

(c) Pro Se Appearances. Only attorneys enrolled as provided in paragraph (a) of this rule or duly admitted pro hac vice may appear or practice in this court. But nothing in these rules prohibits any individual from appearing personally on his or her own behalf.

(d) Applicability. These rules governing attorneys who practice before the court are applicable to the United States Bankruptcy Court for the District of Kansas.

* * *

As amended 10/20/93.

RULE 83.5.2
ADMISSION TO BAR

(a) Who May Apply. Those persons admitted to practice in the courts of the State of Kansas and/or the United States District Court for the Western District of Missouri who are in good standing in any and all bars to which they have ever been admitted (or who have resigned from such a bar as a member in good standing, so long as such resignation was not made to avoid investigation or discipline) may apply for admission to the bar of this court.

(b) Requirements for Admission. Admission will be granted upon motion of a member of the bar of this court accompanied by the written statement of the applicant representing that the applicant:

(1) is of good moral character;

(2) meets the foregoing requirements; and

(3) can demonstrate familiarity with the Rules of Practice of this court, the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Appellate Procedure, the Federal Rules of Evidence, and federal jurisdiction and venue. Such familiarity may be based upon course work completed, examination, experience, or such other evidence as the movant deems substantially equivalent.

(c) Oath or Affirmation. The following oath or affirmation must be administered to the applicants by or at the direction of a judge or magistrate judge of this district:

> You do solemnly swear/affirm that you will support the Constitution of the United States; that you will do no falsehood, nor consent to the doing of any in court; that you will not wittingly or willfully promote or sue any false, groundless, or unlawful suit, nor give aid or consent to do the same; that you will delay no person for lucre or malice, but you will conduct yourself in the office of an attorney within the courts according to the best of your knowledge and discretion, and with good fidelity, as well to the court as to your clients.

(d) Temporary Permits. Persons who hold a temporary permit to practice law granted by the Supreme Court of Kansas may apply for a temporary permit to practice in this court. The granting of temporary admissions to practice in this court is governed by this rule, and is effective upon the applicant taking the oath prescribed by this rule. Such temporary permit to practice in this court is effective only so long as the temporary admittee's temporary permit to practice in the Kansas state courts is in effect.

* * *

As amended 7/9/99, 11/13/97, 11/16/90.

RULE 83.5.3
REGISTRATION OF ATTORNEYS

(a) Annual Registration.

(1) *In General.* All attorneys admitted to the practice of law before this court, except as set out in paragraphs (b) and (c) below, must annually—on or before the first day of July—register with the clerk on such forms as the clerk prescribes.

(2) *CLE Certification and Local Rules Familiarization.* As a part of the registration form, the registrant must certify that during the 12-month period immediately preceding the date of registration,

(A) he or she has earned at least the minimum number of credit hours required by the Rules of the Supreme Court of Kansas relating to continuing legal education; and

(B) he or she has read and is familiar with these local rules.

(3) *Reciprocal Admission.* If admitted to practice before this court solely because of admission to the United States District Court for the Western District of Missouri, the registrant must certify that he or she has earned the minimum number of credit hours required by the rules of the Missouri Supreme Court and the Western District of Missouri related to continuing legal education.

(4) *Annual Fees.* At the time of each registration, the registrant, if not excused by these rules from payment, must pay an annual fee in such amount as the court orders for the ensuing 12-month period.

(5) *Registration Card.* The clerk will issue to each attorney duly registered hereunder a registration card on a form approved by the court.

(b) Exemption From Fees.

(1) *State Court Judges and Federal Court Employees.* State court judges who are barred by law or rule from the practice of law and federal court employees who do not actively practice before the court are exempt from payment of the registration fee.

(2) *Attorneys Appearing Pro Hac Vice.* Attorneys appearing pro hac vice are not required to pay the annual registration fee.

(3) *Newly-Admitted Attorneys.* No registration fee will be charged to any attorney newly admitted to this court after January 1 for the first registration period following such admission. Where an attorney newly admitted to the court pays the registration fee for the period in which the attorney is exempt and wishes to be refunded, the attorney must initiate a refund by requesting it in writing.

(c) Retired and Inactive Attorneys. An attorney who has retired from or is no longer engaged in the practice of law in this court may so notify the clerk in writing. An attorney filing such notice is thereafter ineligible to practice in this court until reinstated under such terms as the court directs. During any period of retirement or inactive status under this rule, the retired or inactive attorney need not pay the annual registration fee.

(d) Non-Appropriated Fund. The court maintains a non-appropriated fund derived from attorney registration fees in accordance with Volume 1, Chapter 7, part M, of the Guide to Judiciary Policies and Procedures and in accordance with the Rules of Practice and Procedure for District and Bankruptcy Court for the District of Kansas.

(1) *Fund Custodian.* The clerk of the court is appointed as the fund custodian. The custodian will receive, safeguard, deposit, disburse, and account for all funds. The custodian will ensure the financial statements and reports are prepared in a timely manner to meet the needs of the court.

(2) *Fund Management.* All receipts will be deposited in federally insured banks or savings institutions and whenever feasible, will be placed in interest-bearing accounts. Funds must be segregated from all other monies in the court's custody, including other non-appropriated funds.

(3) *Audits*. The Administrative Office of the U.S. Courts or court-appointed outside auditors may perform audits. The written results of the audits will be provided to the court. Costs for outside audits will be paid by the fund. Annual audits will be performed for the fiscal year, October 1 through September 30.

(4) *Budget.* At the beginning of each fiscal year, the court will approve a budget for the year that forecasts fund income and expenses. The court-approved budget will serve as authorization for the custodian to spend monies for categories listed on the budget. The custodian is allowed to exceed budgeted amounts by no more than 10%. A majority of the judges must approve expenditures beyond the 10% variance.

(5) *Items Outside the Budget.* For items not covered by the annual budget, the chief judge may issue an order of approval that disburses funds for expenditures not exceeding $300. For items exceeding $300 not covered by the annual budget, a majority of the judges must approve the order of approval issued by the chief judge.

(6) *Calculation of Registration Fee.* During the first 3 months of each calendar year, the judges will examine the accounts of the trustee of the fund, and fix the registration fee for the next annual registration of attorneys. In fixing the fee, the judges will consider the amount on hand, the projected earnings from investments, and the probable expense of pending and anticipated proceedings.

(e) Disbursements. Disbursements from the Bar Registration and Disciplinary Fund are permitted only for the following purposes:

(1) To defray the expense of administering the registration and bar disciplinary procedures.

(2) As set forth in paragraph (f) of this rule, to reimburse court-appointed attorneys in civil cases for out-of-pocket expenditures that the attorneys are reasonably compelled to incur, that the client is not able to pay, and that are not otherwise recoverable in the action.

(3) To reimburse members of official committees appointed by the court, who may not be otherwise reimbursed, for their expenses incurred in attending meetings and performing the duties required of committee members. Applications for such reimbursements must be made on forms supplied by the clerk. The clerk may approve applications for amounts not to exceed $300. The chief judge must also approve reimbursement for expenses exceeding $300. Travel expenses will be paid from the fund in an amount not to exceed the same rates as official travel for federal employees. Claims will be allowed for actual expenses, not to exceed the rates in effect at the time of travel.

(4) To make such other expenditures the judges consider to be for the benefit of the court and bar.

(f) Reimbursement Procedures for Court-Appointed Counsel in Civil Cases.

(1) *Allowable Expenses.* Allowable expenses include items set out in 28 U.S.C. § 1920, fees for expert witnesses and other out-of-pocket expenditures that the attorneys are reasonably compelled to incur, that the client is not able to pay, and that are not otherwise recoverable in the action. Reimbursements must not include general office overhead or items and services of a personal nature.

(2) *Reimbursement Procedure.* To qualify for reimbursement, all expenditures in excess of $500 for investigative expenses—for example, retrieval of medical records, employment records, and the like—must be approved *in advance* by the court. Before incurring any reimbursable expense, the attorney must:

(A) complete a reimbursement form, which is available from the clerk; and

(B) secure the requisite prior approval, in writing, by the judge to whom the case is assigned and, where required, by the chief judge.

(3) *Who Must Approve Expenditures.* The presiding judge may approve expenditures that total less than $3,000 for the entire case. The chief judge must approve expenditures that reach or exceed $3,000.

(4) *Ex Parte Requests.* Attorneys may request approval on an *ex parte* basis.

(5) *Amount of Reimbursement.* The clerk will reimburse attorneys such amount as the court approves.

(g) Suspension. The clerk will issue an order of suspension to any attorney who has failed to register as of October 1 of the registration year. Any attorney who continues to practice in this court while suspended will be subject to disciplinary procedures.

(h) Reinstatement. The court may reinstate an attorney who was suspended solely because of his or her failure to register or pay the annual registration fee upon:

(1) application;

(2) payment of a $100 re-registration fee (except that the court may waive the fee for good cause); and

(3) payment of such additional amount as the court requires.

(i) Criminal Charges, Potential Criminal Charges, and Disciplinary Proceedings. Any member of the bar of this court who is charged in any court of the United States or of any state, territory, district, commonwealth, or possession of the United States with the commission of a felony or with unprofessional conduct must notify the clerk in writing within 14 days after service of process or notice to him or her of such charge. This subsection also applies to diversion agreements relating to criminal charges, potential criminal charges, or disciplinary proceedings.

* * *

As amended 12/01/09, 3/17/09, 5/03, 9/00.

RULE 83.5.3.1
APPOINTMENT OF ATTORNEYS IN CIVIL CASES

In those civil cases (other than a habeas corpus action) where a judge appoints an attorney to represent a party, reimbursement of out-of-pocket expenses may be made pursuant to D. Kan. Rule 83.5.3(e)(2).

* * *

As amended 6/5/95.

RULE 83.5.4
APPEARANCE FOR A PARTICULAR CASE

(a) Requirements for Pro Hac Vice Admission. An attorney who is not admitted to practice in this court may be admitted for the purposes of a particular case only, if the following conditions are met:

(1) The attorney must be a member in good standing of the bar of another state or federal court;

(2) A member in good standing of the bar of this court must move for his or her admission;

(3) The motion must be in writing;

(4) The motion must be accompanied by an affidavit on the form prescribed by court rule (see Appendix); and

(5) The attorney seeking admission must pay a registration fee of $50 per case.

An attorney's admission is subject to 28 U.S.C. §§ 515, 517, and similar provisions of the United States Code. Attorneys employed by any department or agency of the United States government are not required to pay a pro hac vice registration fee.

(b) Felony Charges and Charges of Unprofessional Conduct. An attorney admitted pro hac vice who, while practicing in this court under such admission, is charged in any court of the United States or of any state, territory or possession of the United States with the commission of a felony or with unprofessional conduct, must notify the clerk in writing within 14 days after service of process or notice to him or her of such charge.

(c) Signatures. All pleadings or other papers signed by an attorney admitted pro hac vice must also be signed by a member of the bar of this court in good standing, who must participate meaningfully in the preparation and trial of the case or proceedings to the extent the court requires.

(d) Consent to Disciplinary Jurisdiction. An attorney who applies for admission pro hac vice by doing so consents to the exercise of disciplinary jurisdiction by this court over any alleged

misconduct that occurs during the progress of the case in which the attorney so admitted participates. An attorney of record in an action transferred under 28 U.S.C. § 1407 may continue to represent his or her client in the District of Kansas. Parties in such actions need not obtain local counsel in this district.

(e) Preclusion from Practice. An attorney who has been permitted to appear pursuant to this rule who is found guilty of a serious crime or is publicly disciplined by another court may be precluded from continuing that special appearance and from appearing at the bar of this court in any other case.

(f) Refusal of Admission. In the event disciplinary or grievance proceedings or sanctions are pending, the court may refuse admission pending disposition of such proceedings.

(g) Appearance Pro Se. Any party appearing on his or her own behalf without an attorney is expected to read and be familiar with the Rules of Practice and Procedure of this court; the relevant Federal Rules of Civil Procedure, of Criminal Procedure, or the Bankruptcy Rules; and the pertinent Federal Rules of Evidence; and to proceed in accordance with them.

* * *

As amended 12/01/09, 8/21/06, 9/00, 6/18/97, 10/20/93.

RULE 83.5.5
WITHDRAWAL OF APPEARANCE

An attorney who has appeared in a case may withdraw in accordance with the Kansas Rules of Professional Conduct as described in D. Kan. Rule 83.6.1.

(a) Withdrawal of Attorney Whose Client Will be Left Without Counsel.

Withdrawal of an appearance for an attorney whose client will be left without counsel is authorized only upon court order. An attorney seeking to withdraw whose client will be left without counsel must:

(1) file a motion to withdraw that:

(A) sets forth the reasons for the withdrawal, unless doing so would violate any applicable standards of professional conduct;

(B) provides evidence that the withdrawing attorney provided the client with notice of:

(i) the admonition that the client is personally

responsible for complying with all orders of the court and time limitations established by the rules of procedure or by court order; and

(ii) the dates of any pending trial, hearings, conferences, and deadlines; and

(C) provides the court with a current mailing address and telephone number for the client;

(2) serve the motion to withdraw on the withdrawing attorney's client either by personal service or by certified mail, with return receipt requested;

(3) serve the motion to withdraw on all attorneys of record and pro se parties in the case pursuant to Fed. R. Civ. P. 5(b); and

(4) file either:

(A) proof of personal service of the motion to withdraw or the certified mail receipt, signed by the client; or

(B) an affidavit indicating that the client received a copy of the motion to withdraw.

Withdrawal is not effective until the court enters an order authorizing withdrawal.

(b) Withdrawal of Attorney Whose Client Continues to Be Represented by Other Counsel of Record.

Withdrawal of an appearance by an attorney whose client continues to be represented by other counsel of record is authorized without an order of the court, unless the only remaining counsel of record is admitted pro hac vice under D. Kan. Rule 83.5.4. In instances where the remaining counsel of record is admitted pro hac vice, the withdrawing attorney must comply with either subsection (a) or (c) of this Rule.

An attorney seeking to withdraw whose client will continue to be represented by other counsel of record may withdraw provided the withdrawing attorney files a pleading entitled "Notice of Withdrawal of Appearance" signed by the withdrawing attorney. Such notice must identify the other attorneys of record who will continue to represent the withdrawing attorney's client. Such notice of withdrawal must be served pursuant to Fed. R. Civ. P. 5(b) on the client, all attorneys of record, and any pro se parties in the case.

(c) Withdrawal of Attorney Whose Client Will be Represented by Substituted Counsel.

Substitution of counsel admitted to practice in this court is

authorized without an order of the court. Substitution of counsel and simultaneous withdrawal of counsel may be accomplished as follows:

The attorney to be substituted as counsel of record files a pleading entitled "Withdrawal of Counsel and Entry of Appearance of Substituted Counsel" signed by (1) the attorney withdrawing and (2) the attorney to be substituted as counsel. Such notice of withdrawal must be served pursuant to Fed. R. Civ. P. 5(b) on the client, all attorneys of record, and any pro se parties in the case.

(d) Withdrawal of Attorney for Criminal Appeal.

Withdrawal of counsel for a defendant in a criminal case who wishes to appeal from a judgment of conviction after trial or a guilty plea or from a sentence imposed under the Sentencing Guidelines is governed by 10th Circuit Rules 46.3 and 46.4.

* * *

As amended 3/17/09, 10/22/98, 2/2/95.

RULE 83.5.6
LEGAL INTERNS

Legal interns, as defined in Kansas Supreme Court Rule 709, who meet the qualifications set forth in that rule, may appear before the judges and magistrate judges of this district to perform the same services as provided in Rule 709. Legal interns appearing before this court are subject to all of the requirements and limitations of Rule 709. Prior to an appearance, whether by signature on a pleading, motion, or memorandum, or by appearance in court, the legal intern and the supervising attorney must file a copy of the order admitting the legal intern to practice under Rule 709 as well as all written consents and approvals required thereby.

* * *

As amended 2/27/98, 2/3/95.

RULE 83.5.7
APPEARANCES BY FORMER LAW CLERKS

An attorney who has served as a law clerk to a judge must not appear in any case that was pending before that judge during the tenure of the attorney as a law clerk.

A former law clerk must not appear in a case that is assigned to the judge by whom he or she was employed for a period of one year after leaving the employment of that judge.

This rule applies to former law clerks to district judges, magistrate judges, and bankruptcy judges.

* * *

Adopted 03/17/08 (formerly D. Kan. S.O. 95-1).

RULE 83.6.1
PROFESSIONAL RESPONSIBILITY

(a) Kansas Rules. The Kansas Rules of Professional Conduct as adopted and amended by the Supreme Court of Kansas are adopted by this court as the applicable standards of professional conduct, except as otherwise provided by a specific rule of this court.

(b) Disciplinary Enforcement. For misconduct defined in these rules, and after proceedings conducted in accordance with these rules, any attorney within the disciplinary jurisdiction of this court may be disbarred, suspended from practice, reprimanded, or subjected to other appropriate disciplinary action.

(c) Standards of Conduct. Any of the following acts or omissions by an attorney constitute misconduct and are grounds for discipline:

(1) Acts or omissions that violate the standards of professional conduct adopted by this court;

(2) Conduct violating applicable rules of professional conduct of another jurisdiction;

(3) Willful disobedience of a court order requiring the attorney to do or forebear an act connected with or in the course of the practice of law;

(4) Willful violation of the attorney's oath prescribed by these rules;

(5) Neglect or refusal, on demand, to pay over or to deliver money or property due or belonging to a client, except where such money or property is retained under a bona fide claim of a lien for services;

(6) Destroying, secreting, fraudulently withdrawing, mutilating, or altering any paper, record, or exhibit belonging to the files or records in any action or proceeding;

(7) Willful violations of a valid order of the court, the Disciplinary Panel, or a hearing panel; and

(8) The willful failure to appear before or respond to a lawful demand from disciplinary authority, except that this rule does not require disclosure of information otherwise protected by applicable rules relating to confidentiality.

* * *

As amended 3/17/04, 9/17/99, 10/22/98.

RULE 83.6.2
DISCIPLINE OF ATTORNEYS

(a) Disciplinary Panel.

(1) *Composition of Disciplinary Panel.* The chief judge will assign a panel of three active or senior judges of the court to be known as the Disciplinary Panel. From time to time, the chief judge may designate other judges to serve as members or as alternates on the Disciplinary Panel.

(2) *Duties of Disciplinary Panel.* The Disciplinary Panel may, by a majority vote, provide for the investigation of a disciplinary complaint. The Disciplinary Panel has general supervision over all proceedings involving:

(A) the disbarment, suspension, censure, or other discipline of lawyers practicing in this court; or

(B) the alleged physical or mental disability of lawyers practicing in this court.

(b) Duties of the Clerk.

(1) *"Bar Disciplinary File."* The clerk will maintain as a public record a general file to be known as the "Bar Disciplinary File." The file must contain a copy of any procedural guidelines the Disciplinary Panel adopts and such other documents as the Disciplinary Panel directs. It must not contain complaints or other papers filed in individual disciplinary proceedings or sealed by court order.

(2) *"Bar Discipline Docket."* The clerk will keep a separate "Bar Discipline Docket" in which entries are made in bar disciplinary cases in the same manner as entries are made in the civil docket pursuant to Fed. R. Civ. P. 79. The Bar Discipline Docket is sealed and the entries are confidential except as otherwise provided by these rules or ordered by the court.

(3) *Duties When a Complaint is Filed.* When a complaint is filed the clerk must:

(A) ascertain from the disciplinary authorities of all bars of which the charged attorney is a member,

his or her standing and disciplinary record (unless the facts are already known);

(B) file the information received; and

(C) report it to the Disciplinary Panel.

(4) *Notice To Disciplinary Authorities*. The clerk must transmit notice of all public discipline imposed against a lawyer, transfers to or from disability inactive status, and reinstatements to the Disciplinary Administrator of the Supreme Court of Kansas and to the National Discipline Data Bank maintained by the American Bar Association. The clerk must also transmit the same to the disciplinary authorities of any other bars of which the disciplined attorney is a member.

(c) Confidentiality.

(1) *Disclosure.* Prior to the filing and service of formal charges in a disciplinary matter, the proceedings are confidential, except that the pendency, subject matter, and status of an investigation may be disclosed:

(A) by the clerk if the respondent has waived confidentiality or if the proceeding is based upon allegations that include either the conviction of a crime or public discipline by another court; or

(B) by the Disciplinary Panel if it has determined:

(i) the proceeding is based upon allegations that have become generally known to the public; or

(ii) there is a need to notify another person or organization, including any recognized clients' security fund to protect the public, the administration of justice, or the legal profession.

(2) *Proceedings*. Upon filing and service of formal charges in a disciplinary matter, or filing of a petition for reinstatement, the proceeding is public except for:

(A) deliberations of the hearing panel or court; or

(B) information subject to a protective order.

(3) *Proceedings Alleging Disability.* Proceedings for transfer to or from disability inactive status are confidential. All orders transferring a lawyer to or from disability inactive status are public.

(4) *Protective Orders.* To protect the interests of a complainant, witness, third party, or respondent, the Disciplinary Panel may—upon application of any person and for good cause—issue a protective order prohibiting the disclosure of specific information otherwise privileged or confidential. The Disciplinary Panel may direct that the proceedings be conducted so as to implement the order. This may include requiring that the hearing be conducted in such a way as to preserve the confidentiality of the information that is the subject of the application.

(5) *Duty of Participants.* All participants in a proceeding under these rules must conduct themselves so as to maintain the confidentiality mandated by this rule.

* * *

As amended 3/15/03, 10/22/98, 11/16/90.

RULE 83.6.3
PROCEDURE IN DISCIPLINARY CASES

(a) Jurisdiction.

(1) *In General.* Any lawyer admitted to practice law in this court is subject to the disciplinary jurisdiction of this court.

(2) *Definitions.* The term "any lawyer admitted to practice law in this court" includes the following persons:

(A) Any formerly-admitted lawyer with respect to the following acts:

(i) acts committed prior to resignation, suspension, disbarment, or transfer to inactive status; or

(ii) acts subsequent thereto that amount to the practice of law in violation of these rules or of the Model Rules of Professional Conduct as adopted by the Supreme Court of Kansas or any standards of professional conduct adopted by the court in addition to or in lieu thereof;

(B) Any lawyer specially admitted for a particular proceeding; and

(C) Any lawyer not admitted to the bar of this court or the bar of Kansas who practices or attempts to practice law in this court.

(b) Complaints Generally.

(1) *Complaints Filed in This Court.* A complaint against an attorney practicing in this court for any cause or conduct that may justify disciplinary action must be:

(A) in writing;

(B) under oath—unless filed by a judge or magistrate judge of this court; and

(C) filed in the record office of the clerk at Kansas City.

The clerk must refer all complaints so-filed to the Disciplinary Panel.

(2) *Complaints Filed with the Kansas Disciplinary Administrator*. Alternatively, a complainant concerned with federal conduct may file a complaint with the Kansas Disciplinary Administrator.

(3) *Referral of Complaint.* Even where a complainant files a complaint in this court, the court or the Disciplinary Panel may refer the complaint to the Kansas Disciplinary Administrator.

(c) Initial Action by Disciplinary Panel.

(1) *Dismissal.* The Disciplinary Panel must dismiss the complaint if it finds from the face of the complaint that it is frivolous, groundless, or malicious. If it so finds, the Disciplinary Panel's order must recite the reasons for dismissal. Upon dismissal under this subparagraph, the clerk must mail a copy of the order of dismissal to the complainant by certified mail, return receipt requested.

(2) *Referral to Hearing Panel.* The Disciplinary Panel must refer the matter to a hearing panel if it finds from the face of the complaint the misconduct charged would, if true, justify disciplinary sanctions. The hearing panel consists of three members of the bar of this court appointed by the Disciplinary Panel. One member must be designated as chairperson of the hearing panel.

(d) Hearing Panel.

(1) *Hearings.* A hearing panel sits as a panel of inquiry. Upon reasonable notice to the complainant and respondent, the hearing panel may hold hearings on the issues. All hearings must be recorded verbatim pursuant to 28 U.S.C. § 753(b).

(2) *Actions of Chairperson.* The chairperson of the hearing panel conducting the inquiry is hereby designated and appointed master with authority to cause subpoenas to be issued commanding the appearance of witnesses, the production of books, papers, documents, or tangible things designated therein at such

hearings or such other time designated in the subpoena. The chairperson may also administer oaths to the parties and witnesses.

(3) *Contempt Proceedings.* The Disciplinary Panel may order the initiation of contempt proceedings against witness when:

(A) the witness fails or refuses to attend or testify under oath; and

(B) his or her name is certified to the Disciplinary Panel.

(e) Investigation by Disciplinary Counsel.

(1) *Disciplinary Counsel's Duty.* With the approval of the chief judge, the chairperson of the hearing panel may appoint one or more members of the bar of this court (or if circumstances require of the bar of another court) in good standing, as Disciplinary Counsel. Disciplinary Counsel's duty is to:

(A) investigate, present, and prosecute charges; and

(B) prepare all orders and judgments as directed by the hearing panel.

(2) *Investigation and Report.* Disciplinary Counsel must conduct an initial investigation of the charges and submit a written report to the hearing panel recommending:

(A) dismissal of the complaint;

(B) informal admonition of the attorney; or

(C) prosecution of formal charges before a hearing panel.

(3) *Disposition.* The hearing panel may direct further investigation or take action by a majority vote.

(4) *Informal Admonition.* If informal admonition is contemplated, the attorney must first be notified. The attorney may demand a formal hearing by written request to the chairperson of the hearing panel.

(f) Formal Charges.

(1) *Formal Complaint.* If the hearing panel directs or demands formal prosecution, Disciplinary Counsel must, after making such additional investigation as he finds necessary, prepare and file with the clerk a formal complaint.

(A) *Requirements of Complaint.* The complaint must be sufficiently clear and specific to inform the respondent of the alleged misconduct.

(B) *Service.* A copy of the complaint, together with a summons, must be served upon the respondent. The summons must be in the general form of a

civil summons issued pursuant to Fed. R. Civ. P. 4 and be served in accordance with that rule.

(C) *Response.* The respondent must serve a response upon Disciplinary Counsel and file a copy with the clerk within 21 days after service of the complaint unless the chairperson of the hearing panel extends the time.

(2) *Hearing.*

(A) *When Set.* The chairperson of the hearing panel must set the matter for hearing:

(i) Following the service of a response or upon the respondent's failure to respond; and

(ii) Upon completion of any additional investigation that the chairperson of the hearing panel allows either party.

(B) *Notice.* Disciplinary Counsel must serve a notice of hearing upon the respondent, respondent's attorney, and the complainant. The notice must be served at least 14 days in advance of the hearing date and must state:

(i) the respondent is entitled to be represented by an attorney at his or her own expense, to cross-examine witnesses and to present evidence; and

(ii) the date and place of the hearing.

(C) *Rules of Evidence.* The Federal Rules of Evidence govern the hearing, except as these rules otherwise provide. All witnesses must be sworn and all proceedings and testimony must be recorded as provided by 28 U.S.C. § 753(b).

(D) *Burden of Proof.* Disciplinary Counsel bears the burden of establishing charges of misconduct by clear and convincing evidence.

(3) *Report.* At the conclusion of the hearing, Disciplinary Counsel must prepare a report setting forth the findings and recommendations of the hearing panel. A majority of the hearing panel must sign the report and submit it to the Disciplinary Panel.

(A) *Prior Record and Other Circumstances.* In recommending discipline, the hearing panel may consider the respondent's prior record, if any. The panel's report must fully set forth any mitigating or

aggravating circumstances that affect the nature or degree of discipline recommended.

(B) *Failure to Reach Unanimous Decision.* If the panel cannot agree unanimously on either the findings of fact or the recommended discipline, or both, Disciplinary Counsel must, if requested, prepare a draft of a majority report for consideration by the majority. The minority member may file a minority report.

(C) *Filing and Distribution of Report.* Reports must be filed with the clerk for referral to the Disciplinary Panel. Disciplinary Counsel must mail or deliver a copy to the respondent and to attorneys of record.

(D) *Confidentiality.* The hearing panel's report is confidential, must be so marked, and must not become a public record unless the Disciplinary Panel so orders.

(4) *Referral to Disciplinary Administrator.* The hearing panel may, with or without preparing charges, refer the matter to the Disciplinary Administrator of the Supreme Court of Kansas. In considering whether to make this referral, the hearing panel will consider any prior discipline imposed, the nature of the conduct, the type of investigation necessary, and where the conduct occurred.

(g) Review of Report.

(1) *Items Forwarded to Disciplinary Panel.* With the hearing panel's report, the clerk must also forward to the Disciplinary Panel:

(A) copies of the complaint;

(B) the answer, if any;

(C) the transcript of the hearing;

(D) all evidence admitted before the panel; and

(E) all evidence properly offered but rejected.

Together, these items constitute the record in the case.

(2) *Citation Issued to the Respondent.* At the same time, the clerk must issue and serve a citation by certified mail to the respondent's last address registered with the clerk.

(A) *Content of the Citation.* The citation must direct the respondent to file within 21 days from the date of mailing either:

(i) a statement that the respondent does not wish to file exceptions to the report, findings, and recommendations; or

(ii) respondent's exceptions to the report.

(B) *Failure to File Exceptions.* Any part of the report, findings, or recommendations not timely excepted to will be deemed admitted.

(C) *Undeliverable Citation.* If the citation is not deliverable by mail directed to the respondent's last address registered with the clerk and the respondent cannot be otherwise served, the matter stands submitted upon the filing by the clerk of a certificate reporting such facts.

(3) *Procedure.*

(A) *Exceptions Not Timely Filed.* If the respondent fails to file timely exceptions, the hearing panel's findings of fact will be deemed admitted and the case submitted on the record.

(B) *Exceptions Timely Filed.* If exceptions are timely filed, the respondent has 30 days thereafter to file a brief; Disciplinary Counsel 30 days after service of the respondent's brief; and the respondent 14 days after service of Disciplinary Counsel's brief to file a responsive brief. The case will be submitted to the Disciplinary Panel on the record when all briefs have been filed or the time for filing them has expired.

(4) *Other Disability or Disciplinary Proceedings.* If the Disciplinary Panel receives reliable information that disability or disciplinary proceedings involving the same attorney or the same or connected circumstances are pending or contemplated in another jurisdiction, the Panel may stay the proceedings in this court or direct such other action as it deems appropriate.

(5) *Evidence to be Considered.* During its review, the Disciplinary Panel must not receive or consider any evidence that was not presented to the hearing panel, except after notice to the respondent and Disciplinary Counsel and opportunity to respond. If new evidence warranting a reopening of the proceeding is discovered, the case must be remanded to the hearing panel for a hearing. The hearing may be limited to specified issues.

(6) *Entry of Order*. Upon conclusion of the proceedings, the Disciplinary Panel must promptly enter an appropriate order for the court.

* * *

As amended 12/01/09, 3/17/04, 10/22/98, 11/16/90.

RULE 83.6.4
RECIPROCAL DISCIPLINE

(a) Discipline by Other Courts. Upon being disciplined in another jurisdiction, a lawyer admitted to practice before this court must promptly inform the clerk. Upon notification from any source that a lawyer within the jurisdiction of this court has been disciplined in another jurisdiction, the clerk must obtain and file a certified copy of the disciplinary order.

(b) Notice and Order to Show Cause.

(1) *Notice to Attorney.* Upon the filing of a certified or exemplified copy of a judgment or order demonstrating an attorney admitted to practice before this court has been publicly disciplined by another court, the clerk, in the name of the court, will forthwith issue a notice directed to the attorney containing:

(A) a copy of the judgment or order from the other jurisdiction or a statement of any information received relating to the discipline imposed by the other court;

(B) an order to show cause directing that the attorney inform the Disciplinary Panel within 30 days after service of that order upon the attorney, personally or by certified mail, return receipt requested, of any claim by the attorney predicated upon the grounds set forth in (d) hereof that the imposition of discipline substantially similar to that imposed by the other court would be unwarranted and the reasons therefor; and

(C) if the discipline administered in the other jurisdiction included suspension from the practice of law, disbarment, or if the attorney has surrendered his or her license, an order

temporarily suspending the attorney from practice in the District Court and the Bankruptcy Court as provided for in Rule 83.6.6.

(2) *Notice to Other Court.* The other court will be given notice of the issuance of the order to show cause and of the response by the attorney, and has the right to intervene in the proceedings for the purpose of demonstrating the discipline imposed by it was appropriate.

(c) Stays. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court must be deferred until such stay expires.

(d) Reciprocal Discipline Imposed; Exceptions. After 30 days has passed from service of the notice issued pursuant section (b) of this rule, the Disciplinary Panel must impose discipline substantially similar to that imposed by the other court unless the respondent-attorney demonstrates, or the Disciplinary Panel finds, that on the face of the record upon which the discipline in the other jurisdiction is predicated, it clearly appears:

(1) The procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(2) There was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Disciplinary Panel could not, consistent with its duty, accept as final the conclusion on that subject;

(3) The imposition of the same discipline by the Disciplinary Panel would result in grave injustice; or

(4) The misconduct established warrants substantially different discipline.

Where the Disciplinary Panel finds that any of the above elements are present, it will enter an order that it finds appropriate. The party seeking a different discipline bears the burden to show that the same or substantially similar discipline is not appropriate.

(e) Final Adjudication in Other Courts. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct establishes conclusively the misconduct for purposes of a disciplinary proceeding in this court.

(f) Referral to a Hearing Panel. At any stage, the Disciplinary Panel may refer proceedings under this rule to a hearing panel for investigation and report to the Disciplinary Panel.

* * *

As amended 9/23/05, 3/17/04, 11/16/90.

RULE 83.6.5
ATTORNEYS CONVICTED OF CRIMES

(a) Attorney's Duty. Any attorney practicing before this court regularly or pro hac vice must notify the clerk in writing within 14 days after service of process or notice to him or her of:

(1) a charge of commission of a felony; or

(2) a grievance such as would subject the attorney to discipline in this court, in any other court of the United States, or the District of Columbia, or in any state, territory, commonwealth, or possession of the United States.

(b) Interim Suspension. The Disciplinary Panel must enter an order immediately suspending an attorney admitted to practice before this court when:

(1) a certified copy of a judgment of conviction is filed with the clerk of this court;

(2) the judgment shows that the attorney has been convicted of a serious crime as hereinafter defined;

(3) the conviction is in any other court of the United States, or the District of Columbia, or in any state, territory, commonwealth, or possession of the United States; and

(4) the conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after a trial or otherwise.

The suspension must occur regardless of whether an appeal is pending and must last until final disposition of a disciplinary proceeding based upon such conviction. A copy of such order must immediately be served upon the attorney. Service may be made personally or by certified mail, return receipt requested, addressed to the attorney at his or her most current address on file with the clerk of this court. For good cause, the Disciplinary Panel may set aside such order in the interests of justice.

(c) Serious Crime. The term "serious crime" includes any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy of solicitation of another to commit a "serious crime."

(d) Evidence of Crime. A certificate of a conviction of an attorney for any crime is conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against said attorney based upon the conviction. A diversion agreement, for the purpose of any disciplinary proceeding, constitutes a conviction of the crime originally charged.

(e) Reinstatement. An attorney suspended under this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a crime has been reversed. But the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which must be determined on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

* * *

As amended 12/01/09, 3/17/04, 11/16/90.

RULE 83.6.6
INTERIM SUSPENSION

(a) Suspension, Disbarment, or the Surrender of a License in Another Jurisdiction.

(1) *Clerk's Duty.* The clerk must issue an order of interim suspension—temporarily suspending an attorney from practicing law in the District and Bankruptcy Courts of this District—upon receipt of a certified or exemplified copy of an order by another jurisdiction suspending, disbarring, or accepting the surrender of the license to practice law of the attorney.

(2) *Application for Relief.* An attorney may petition for relief from an order of interim suspension by directing a written application to a member of the Disciplinary Panel. Upon receipt of the application, the Disciplinary Panel may consider reinstatement of the attorney while the disciplinary proceedings are pending at a hearing to be conducted as provided for in subsection (b).

(3) *Notification to Judges.* The judges, magistrate judges, and bankruptcy judges of the District and Bankruptcy Courts assigned to any cases in which the attorney is an attorney of record must be notified of the filing of the application and the date and time of any hearing.

(b) Public or Private Censure in Another Jurisdiction.

(1) *Citation.* If the discipline administered by the other jurisdiction only includes the lesser sanction of public or private censure, the Disciplinary Panel may issue a

citation on its own motion. The citation will direct an attorney against whom disciplinary or disability proceedings are pending in this court or in any other jurisdiction to:

(A) appear before a member of the Disciplinary Panel; and

(B) show cause why that attorney should not be suspended during the pendency of such proceedings.

The show cause order and a copy of the document initiating the disciplinary proceeding must be served personally or by certified mail, return receipt requested, addressed to the attorney at his or her most current address on file with the clerk of this court.

(2)*Disciplinary Panel's Action.* After hearing, or if the respondent fails to appear as ordered, the Disciplinary Panel may enter an order suspending the attorney from practice for a definite or indefinite period or may discharge the citation.

* * *

As amended 9/23/05, 3/17/04, 11/16/90.

RULE 83.6.7
ATTORNEYS WHO RESIGN FROM THE BAR DURING AN INVESTIGATION OF MISCONDUCT OR DISBARMENT ON CONSENT

(a) Duty of Attorneys. Any attorney admitted to practice before this court who is disbarred on consent or resigns from the bar of this court or any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending, must promptly inform the clerk of this court of such disbarment on consent or resignation.

(b) Duty of the Clerk. Upon receipt of information from any source that an attorney practicing in this court has been disbarred on consent or has resigned from the bar of any court, the clerk must report such information to the Disciplinary Panel.

* * *

As amended 11/16/90.

RULE 83.6.8
REINSTATEMENT AFTER DISCIPLINE

(a) Petitions for Reinstatement.

(1) *When an Attorney May Apply.*

(A) *Disbarred Attorney.* An attorney who has been disbarred may not apply for reinstatement within 5 years of the effective date of the disbarment. An attorney who has been disbarred may not resume practice until reinstated by the court.

(B) *Suspended Attorney.* An attorney who has been suspended may apply for reinstatement at the end of the period of suspension. Reinstatement is neither automatic nor a matter of right.

(i) *Automatic Reinstatement with Affidavit.* An attorney suspended for 3 months or less must be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the order.

(ii) *Reinstatement by Court.* An attorney suspended for more than 3 months may not resume practice until reinstated by the court.

(2) *Advance Cost Deposit.* An advance cost deposit in an amount set by the court must accompany a petition for reinstatement. From time to time, the court will set the amount to cover anticipated costs of the reinstatement proceeding.

(3) *Successive Petitions.* No petition for reinstatement under this rule may be filed within 1 year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(b) Burden of Proof. A petitioner seeking reinstatement bears the burden of demonstrating by clear and convincing evidence that:

(1) he or she has the moral qualifications, competence, and learning in the law required for admission to practice law before this court; and

(2) his or her resumption of the practice of law will not be:

(A) detrimental to the integrity and standing of the bar;

(B) detrimental to the administration of justice; or

(C) subversive of the public interest.

(c) Referral of Petition. The Disciplinary Panel may refer petitions for reinstatement to a hearing panel. When so referred, the chairperson of the hearing panel must conduct the investigation. The hearing panel, after review of the basic file and such investigation as it deems necessary, must report its findings of fact with supporting documents and its recommendations to the Disciplinary Panel.

(d) Entry of Order. After review of the files and the report of the hearing panel, the Disciplinary Panel must enter an order for the court, granting or denying reinstatement.

* * *

As amended 3/17/04, 11/16/90.

RULE 83.6.9
PROCEEDINGS IN WHICH AN ATTORNEY IS DECLARED TO BE MENTALLY INCOMPETENT, IS ALLEGED TO BE INCAPACITATED, OR IS PLACED ON DISABILITY INACTIVE STATUS BY ANOTHER JURISDICTION

(a) Attorneys Declared Mentally Incompetent. The Disciplinary Panel must enter an order suspending a member of the bar of this court from the practice of law where the attorney:

(1) has been judicially declared incompetent; or

(2) has been involuntarily committed to a mental hospital; and

(3) the Disciplinary Panel has proper proof of the fact.

Such suspension is effective immediately and extends for an indefinite period, until further order of the Disciplinary Panel. A copy of such order must be served upon the attorney, his or her guardian, and the director of the mental hospital. Service may be effected in such manner as the Disciplinary Panel directs.

(b) Attorneys Alleged to be Incapacitated.

(1) *Determination Whether Attorney is Incapacitated.* Through its chairperson, a hearing panel may petition the Disciplinary Panel to determine whether a member of the bar of this court is incapacitated from practicing law based on mental or physical infirmity or illness or use of drugs or intoxicants. When petitioned in this manner, the Disciplinary Panel may take or direct such action as it deems necessary or proper to determine whether the attorney is so incapacitated. This may include designating qualified medical experts to examine the attorney. The attorney's failure or refusal to submit to such examination is prima facie

evidence of incapacity. If after due consideration, the Disciplinary Panel concludes that the attorney is incapacitated from practicing law, it must enter an order suspending or transferring him or her to inactive status until further order of the Disciplinary Panel.

(2) *Notice.* The Disciplinary Panel may provide for such notice to the respondent of proceedings in the matter as is deemed proper and advisable.

(3) *Appointment of Representation.* The Disciplinary Panel may appoint an attorney to represent the respondent if he or she is without representation.

(c) Placement on Disability Inactive Status by Another Jurisdiction. If the Disciplinary Panel receives notice that another jurisdiction has placed a member of the bar of this court on disability inactive status, the Disciplinary Panel may enter an order suspending the attorney from the practice of law. Such suspension is effective immediately and extends for an indefinite period, until further order of the Disciplinary Panel. A copy of such order must be served upon the attorney, his or her guardian, and the director of the mental hospital. Service may be effected in such manner as the Disciplinary Panel directs.

(d) Claim of Disability During Disciplinary Proceedings. If, during a disciplinary proceeding, the respondent contends that he or she is suffering from a disability by reason of mental or physical infirmity or illness or use of drugs or intoxicants that makes it impossible for the respondent to adequately defend himself or herself, the Disciplinary Panel must enter an order immediately suspending the respondent from practicing law until a determination is made of the respondent's capacity to continue to practice law.

(e) Application for Reinstatement.

(1) *Determination Whether Disability Has Been Remedied.* Any attorney suspended for incompetency, mental or physical infirmity or illness, or because of use of drugs or intoxicants may apply to the Disciplinary Panel for reinstatement once a year, or at such shorter intervals as the Disciplinary Panel may direct in the order of suspension. The Disciplinary Panel must grant the application upon a showing by clear and convincing evidence that the attorney's disability has been removed and he or she is fit to resume the practice of law. The Disciplinary Panel may take or direct such action as it deems necessary or proper to determine whether the attorney's disability has been remedied. This includes directing the attorney be examined by such qualified

medical experts as the Disciplinary Panel designates. The Disciplinary Panel may direct the applicant pay the expenses of such an examination.

(2) *Declaration of Competence.* When an attorney has been suspended because of a judicial declaration of incompetence or involuntary commitment to a mental hospital and has thereafter been judicially declared to be competent, the Disciplinary Panel may dispense with further evidence and direct the reinstatement of the attorney upon such terms as are deemed proper and advisable.

(f) Evidentiary Hearing.

(1) *Appointment of Disciplinary Counsel.* If an evidentiary hearing is held to determine whether an attorney is incapacitated or to consider an attorney's application for reinstatement, the Disciplinary Panel may appoint Disciplinary Counsel to appear for the purpose of examining and cross-examining witnesses and offering proof pertinent to the issues.

(2) *Burden of Proof.* The burden of proof in proceedings to transfer to disability inactive status is on Disciplinary Counsel. The burden of proof in proceedings seeking reinstatement, readmission, or transfer from disability inactive status is on the applicant.

(g) Waiver of Physician-Patient Privilege. By filing an application for reinstatement, an attorney who has been suspended for disability waives any physician-patient privilege regarding his or her treatment during the period of disability. The attorney must disclose the name of every psychiatrist, psychologist, physician, and hospital by whom or in which the attorney has been examined or treated since suspension. The attorney also must furnish the Disciplinary Panel with written consent for such psychiatrists, psychologists, physicians, or hospitals to divulge any information or records the medical experts designated by the Disciplinary Panel may request.

* * *

As amended 3/17/10, 3/17/04, 11/16/90.

RULE 83.6.10
FEES AND COSTS

(a) Taxation of Costs. The Disciplinary Panel may tax the costs of any disciplinary or disability proceeding under these rules to a respondent or to a person seeking reinstatement, or as hereinafter provided.

(b) Fees and Reimbursement. Disciplinary Counsel appointed pursuant to these rules may apply to the Disciplinary Panel for an order awarding fees and reimbursement of expenses. Other expenses in the administration of these disciplinary rules will be paid upon order of the Disciplinary Panel.

(c) Payments and Deposits. The clerk must make any payment under this rule from the Bar Registration and Disciplinary Fund. All costs or reimbursements paid to the clerk in disciplinary or disability cases must be deposited in the general account of the U.S. Treasury.

* * *

As amended 11/16/90.

RULE 83.6.11
APPLICABILITY OF FED.R.CIV.P. 11 TO DISCIPLINARY PROCEEDINGS

Fed. R. Civ. P. 11 is applicable to any pleading, motion, or other paper filed or submitted in disciplinary proceedings conducted under these rules and specifically to proceedings under Rules 83.6.1 through 83.6.12.

* * *

RULE 83.6.12
GENERAL PROVISIONS

(a) Court's Inherent Power. Nothing in these rules deprives this court of its inherent power to regulate the admission, practice, and discipline of attorneys practicing before it.

(b) Statute of Limitations. No statute of limitations bars any proceeding under these disciplinary rules.

(c) Deferral and Abatement. Processing of disciplinary complaints must not be deferred or abated because of substantial similarity to the material allegations of pending civil or criminal litigation unless expressly authorized by the Disciplinary Panel. Abatement of a complaint is not justified by:

(1) unwillingness or neglect of a complainant to sign a complaint or to prosecute a charge;

(2) settlement or compromise between the complainant and the attorney; or

(3) restitution by the attorney.

(d) Time Limitations. Except as otherwise provided in these rules, time limitations are directory and not jurisdictional.

(e) Deviation From Rules. Any deviation from the rules and procedures set forth in these rules is neither a defense in a disciplinary proceeding nor grounds for dismissal of any complaint absent actual prejudice to the respondent. The respondent must show any such prejudice by clear and convincing evidence.

(f) Judicial Immunity. Complaints, reports, or testimony in the course of disciplinary proceedings under these rules are deemed to be made in the course of judicial proceedings. All participants are entitled to judicial immunity and all rights, privileges, and immunities afforded public officials and other participants in actions filed in the courts of Kansas.

* * *

As amended 11/16/90.

- XIII -
REVIEW OF ADMINISTRATIVE PROCEEDINGS

RULE 83.7.1
REVIEW OF ORDERS OF ADMINISTRATIVE AGENCIES, BOARDS, COMMISSIONS, AND OFFICERS (INCLUDING SOCIAL SECURITY APPEALS)

(a) Review or Enforcement of an Agency Order-How Obtained.

(1) *Petition for review of agency order.* Review of an order of an administrative agency, board, commission, or officer must be obtained in the following manner:

(A) by filing a pleading with the clerk of the court;
(B) within the time prescribed by law;
(C) in the form indicated by the applicable statute;
(D) with a caption that names each party seeking review;
(E) naming the defendant or respondent designated in the applicable statute;
(F) identifying the order or part thereof to be reviewed; and
(G) containing a citation of the statute by which jurisdiction is claimed.

If two or more persons are entitled to seek judicial review of the same order and their interests are such as to make joinder proper, they may file a joint pleading. As used in this rule, the term "agency" includes any federal agency, board, commission, or officer—including the Commissioner of Social Security under Title 42 of the United States Code.

(2) *Application for enforcement of order; cross-application for enforcement*. An application for enforcement of an order of an agency must contain a concise statement of the proceedings in which the order was entered, the facts upon which jurisdiction and venue are based, and the relief requested. In cases seeking review of an agency order, which the court has jurisdiction to enforce, the agency may file a cross-application for enforcement.

(3) *Service of process*. Service of process must be in the manner provided by Fed. R. Civ. P. 4, unless a different manner of service is prescribed by an applicable statute.

(b) The record on review or enforcement.

(1) *Composition of the record*. Unless the applicable statute provides otherwise, the record on review in proceedings to review or enforce an agency order is comprised of:

(A) the order sought to be reviewed or enforced;
(B) the findings or report on which it is based; and
(C) the pleadings, evidence, and proceedings before the agency.

(2) *Omissions from or misstatements in the record*. If anything material to any party is omitted from the record or is misstated therein, the parties may at any time supply the omission or correct the misstatement by stipulation, or the court may at any time direct the omission or misstatement be corrected and, if necessary, a supplemental record be prepared and filed.

(c) Filing of the record.

(1) *Review Proceedings.* In review proceedings, the agency must file the record with the clerk of this court when it files its answer unless the statute authorizing review provides a different time.

(2) *Enforcement Proceedings.* In enforcement proceedings, the record need not be filed unless the respondent has filed an answer contesting enforcement of the order. If the record is required, the court will fix the time for its filing.

(d) Filing and service of briefs. The party seeking review must serve and file a brief conforming to the requirements of D. Kan. Rule 7.6 within 45 days after the date on which the record is filed. The responding party must serve and file a brief within 30 days after service of the brief of the party seeking review. The party seeking review may serve and file a reply brief within 14 days after service of the brief of the respondent. The court may extend or shorten the time for filing and serving briefs. The case is submitted when all briefs have been filed. The court will render a decision upon the briefs and the record, without oral argument, unless the court otherwise directs.

(e) Applicability of other rules. The parties to any proceedings governed by this rule must give the same notice of the filing of pleadings, records, and other documents as is required by Fed. R. Civ. P. 5. All other provisions of the Federal Rules of Civil Procedure and the rules of this court apply to such proceedings to the extent they are applicable. This rule controls over any conflicting local rule.

* * *

As amended 3/04, 10/22/98

RULE 83.7.2
PROCEEDINGS IN SOCIAL SECURITY APPEALS AFTER A "SENTENCE SIX" REMAND

(a) Transcript of Proceeding. 42 U.S.C. § 405 (g) requires in "sentence six" remand cases where the Commissioner's decision is not fully favorable to the plaintiff, that the Commissioner file the transcript of the proceeding upon which his or her decision was based. At the time the transcript is filed, the United States Attorney's Office for the District of Kansas must contact the plaintiff to determine whether the plaintiff intends to further pursue the case.

(b) Where the Plaintiff Will Not Pursue the Case. If the plaintiff does not intend to further pursue the case, a stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1) must be filed within 14 days of the date the transcript is filed.

(c) Where the Plaintiff Will Pursue the Case. If the plaintiff intends to pursue the case following remand, the plaintiff must file an amended complaint within 14 days of the date the Commissioner files the transcript, thereby making clear that he or she intends to challenge the unfavorable decision of the

Commissioner following remand. The Commissioner must then file an answer within 14 days of the date plaintiff's amended complaint is filed. The case will then be set on a briefing schedule.

(d) Where the Plaintiff Takes No Action. If the plaintiff takes no action within 14 days of the date the Commissioner files the transcript, the court may schedule a conference to discuss the status of the case.

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As amended 12/01/09. Adopted 03/17/08 (formerly D. Kan. S.O. 07-1).

- XIV -
RULES APPLICABLE TO BANKRUPTCY PROCEEDINGS

RULE 83.8.1
THE BANKRUPTCY COURT

The serving bankruptcy judges of this district constitute and shall be known as "The United States Bankruptcy Court for the District of Kansas."

* * *

RULE 83.8.2
SCOPE OF RULES

These local district court rules govern practice and procedure in this district of all cases under Title 11 United States Code and of all civil proceedings arising under, in or related to Title 11. They implement and complement Title 11 United States Code, the Bankruptcy Amendments and Federal Judgeship Act of 1984, the bankruptcy rules promulgated under 28 U.S.C. § 2075, and other local rules of this court.

* * *

RULE 83.8.3
FILING OF PAPERS

(a) Bankruptcy Rules 5005, 7001, 7003, and 9027 apply and all petitions, proofs of claim or interest, complaints, motions, applications, and other papers referred to in those rules shall be captioned "In the United States Bankruptcy Court for the District of Kansas."

(b) The filing requirements provided by subsection (a) of this rule include—but are not limited to—cases and proceedings within the purview of 28 U.S.C. § 1334(c)(2) and 28 U.S.C. § 157(b)(5).

* * *

RULE 83.8.4
MAINTENANCE OF CASE AND CIVIL PROCEEDING FILES; ENTRY OF JUDGMENTS

The clerk of the Bankruptcy Court shall maintain a complete file in each Title 11 case and in each proceeding arising in, under, or related to Title 11. A certified copy is sufficient for a judgment, order, decision, or proceeding separately docketed in the District Court. The entry of judgment by a district judge or a bankruptcy judge, as the case may be, shall be in accordance with Bankruptcy Rule 9021.

* * *

RULE 83.8.5
CLARIFICATION OF GENERAL REFERENCE TO BANKRUPTCY JUDGES

(a) The order of this court ("In the Matter of the Enactment of an Order Conferring Authority and Responsibility Pursuant to the Bankruptcy Amendments and Federal Judgeship Act of 1984") became effective as of July 10, 1984. Under that order all Title 11 cases and proceedings in, under, or related to Title 11 continue to be referred to the bankruptcy judges of this district.

(b) That reference includes, without limitation,

(1) personal injury tort and wrongful death claims or causes of action within the purview of 28 U.S.C. § 157(b)(5);

(2) state law claims or causes of action of the kind referred to at 28 U.S.C. § 1334(c)(2); and

(3) involuntary cases under 11 U.S.C. § 303.

* * *

RULE 83.8.6
TRANSFER OF PARTICULAR PROCEEDINGS FOR HEARING AND TRIAL BY A DISTRICT JUDGE

A particular proceeding commenced in or removed to the Bankruptcy Court shall be transferred to the District Court for hearing and trial by a district judge only in accordance with the procedure below.

(a) A party seeking such transfer shall file a motion therefor in the Bankruptcy Court certifying one or more of the following grounds:

(1) It is in the interest of justice, in the interest of comity with state courts, or respect for state law that this District Court should abstain from hearing the particular proceeding as is contemplated by 28 U.S.C. § 1334(c)(1).

(2) The particular proceeding is based upon a state law claim or state law cause of action with respect to which an action could not have been commenced in a court of the United States absent jurisdiction under 28 U.S.C. § 1334; that an action on the claim or cause of action is commenced and can be timely adjudicated in a state forum; and that under 28 U.S.C. § 1334(c)(2) this District Court must abstain from hearing the particular proceeding.

(3) The particular proceeding is a personal injury tort or a wrongful death claim within the purview of 28 U.S.C. § 157(b)(5).

(4) Resolution of the particular proceeding requires consideration of both Title 11 U.S.C. and other laws of the United States regulating organizations or activities affecting interstate commerce and thus must be withdrawn to this District Court under 28 U.S.C.§ 157(d).

(5) The proceeding is under 11 U.S.C. § 303, a jury trial is demanded, and no statement of consent to trial before a bankruptcy judge has been filed.

(6) Cause exists, within the contemplation of 28 U.S.C. § 157(d), for the withdrawal of the particular proceeding to this District Court (a specification of such alleged cause must be stated).

(b) If movant is an original plaintiff, the motion shall be filed within 20 days after the proceeding is commenced.

(c) If movant is an original defendant, intervenor, or an added party, the motion shall be filed within 20 days after movant has entered appearance or been served with summons or notice.

(d) In a proceeding that has been removed under 28 U.S.C. §

1452, the removing party shall file the motion within 20 days after the removal; other parties shall file within 20 days after being served with summons or notice.

(e) In a proceeding of the kind designated in (a)(3) above, a recommendation to the District Court may be filed by a bankruptcy judge *sua sponte* at any time.

(f) The motion for transfer, together with a written recommendation of a bankruptcy judge, shall be transmitted by the clerk of the Bankruptcy Court to the clerk of the District Court. The latter shall assign the motion to a district judge who shall rule *ex parte* or upon such notice as the district judge shall direct. The ruling shall be filed in the Bankruptcy Court as an order of the district judge.

(g) In instances where such ruling is not dispositive of the particular proceeding transferred, the proceeding shall go forward to hearing, trial, and judgment as the district judge's order shall direct.

(h) A proceeding retained for hearing and determination by a district judge shall be carried on the civil docket of the clerk of the District Court. Certified copies of all final orders and judgments entered by the district judge shall be transmitted by the clerk of the District Court and filed with the clerk of the Bankruptcy Court.

* * *

RULE 83.8.7
DETERMINATION OF PROCEEDINGS AS "NON-CORE"

Subject to Rule 83.8.6 next above, a particular proceeding shall be "non-core" under 28 U.S.C. § 157(b) only if a bankruptcy judge so determines *sua sponte* or rules on a motion of a party filed under 28 U.S.C. § 157(b)(3) within the time periods fixed by Rule 83.8.6(b),(c) and (d) above. A determination that a related proceeding is non-core shall be in accordance with the guidelines of 28 U.S.C. § 157(b) (1984) and on the general premise that core proceedings are matters arising in and under the Title 11 case that are integral and incident to the chapter relief requested.

* * *

RULE 83.8.8
REVIEW OF NON-CORE PROCEEDINGS HEARD BY BANKRUPTCY JUDGE

(a) If a party objects under Bankruptcy Rule 9033 to the proposed findings of fact and conclusions of law filed by a bankruptcy judge in a non-core proceeding heard pursuant to 28 U.S.C. § 157(c)(1), the party shall serve and file along with its objection a designation of the items contained in the bankruptcy court record which the party believes the district judge will need to review the proposed findings and conclusions as provided by Bankruptcy Rule 9033(d). Within the time allowed for responding to the objection, any other party shall serve and file a designation of any additional items in the record which that party believes the district judge will need. If any party designates a transcript of a proceeding or any part thereof, the party shall immediately deliver to the reporter and file with the clerk a written request for the transcript and make satisfactory arrangements for the payment of its cost.

(b) After the expiration of the time periods established by Bankruptcy Rule 9033 and the preparation of any requested transcripts, the Bankruptcy Court clerk shall transmit to the District Court clerk a copy of the proposed findings and conclusions, and either: (1) a copy of any objections and responses that have been filed and a copy of all portions of the record designated by the parties; (2) a copy of the partie's written consent to entry of orders based on the proposed findings and conclusions; or (3) a statement that no objections have been filed. On receiving these materials, the District Court clerk will assign the matter to a district judge.

(c) The district judge may summarily overrule objections lacking specificity as to allegedly erroneous findings or conclusions.

(d) If no objection has been timely filed or if the parties consent in writing, the district judge may accept the recommendations of the bankruptcy judge and enter appropriate orders without further notice.

* * *

As amended 6/18/97.

RULE 83.8.9
POST-JUDGMENT MOTIONS

(a) In both "core" and "non-core" proceedings heard and determined by a bankruptcy judge, motions under Bankruptcy Rules 9023 and 9024 shall be filed in, and addressed to, the Bankruptcy Court.

(b) In proceedings heard and determined by a district judge, motions under Bankruptcy Rules 9023 and 9024 shall be filed in, and addressed to, the District Court.

* * *

RULE 83.8.10
APPEALS

(a) An appeal from a final or interlocutory order of a bankruptcy judge in a case under Title 11, all core proceedings under Title 11, or arising in or related to a case under Title 11 shall be heard by a panel of the 10th Circuit Bankruptcy Appellate Panel, unless one or more of the parties to the appeal elects pursuant to 28 U.S.C. § 158(c)(1), Fed. R. Bankr. P. 8001, and 10th Cir. B.A.P. Local Rule 8001-1 to have the appeal heard in the District Court or the appeal is certified for direct appeal to the Court of Appeals for the 10th Circuit under 28 U.S.C. § 158(d)(2).

(b) Appeals to the District Court are governed by 28 U.S.C. § 158(a), and the procedure shall be according to Part VIII of the Federal Rules of Bankruptcy Procedure with the following modifications:

(1) A motion for leave to appeal an interlocutory order and any answer to the motion shall be submitted without oral argument unless otherwise ordered.

(2) The time limits specified in Bankruptcy Rule 8009(a) for filing briefs shall apply in appeals to the District Court unless the court fixes different limits in a specific case on its own motion or the motion of a party in interest.

(3) Bankruptcy Rule 8015 shall not be applicable in this district unless, in the order entered on the appeal, the district judge shall grant leave to file a motion for rehearing.

(c) Direct appeals to the 10th Circuit Court of Appeals are covered by 28 U.S.C. § 158(d)(2), and the procedures shall be according to Fed. R. App. P. Rule 5, Fed. R. Bankr. P. 8001(f) and 8003(d).

* * *

As amended 3/17/07, 3/17/06, 6/18/97.

RULE 83.8.11
DIVISION OF BUSINESS OF BANKRUPTCY COURT; ASSIGNMENT OF TITLE 11 CASES

The business of the Bankruptcy Court shall be divided among the bankruptcy judges as provided in the supplemental Local Rules adopted by the Bankruptcy Court in accordance with Rule 83.8.12 subject to disapproval by the chief judge of the district. A particular Title 11 case may be reassigned in whole or in part in the same manner.

* * *

RULE 83.8.12
SUPPLEMENTAL BANKRUPTCY COURT LOCAL RULES

The Bankruptcy Court may adopt supplemental Local Rules not inconsistent with these District Court Rules, the Bankruptcy Rules, or Title 11 or Title 28 of the United States Code.

* * *

RULE 83.8.13
JURY TRIALS

(a) A district judge shall conduct jury trials in all bankruptcy cases and proceedings in which a party has a right to trial by jury, a jury is timely demanded, and no statement of consent to jury trial before a bankruptcy judge has been filed.

(b) A bankruptcy judge shall conduct jury trials in all bankruptcy cases and proceedings in which a party has a right to trial by jury, where a jury is timely demanded, and the parties have jointly or separately filed a statement of consent to trial before a bankruptcy judge. A bankruptcy judge may hear and determine all motions, dispositive or otherwise, filed by the parties in such a case or proceeding.

* * *

As amended 2/10/95.

RULE CR32.1
PRESENTENCE REPORTS

(a) Sentencing Hearing. When a presentence investigation and report are made under Fed. R. Crim. P. 32(c) the sentencing hearing shall be scheduled no earlier than 70 days following entry of guilty plea or a verdict of guilty.

(b) Delivery to Counsel. Delivering the defendant's copy to the defendant's counsel shall satisfy the requirement of furnishing the presentence report to the defendant for purposes of Fed. R. Crim. P. 32(e)(2). The probation officer's recommendation, if any, on the sentence shall not be disclosed.

(c) Sentencing Factors. After the final version of the presentence report has been provided to the parties, but no later than 5 days prior to the sentencing date, the attorney for the government and/or the attorney for the defendant may file with the court a written statement setting forth their respective positions in regard to the sentencing factors, and facts that have not been resolved, in accordance with Guideline 6A1.2 and 6A1.3 and any amendments of the United States Sentencing Commission Guidelines Manual.

(d) Reports Made Available to U.S. Parole Commission or Bureau of Prisons. Any copy of a presentence report that the court makes available or has made available to the United States Parole Commission or to the Bureau of Prisons, constitutes a confidential court document and shall be presumed to remain under the continuing control of the court during the time it is in the temporary custody of the those agencies. Such copies shall be provided to the Parole Commission and the Bureau of Prisons only for the purpose of enabling those agencies to carry out their official functions, including parole release and supervision, and shall be returned to the court after such use, or upon request.

(e) Disclosure Under Subpoena. When a demand for disclosure of presentence and probation records is made by way of subpoena or other judicial process to a probation officer of this court, the probation officer may file a petition seeking instruction from the court with respect to responding to the subpoena. No disclosure shall be made except upon an order issued by this court.

* * *

RULE CR44.1
REPRESENTATION OF INDIGENT DEFENDANTS

Pursuant to the provisions of the Criminal Justice Act of 1964, as amended, 18 U.S.C. § 3006A ("CJA"), the following plan is adopted for the representation of any person otherwise financially unable to obtain adequate representation. Representation shall include counsel and investigative, expert, and other service necessary for an adequate defense.

(a) Applicability.

(1) This rule shall apply to any person:

(A) who is charged with a felony, or a Class A misdemeanor, or with juvenile delinquency (*see* 18 U.S.C. § 5031), or with a violation of probation;

(B) who is under arrest, when such representation is required by law;

(C) who is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;

(D) whose mental condition is the subject of a hearing pursuant to Chapter 313 of Title 18, U.S.C.;

(E) who is in custody as a material witness (*see* subsection (a)(1)(g) of the CJA and 18 U.S.C §§ 3142(f), 3144);

(F) for whom the Sixth Amendment to the Constitution requires the appointment of counsel, or for whom, in a case in which he or she faces loss of liberty, any federal law requires the appointment of counsel; or

(G) who is entitled to the appointment of counsel under 18 U.S.C. § 4109.

(2) This rule also applies when the interests of justice so require to any person:

(A) who is charged with a Class B or C misdemeanor, or an infraction for which a sentence to confinement is authorized; or

(B) who is seeking collateral relief, as provided in subsection (a)(2)(B) of the CJA.

(b) Provisions for Furnishing Counsel.

(1) This rule provides for the furnishing of legal services by a Federal Public Defender Organization, supervised by a Federal Public Defender, and serving the United States District Court for the District of Kansas. In addition, this rule provides for the appointment and compensation of private counsel (hereinafter referred to as the "CJA Panel").

(2) The determination of whether a party entitled to representation will be represented by the Federal Public Defender Organization or by panel counsel is within the discretion of the appointing judge or magistrate judge. Insofar as practicable, the distribution of appointments shall be 75% of all appointments to the Federal Public Defender and 25% of all appointments to CJA Panel attorneys.

(c) Federal Public Defender Organization.

(1) The Federal Public Defender Organization for the District of Kansas was established in 1973, in accordance with the provisions of subsections (g)(1) and (g)(2)(A) of the CJA. The Federal Public Defender Organization shall maintain offices in Topeka, Wichita, and Kansas City, Kansas, and shall be headquartered at such of those locations as the Federal Public Defender determines, unless otherwise ordered by the court.

(2) The Federal Public Defender Organization shall operate pursuant to the provisions of subsection (g)(2)(A) of the CJA, as well as the Guidelines for the Administration of the Criminal Justice Act 118 (Volume VII, Guide to Judiciary Policies and Procedures), promulgated by the United States Judicial Conference pursuant to subsection (i) of the CJA.

(3) Neither the Federal Public Defender nor any appointed staff attorney may engage in the private practice of law.

(4) The Federal Public Defender shall submit to the Director of the Administrative Office of the United States Courts, at the time and in the form prescribed by the Director, reports of the organization's activities, its financial position, and proposed budget.

(5) The Federal Public Defender shall furnish to this court the current roster of staff attorneys and shall report any changes thereto to the court.

(6) To ensure the effective supervision and management of the Federal Public Defender Organization, the Federal Public Defender will be responsible for the assignment of cases among the staff attorneys in that office. Accordingly, the

court will assign cases in the name of the Federal Public Defender Organization rather than in the name of individual staff attorneys.

(d) Composition of Panel of Private Attorneys.

(1) *Composition and Size*. The court shall establish a panel of private attorneys called the "CJA Panel" who are eligible and willing to be appointed to provide representation under the CJA. The CJA Panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby, provide a high quality of representation.

(2) *Eligibility*. Attorneys who serve on the CJA Panel must be members in good standing of the federal bar of this district and must have knowledge of the Federal Criminal Law, Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the United States Sentencing Guidelines.

(3) *Application*. Application forms for membership on the CJA Panel shall be made available, upon request, by the offices of the full time magistrate judges sitting in Wichita, Topeka, and Kansas City. Completed applications should be submitted to the magistrate judge's office, which will transmit the application to the Panel Selection Committee.

(4) *Approval*. The Panel Selection Committee shall approve all applicants prior to their membership on the CJA Panel.

(e) The Panel Selection Committees.

(1) *Composition*. There shall be a total of five panels sitting in Wichita, Topeka, Kansas City, Ft. Leavenworth, and Ft. Riley areas. Each panel in Wichita, Topeka, and Kansas City shall consist of a district court judge, a full time magistrate judge, the Federal Public Defender or one of his designated assistants, and a member of the existing CJA Panel. The panel in the Ft. Leavenworth area and the Ft. Riley area shall consist of the magistrate judge assigned to handle the docket within that particular area, a district court judge, the Federal Public Defender or one of his designated assistants, and a member of the existing CJA Panel.

(2) *Responsibilities*. The committees shall meet at least once each year to review the preceding year's operation and administration of this rule and to recommend appropriate changes in the rule. The committees shall consider applications for membership on the CJA Panel, shall approve for membership those

attorneys who appear best qualified, and shall inquire as to the continued availability and willingness of each CJA Panel member to accept appointment. In the event that it becomes necessary to consider removal of a panel member, the committee shall consider and determine such removal. The committees shall fix the minimum size for the panel. If at any time the panel membership decreases below the minimum size, the committees shall invite further applications for membership, convene a special meeting to review the qualifications of the applicants, and select new members. The committees shall also provide orientation and training to members or prospective members of the panel, as the committees deem necessary.

(f) Assigning Appointments to CJA Panel Attorneys.

(1) *Roster*. Each magistrate judge's office shall maintain a current roster of all attorneys who are approved members of the CJA Panel for their particular area of the District of Kansas. The rosters shall include the attorneys' current office addresses and telephone numbers as well as a statement of their qualifications and experience, including any foreign language skill.

(2) *Selection Method*. Appointments from the CJA Panel rosters are to be made on a rotational basis, subject to the court's discretion to make exceptions due to the nature and complexity of the case, the attorney's experience, and language and geographical considerations. This procedure should result in a balanced distribution of appointments and compensation among the members of the CJA Panel and in quality representation for each CJA defendant.

When a judge or magistrate judge determines that a CJA defendant needs an attorney, the judge or magistrate judge shall notify the magistrate judge's office of the need and of any geographic or qualification preferences. The magistrate judge's office shall determine the name of the next panel member who is available for appointment on the roster in that magistrate judge's area of the District of Kansas and shall provide the name to the appointing judge or magistrate judge.

Nothing in this rule is intended to impinge upon the authority of a presiding judge or magistrate judge to appoint an attorney who is not next in sequence or who is not a member of the CJA Panel, in appropriate cases, to ensure adequate representation.

(3) *Record of Appointments*. An accurate record shall be kept by the magistrate judge's offices in Wichita, Topeka, Kansas City, Ft. Leavenworth area, and Ft. Riley area of all appointments of CJA Panel attorneys. The record will include the attorney's name, the case name and number, the date of appointment, and any other information deemed necessary by the Panel Selection Committee. In all cases in which attorneys appointed under the CJA are not members of the panel or are appointed out of sequence, the appointing judge or magistrate judge shall notify the magistrate judge's office as to the name of the attorney appointed and the date of appointment.

The above records of appointment of panel counsel shall be provided to the Federal Public Defender for the District of Kansas and the Clerk of the District Court upon request so that said offices can ensure a distribution of 75 percent of all appointments to the Federal Public Defender and 25 percent of all appointments to CJA Panel counsel insofar as reasonably possible.

(4) *Sanctions*. Failure of a CJA Panel member to accept an appointment, without good cause, may result in his or her dismissal from the panel or any other appropriate sanctions.

(5) There is no property right in membership on the CJA Panel. Refusal to accept appointment on three occasions within a one year period shall constitute grounds for immediate removal from the panel. Otherwise removal from the panel shall be in the sole discretion of the panel selection committees.

(g) Compensation and Expenses of Appointed Attorneys.

(1) *Generally*. Compensation to attorneys and payment of other expenses, such as expert witnesses' or investigators' fees, shall be made in conformity with the CJA and the Guidelines for the Administration of the CJA (Volume VII, Guide to Judiciary Policies and Procedures).

(2) *Compensation*. An attorney appointed under the CJA is responsible for submitting properly completed vouchers for services rendered (on CJA Form 20) promptly after the attorney's duties have terminated. Compensation normally cannot exceed the statutory maximum under the CJA. In complex or extended cases, the court, upon application of counsel, may certify that payment in excess of the statutory case compensation maximums is necessary to provide fair compensation and may forward the claim for approval by the chief judge of the Court of Appeals. All vouchers seeking payment in excess of the statutory case compensation maximum must be accompanied by a detailed memorandum

supporting and justifying counsel's claim that the representation given was in an extended or complex case and that excess payment is necessary to provide fair compensation.

(3) *Investigative and Other Expenses*. Investigative, expert or other services necessary for adequate representation, as authorized by subsection (e) of the CJA, shall be available to persons who are eligible under the CJA and have had counsel appointed, and also to persons who have retained counsel but who are found by the court to be financially unable to obtain the necessary services.

If the total cost of investigative, expert, or other services reasonably necessary for an adequate defense does not exceed $500, attorneys appointed under the CJA may incur expenses for these services without prior authorization, subject to later review.

If the total cost of services exceeds $500, prior authorization must be obtained from the assigned judge or magistrate judge if the expenses for these services are to be paid by the government. The cost of additional services cannot exceed $1600 as compensation per individual or organization unless the assigned judge or magistrate judge certifies that excess payment is necessary to provide fair compensation for services of an unusual character or duration and the amount of the excess payment is approved by the chief judge of the Circuit.

Ex parte applications for services other than counsel shall be heard *in camera* and shall not be revealed without the consent of the defendant. The application shall be placed under seal until the final disposition of the case in the trial court, subject to further order of the court, to prevent improper disclosure of any defenses.

(4) *Duty of Attorney to Advise Court*. If at any time an appointment attorney obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, the attorney shall advise the court.

(5) *Direct Remuneration from Client Prohibited.* Nothing in this rule shall be construed as authorizing the appointed attorney to accept any remuneration whatsoever from the client. Any ability of the client to pay for his or her representation shall be the subject of an appropriate court order to reimburse the United States in whole or in part.

* * *

NOTE: This is a mandated rule.
As amended 3/17/09, 10/22/98, 2/2/95.

RULE CR44.2
APPEARANCE IN CRIMINAL CASES

Retained attorneys appearing for defendants in criminal cases shall promptly file a written entry of appearance.

* * *

RULE CR44.3
WITHDRAWAL OF APPEARANCE

An attorney who has appeared in a criminal case may withdraw in accordance with D. Kan. Rule 83.5.5.

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Adopted 3/17/09.

RULE CR47.1
RELIEF FROM STATE DETAINERS

No petition lodged or filed by a prisoner under the Interstate Agreement on Detainers (18 U.S.C., Appendix III) for relief of any sort from the effect of a state detainer shall be entertained unless (a) the petitioner has, at least 180 days prior to the date of lodging or filing his petition, given or sent to the warden or other official having petitioner's custody for delivery to the prosecuting officer of the jurisdiction in which the case giving rise to the detainer is pending, and to the appropriate court, a written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint upon which the detainer is based; and (b) the petitioner has not been brought to trial on such indictment, information or complaint.

* * *

RULE CR49.1
SCOPE OF ELECTRONIC FILING

As authorized by Fed. R. Crim. P. 49(d) and Fed. R. Civ. P. 5(d), the court will accept for filing all documents submitted, signed, or verified by electronic means that comply with procedures established by the court.

All criminal cases are assigned to the Electronic Filing System unless otherwise ordered by the court. All petitions, motions, memoranda of law, or other pleadings and documents filed with the court in connection with a case assigned to the Electronic Filing System shall be filed electronically unless otherwise permitted in these rules or the administrative procedures guide or unless otherwise authorized by the court. The filing of the charging documents, including the complaint, information, indictment, and superseding information or indictment, shall be accomplished as set forth in the administrative procedures guide that is authorized by D. Kan. Rule CR49.13. All criminal cases that were pending on May 12, 2003, have a two-part file consisting of: (1) a conventional paper file containing documents filed before May 12, 2003; and (2) an electronic file containing documents filed on or after May 12, 2003.

* * *

Adopted 3/17/04.

RULE CR49.2
ELIGIBILITY, REGISTRATION, PASSWORDS

Attorneys admitted to the bar of this court, including those admitted pro hac vice, may register as Filing Users of the court's Electronic Filing System. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address, and a declaration that the attorney is either admitted to the bar of this court or has been admitted pro hac vice.

Attorneys who are admitted pro hac vice and who register as Filing Users shall have access to the court's Electronic Filing System through PACER and shall receive the automatically-generated notices of electronic filing. However, this court's rules require meaningful participation by local counsel and, to that end, require local counsel to sign all pleadings and other papers filed with the court. *See* D. Kan. Rule 83.5.4(c). Consistent with this rule, attorneys who are admitted pro hac vice may not file

documents electronically unless they are employed by the United States of America.

A party to a criminal action who is not represented by an attorney may not register as a Filing User in the Electronic Filing System unless the court permits. If so permitted, registration is in a form prescribed by the clerk and requires identification of the action as well as the name, address, telephone number, and Internet e-mail address of the party. If, during the course of the action, an attorney appears on the party's behalf, the attorney must immediately advise the clerk to terminate the party's registration as a Filing User.

Registration as a Filing User constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil Procedure.

Once registration is completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. Users may be subject to sanctions for failure to comply with this provision.

* * *

Adopted 3/17/04.

RULE CR49.3
CONSEQUENCES OF ELECTRONIC FILING

Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Criminal Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Crim. P. 49 and 55. Before filing a scanned document with the court, a Filing User must verify its legibility.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight central time to be considered timely filed that day.

* * *

Adopted 3/17/04.

RULE CR49.4
ENTRY OF COURT ISSUED DOCUMENTS

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed. R. Crim. P. 49 and 55. The court or court personnel will file all such documents electronically. Any such document filed electronically without the original signature of a judge, magistrate judge, or clerk has the same force and effect as if the judge, magistrate judge, or clerk, respectively, had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

Orders may be issued as "text-only" entries on the docket without an attached document. Such orders are official and binding.

The court may issue a warrant or summons electronically, but a warrant or summons may only be served in accordance with Fed. R. Crim. P. 4(c).

A Filing User shall not submit a proposed order by electronic filing, either as an attachment to a corresponding motion or otherwise. Rather, proposed orders shall be submitted directly to the appropriate judge, magistrate judge, or clerk in the form and manner set forth in the administrative procedures guide.

* * *

Adopted 3/17/04.

RULE CR49.5
ATTACHMENTS AND EXHIBITS

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the administrative procedure guide or the court permits. Voluminous exhibits shall be filed as set forth in the administrative procedures guide.

A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted

material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The court may require parties to file additional excerpts or the complete document.

* * *

Adopted 3/17/04.

RULE CR49.6
SEALED DOCUMENTS

(a) Procedure for Requesting Leave to File Under Seal. In criminal cases, a party filing a motion for leave to file documents under seal must file that motion electronically, under seal, in the Electronic Filing System. The motion for leave to file under seal must attach as sealed exhibits the document(s) the party requests to be filed under seal. Finally, if required, the party must simultaneously provide the motion and document(s) it requests to be filed under seal to other parties in the case.

(b) Order Granting Leave. If the court grants the motion for leave to file under seal, the assigned judge will enter electronically a text entry only order authorizing the filing of the document(s) under seal. The filing party must then file its document(s) electronically under seal and, if required, provide them to other parties in the case. Further, if required, the party must submit, via email to

KSD_<Judge'sLastName>_chambers@ksd.uscourts.gov

a password protected proposed order (contact the clerk's office to obtain the password).

(c) Order Denying Leave. If the court denies the motion for leave to file under seal, the assigned judge will enter electronically an order denying the filing of the document(s) under seal.

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Adopted 3/17/09 (formerly D. Kan. S.O. 08-1).

RULE CR49.7
RETENTION REQUIREMENTS

Filing users must maintain in paper format documents that are electronically filed and require original signatures of non-Filing Users until 6 years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.

* * *

Adopted 3/17/04.

RULE CR49.8
SIGNATURES

The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed. R. Civ. P. 11, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Each document filed electronically must, if possible, indicate that it has been electronically filed. Electronically filed documents must include a signature block in compliance with D. Kan. Rule 5.1(c). In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

A document containing the signature of a defendant in a criminal case may at the court's option be filed either: (1) in paper form or (2) in a scanned format that contains an image of the defendant's signature. Documents containing signatures of other non-Filing Users shall be filed electronically either as a scanned image or with the signature represented by an "s/" and the name typed in the space where the signature would otherwise appear.

Documents requiring signatures of more than one party must be electronically filed by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document as permitted by the administrative procedure governing multiple signatures; (3)

identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than 7 days after filing; or (4) in any other manner approved by the court.

* * *

As amended 12/01/09. Adopted 3/17/04.

RULE CR49.9
SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

The notice of electronic filing that is automatically generated by the court's Electronic Filing System constitutes service of the filed document on all parties who have consented to electronic service. Parties not deemed to have consented to electronic service are entitled to service of paper copies of the notice of electronic filing and the electronically filed pleading or other document. Service of such paper copies must be made according to the Federal Rules of Criminal Procedure and the local rules.

A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User.

* * *

Adopted 3/17/04.

RULE CR49.10
NOTICE OF COURT ORDERS AND JUDGMENTS

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Crim. P. 49(c). The clerk must give notice in paper form to a person who has not consented to electronic service in accordance with the Federal Rules of Criminal Procedure.

* * *

Adopted 3/17/04.

RULE CR49.11
TECHNICAL FAILURES

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

* * *

Adopted 3/17/04.

RULE CR49.12
PUBLIC ACCESS

A person may review at the clerk's office filings that have not been sealed by the court. A person may also access the Electronic Filing System at the court's Internet site, www.ksd.uscourts.gov, by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. Unless otherwise specifically permitted by the court, only a Filing User who is an attorney admitted to the bar of this court may file documents electronically. See D. Kan. Rule CR49.2.

* * *

Adopted 3/17/04.

RULE CR49.13
ADMINISTRATIVE PROCEDURES

To facilitate implementation of the foregoing rules, the clerk is authorized to develop, adopt, publish, and modify as necessary *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Criminal Cases* ("administrative procedures guide"), which will include the procedures for registration of attorneys and distribution of passwords to permit electronic filing and notice of pleadings and other papers.

* * *

Adopted 3/17/04.

RULE CR50.1
IMPLEMENTATION OF THE SPEEDY TRIAL ACT

Pursuant to the requirement of the Speedy Trial Act of 1974 (18 U.S.C. Chapter 208, § 3161 *et seq.*), the Speedy Trial Act Amendments Act of 1979 (Pub. L. No. 96-43, 93 Stat. 327), and the Federal Juvenile Delinquency Act, (18 U.S.C. §§ 5036, 5037), the judges of the United States District Court for the District of Kansas have adopted the following time limits and procedures to minimize

undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings:

(a) Applicability.

(1) *Offenses*. The time limits set forth herein are applicable to all criminal offenses triable in this court, including cases triable by magistrate judges, except for petty offenses as defined in 18 U.S.C. § 1(3). Except as specifically provided, they are not applicable to proceedings under the Federal Juvenile Delinquency Act (18 U.S.C. § 3172).

(2) *Persons*. The time limits are applicable to persons accused who have not been indicted or informed against as well as those who have, and the word "defendant" includes such persons unless the context indicates otherwise.

(b) Priorities in Scheduling Criminal Cases. Preference shall be given to criminal proceedings as far as practicable as required by Fed. R. Crim. P. The trial of defendants in custody solely because they are awaiting trial and of high-risk defendants as defined in subsection (e) of this rule should be given preference over other criminal cases. (18 U.S.C. § 3164(a)).

(c) Time Within Which an Indictment or Information Must be Filed.

(1) *Time Limits*. If an individual is arrested or served with a summons and the complaint charges an offense to be prosecuted in this district, any indictment or information subsequently filed in connection with such charge shall be filed within 30 days of arrest or service. (18 U.S.C. § 3161(b)).

(2) *Grand Jury Not in Session*. If the defendant is charged with a felony to be prosecuted in this district, and no grand jury in the district has been in session during the 30-day period prescribed in subsection (c)(1), such period shall be extended an additional 30 days. (18 U.S.C. § 3161(b)).

(3) *Measurement of Time Periods*. If a person has not been arrested or served with a summons on a federal charge, an arrest will be deemed to have been made at such time as the person (i) is held in custody solely for the purpose of responding to a federal charge; (ii) is delivered to the custody of a federal official in connection with a federal charge; or (iii) appears before a judicial officer in connection with a federal charge.

(4) *Related Procedures*. At the time of the earliest appearance before a judicial officer of a person who has been arrested for an offense not charged in an indictment or information, the judicial officer shall establish for the record the date on which

the arrest took place.

In the absence of a showing to the contrary, a summons shall be considered to have been served on the date of service shown on the return thereof.

(d) Time Within Which Trial Must Commence.

(1) *Time Limits*. The trial of a defendant shall commence not later than 70 days after the last to occur of the following dates:

(A) The date on which an indictment or information is filed in this district;

(B) The date on which a sealed indictment or information is unsealed; or,

(C) The date of the defendant's first appearance before a judicial officer of this district. (18 U.S.C. § 3161(c)).

(2) *Retrial, Trial After Reinstatement of an Indictment or Information*. The retrial of a defendant shall commence within 70 days from the date the order occasioning the retrial becomes final, as shall the trial of a defendant upon an indictment or information dismissed by a trial court and reinstated following an appeal. If the retrial or trial follows an appeal or collateral attack, the court may extend the period if unavailability of witnesses or other facts resulting from passage of time make trial within 70 days impractical. The extended period shall not exceed 180 days. (18 U.S.C. § 3161(d)(2), (e)).

(3) *Withdrawal of Plea.* If a defendant enters a plea of guilty or *nolo contendere* to any or all charges in an indictment or information and is subsequently permitted to withdraw it, the time limit shall be determined for all counts as if the indictment or information were filed on the day the order permitting withdrawal of the plea became final (18 U.S.C. § 3161(i)).

(4) *Superseding Charges*. If, after an indictment or information has been filed, a complaint, indictment, or information is filed that charges the defendant with the same offense or with an offense required to be joined with that offense, the time limit applicable to the subsequent charge will be determined as follows:

(A) If the original indictment or information was dismissed on motion of the defendant before the filing of the subsequent charge, the time limit shall be determined without regard to the existence of the original charge. (18 U.S.C. § 3161 (d)(1)).

(B) If the original indictment or information is pending at the time the subsequent charge is filed, the trial shall commence within the time limit for commencement of trial on the original indictment or information.

(C) If the original indictment or information was dismissed on motion of the United States Attorney before the filing of the subsequent charge, the trial shall commence within the time limit for commencement of trial on the original indictment or information, but the period during which the defendant was not under charges shall be excluded from the computations. Such period is the period between the dismissal of the original indictment or information and the date the time would have commenced to run on the subsequent charge had there been no previous charge. (18 U.S.C. § 3161 (h)(6)).

If the subsequent charge is contained in a complaint, the formal time limit within which an indictment or information must be obtained on the charge shall be determined without regard to the existence of the original indictment or information, but earlier action may in fact be required if the time limit for commencement of trial is to be satisfied.

(5) *Measurement of Time Periods*. For the purposes of this section:

(A) If a defendant signs a written consent to be tried before a magistrate judge and no indictment or information charging the offense has been filed, the time limit shall run from the date of such consent.

(B) In the event of a transfer to this district under Fed. R. Crim. P., the indictment or information shall be deemed filed in this district when the papers in the proceeding or certified copies thereof are received by the clerk.

(C) A trial in a jury case shall be deemed to commence at the beginning of *voir dire*.

(D) A trial in a non-jury case shall be deemed to commence on the day the case is called, provided that some step in the trial procedure immediately

follows.

(6) *Related Procedures*.

(A) At the time of the defendant's earliest appearance before a judicial officer of this district, the officer will take appropriate steps to assure that the defendant is represented by counsel and shall appoint counsel where appropriate under the Criminal Justice Act and Fed. R. Crim. P. 44.

(B) The court shall have sole responsibility for setting cases for trial after consultation with counsel. At the time of arraignment or as soon thereafter as is practicable, each case will be set for trial on a day certain or listed for trial on a weekly or other short-term calendar. (18 U.S.C. § 3161 (a)).

(C) Individual calendars shall be managed so that it will be reasonably anticipated that every criminal case set for trial will be reached during the week of original setting. A conflict in schedules of Assistant United States Attorneys or defense counsel will be ground for a continuance or delayed setting only if approved by the court and called to the court's attention at the earliest practicable time.

(D) In the event that a complaint, indictment, or information is filed against a defendant charged in a pending indictment or information or in an indictment or information dismissed on motion of the United States Attorney, the trial on the new charge shall commence within the time limit for commencement of trial on the original indictment or information unless the court finds that the new charge is not for the same offense charged in the original indictment or information or an offense required to be joined therewith.

(E) At the time of the filing of a complaint, indictment, or information described in paragraph (D), the United States Attorney shall give written notice to the court of that circumstance and of his position with respect to the computation of the time limits.

(F) All pretrial hearings shall be conducted as soon after the arraignment as possible, consistent with the priorities of other matters on the court's criminal docket.

(e) Defendants in Custody and High-Risk Defendants.

(1) *Time Limits*. Notwithstanding any longer time periods that may be permitted under subsections (c) and (d), the following time limits will also be applicable to defendants in custody and high-risk defendants as herein defined: (18 U.S.C. § 3164(b)).

(A) The trial of a defendant held in custody solely for the purpose of trial on a federal charge shall commence within 90 days following the beginning of continuous custody.

(B) The trial of a high-risk defendant shall commence within 90 days of the designation as high-risk.

(2) *Definition of "High-Risk Defendant."* A high-risk defendant is one reasonably designated by the United States Attorney as posing a danger to himself or any other person or to the community.

(3) *Measurement of Time Periods*. For the purposes of this section:

(A) A defendant is deemed to be in detention awaiting trial when he is arrested on a federal charge or otherwise held for the purpose of responding to a federal charge. Detention is deemed to be solely because the defendant is awaiting trial unless the person exercising custodial authority has an independent basis (not including a detainer) for continuing to hold the defendant.

(B) If a case is transferred pursuant to Fed. R. Crim. P. 20 and the defendant subsequently rejects disposition under Rule 20 or the court declines to accept the plea, a new period of continuous detention awaiting trial will begin at that time.

(C) A trial shall be deemed to commence as provided in subsections (d)(5)(C) and (d)(5)(D).

(4) *Related Procedures*.

(A) If a defendant is being held in custody solely for the purpose of awaiting trial, the United States Attorney shall advise the court at the earliest

practicable time of the date of the beginning of such custody.

(B) The United States Attorney shall advise the court at the earliest practicable time (usually at the hearing with respect to bail) if the defendant is considered to be a high-risk.

(C) If the court finds that the filing of a "high-risk" designation as a public record may result in prejudice to the defendant, it may order the designation sealed for such period as is necessary to protect the defendant's right to a fair trial, but not beyond the time that the court's judgment in the case becomes final. During the time the designation is under seal, it shall be made known to the defendant and his counsel but shall not be made known to other persons without the permission of the court.

(f) Exclusion of Time for Computations.

(1) *Applicability*. In computing any time limit under subsections (c), (d), or (e), the periods of delay set forth in 18 U.S.C. § 3161(h) shall be excluded. Such periods of delay shall not be excluded in computing the minimum period for commencement of trial under subsection (g).

(2) *Records of Excludable Time*. The clerk of the court shall enter on the docket, in the form prescribed by the Administrative Office of the United States Courts, information with respect to excludable periods of time for each criminal defendant. With respect to proceedings prior to the filing of an indictment or information, excludable time shall be reported to the clerk by the United States Attorney.

(3) *Stipulations*.

(A) The attorney for the government and the attorney for the defendant may at any time enter into stipulations with respect to the accuracy of the docket entries recording excludable time.

(B) To the extent that the amount of time stipulated by the parties does not exceed the amount recorded on the docket for any excludable period of delay, the stipulation shall be conclusive as between the parties unless it has no basis in fact or law. It shall similarly be conclusive as to a co-defendant to the limited

purpose of determining, under 18 U.S.C. § 3161(h)(7), whether time has run against the defendant entering into the stipulation.

(C) To the extent that the amount of time stipulated exceeds the amount recorded on the docket, the stipulation shall have no effect unless approved by the court.

(4) *Pre-Indictment Procedures*.

(A) In the event that the United States Attorney anticipates that an indictment or information will not be filed within the time limit set forth in subsection (c), he may file a written motion with the court for a determination of excludable time. In the event that the United States Attorney seeks a continuance under 18 U.S.C. § 3161(h)(8), he shall file a written motion with the court requesting such a continuance.

(B) The motion of the United States Attorney shall state (i) the period of time proposed for exclusion, and (ii) the basis of the proposed exclusion. If the motion is for a continuance under 18 U.S.C. § 3161(h)(8), it shall also state whether or not the defendant is being held in custody on the basis of the complaint. In appropriate circumstances, the motion may include a request that some or all of the supporting material be considered *ex parte* and *in camera*.

(C) The court may grant a continuance under 18 U.S.C. § 3161(h)(8) for either a specific period of time or a period to be determined by reference to an event (such as recovery from illness) not within the control of the government. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in light of the facts of the particular case.

(5) *Post-Indictment Procedures.*

(A) At each appearance of counsel before the court, counsel shall examine the clerk's record of excludable time for completeness and accuracy and shall bring to the court's immediate attention any claim that the clerk's record is in any way incorrect.

(B) In the event that the court continues a trial beyond the time limit set forth in subsections (d) or (e), the court shall determine whether the limit may be recomputed by excluding time pursuant to 18 U.S.C. § 3161(h).

(C) If it is determined that a continuance is justified, the court shall set forth its findings in the record, either orally or in writing. If the continuance is granted under 18 U.S.C. § 3161(h)(8), the court shall also set forth its reasons for finding that the ends of justice served by granting the continuance outweigh the best interest of the public and the defendant in a speedy trial. If the continuance is to a date not certain, the court shall require one or both parties to inform the court promptly when and if the circumstances that justify the continuance no longer exist. In addition, the court shall require one or both parties to file periodic reports bearing on the continued existence of such circumstances. The court shall determine the frequency of such reports in light of the facts of the particular case.

(g) Minimum Period for Defense Preparation. Unless the defendant consents in writing to the contrary, the trial shall not commence earlier than 30 days from the date on which the indictment or information is filed or, if later, from the date on which counsel first enters an appearance or on which the defendant expressly waives counsel and elects to proceed *pro se*. In circumstances in which the 70-day time limit for commencing trial on a charge in an indictment or information is determined by reference to an earlier indictment or information pursuant to subsection (d)(4), the 30-day minimum period shall also be determined by reference to the earlier indictment or information. When prosecution is resumed on an original indictment or information following a mistrial, appeal, or withdrawal of a guilty plea, a new 30-day

minimum period will not begin to run. In all cases, the court will schedule trials so as to permit defense counsel adequate preparation time in the light of all circumstances. (18 U.S.C. § 3161(c)(2)).

(h) Time Within Which Defendant Should be Sentenced.

(1) *Time Limit*. A defendant shall ordinarily be sentenced within 45 days of the date of his conviction or plea of guilty or *nolo contendere*.

(2) *Related Procedures*. If the defendant and his counsel consent, a presentence investigation may be commenced prior to a plea of guilty or *nolo contendere* or a conviction.

(i) Juvenile Proceedings.

(1) *Time Within Which Trial Must Commence*. An alleged delinquent who is in detention pending trial shall be brought to trial within 30 days of the date of which such detention was begun, as provided in 18 U.S.C. § 5036.

(2) *Time of Dispositional Hearing*. If a juvenile is adjudicated delinquent, a separate dispositional hearing shall be held no later than 20 court days after trial, unless the court has ordered further study of the juvenile in accordance with 18 U.S.C. § 5037(c).

(j) Sanctions.

(1) *Dismissal or Release From Custody*. Failure to comply with the requirements of Title I of the Speedy Trial Act may entitle the defendant to dismissal of the charges against him or to release from pretrial custody. Nothing in this rule shall be construed to require that a case be dismissed or a defendant released from custody in circumstances in which dismissal would not be required by 18 U.S.C. §§ 3162 and 3164.

(2) *High-Risk Defendants*. A high-risk defendant whose trial has not commenced within the time limit set forth in 18 U.S.C. § 3164(b) shall, if the failure to commence trial was through no fault of the attorney for the government, have his release conditions automatically reviewed. A high-risk defendant who is found by the court to have intentionally delayed the trial of his case shall be subject to an order of the court modifying his nonfinancial conditions of release under Chapter 207 of Title 18, U.S.C., to insure that he shall appear at trial as required. (18 U.S.C. § 3164(c)).

(3) *Discipline of Attorneys*. In a case in which counsel (A) knowingly allows the case to be set for trial without disclosing the fact that a necessary witness would be unavailable for trial, (B) files a motion solely for the purpose of delay that he knows is frivolous

and without merit, (C) makes a statement for the purpose of obtaining a continuance that he knows to be false and that is material to the granting of the continuance, or (D) otherwise willfully fails to proceed to trial without justification consistent with 18 U.S.C. § 3161, the court may punish such counsel as provided in 18 U.S.C. §§ 3162(b) and (c).

(4) *Alleged Juvenile Delinquents*. An alleged delinquent in custody whose trial has not commenced within the time limit set forth in 18 U.S.C. § 5036 shall be entitled to dismissal of his case pursuant to that section unless the Attorney General shows that the delay was consented to or caused by the juvenile or his counsel, or would be in the interest of justice in the particular case.

(k) Persons Serving Terms of Imprisonment. If the United States Attorney knows that a person charged with an offense is serving a term of imprisonment in any penal institution, he shall promptly seek to obtain the presence of the prisoner for trial, or cause a detainer to be filed, in accordance with 18 U.S.C. § 3161(j).

(l) Effective Date.

(1) The amendments to the Speedy Trial Act made by Public Law 86-43 became effective August 2, 1979. To the extent that this revision of the district's plan does more than merely reflect the amendments, the revised plan shall take effect upon approval of the reviewing panel designated in accordance with 18 U.S.C. § 3165(c). However, the dismissal sanction and the sanctions against attorneys authorized by 18 U.S.C. § 3162 and reflected in subsections (j)(1) and (3) of this rule shall apply only to defendants whose cases are commenced by arrest or summons on or after July 1, 1980, and to indictments and informations filed on or after that date.

(2) If a defendant was arrested or served with a summons before July 1, 1979, the time within which an information or indictment must be filed shall be determined under the plan that was in effect at the time of such arrest or service.

(3) If a defendant was arraigned before August 2, 1979, the time within which the trial must commence shall be determined under the plan that was in effect at the time of such arraignment.

(4) If a defendant was in custody on August 2, 1979, solely because he was awaiting trial, the 90-day period under subsection (e) shall be computed from that date.

* * *

NOTE: This is a mandated rule.

RULE CR53.1
DISSEMINATION OF INFORMATION

(a) Prohibited Statements; Attorneys' Obligations.

(1) An attorney participating in or associated with a grand jury or other investigation of a criminal matter shall not make or participate in making any extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

(A) Information contained in a public record;
(B) That the investigation is in progress;
(C) The general scope of the investigation including a description of the offense, and if permitted by law, the identity of the victim;
(D) A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto;
(E) A warning to the public of any dangers.

(2) An attorney associated with the prosecution or defense of a criminal case to be tried by a jury shall not make or participate in making any extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication that relates to:

(A) The character, reputation or prior criminal record (including arrests, indictments or other charges of crime) of the accused;
(B) The possibility of a plea of guilty to the offense charged or to a lesser offense;
(C) The existence or contents of any confession, admission, or statement given by the accused or his refusal or failure to make a statement;
(D) The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examination or tests;
(E) The identity, testimony or credibility of a prospective witness;
(F) Any opinion as to the guilt or innocence of the accused, the evidence or the merits of the case.

(3) Subsection (a)(2) above does not preclude an attorney from announcing:

(A) The name, age, residence, occupation, and family status of the accused;

(B) Any information necessary to aid in the apprehension of an accused or to warn the public of any dangers he may present;

(C) A request for assistance in obtaining evidence;

(D) The identity of the victim of the crime;

(E) The fact, time and place of arrest, resistance, pursuit, and use of weapons;

(F) The identity of investigating and arresting officers or agencies, and the length of the investigation;

(G) The nature, substance, or text of the charge;

(H) Quotations from or references to public records of the court in the case;

(I) The scheduling or result of any step in the judicial proceedings;

(J) That the accused denies the charges made against him.

(4) The foregoing provisions of this rule do not preclude an attorney from replying to charges of misconduct publicly made against him or from participating in the proceedings of legislative, administrative, or other investigative bodies.

(b) Attorneys' Employees and Associates. An attorney must exercise reasonable care to prevent his employees and associates from making any extrajudicial statement that the attorney would be prohibited from making under this rule.

(c) Fed. R. Crim. P. 6(e)(3) Materials. Matters required to be filed with the District Court pursuant to Fed. R. Crim. P. 6(e)(3) shall be first presented to the District Court before whom was impaneled the grand jury whose material has been disclosed. The disclosure should include all persons who will have access to the grand jury material except those who are under the immediate supervision of the attorney for the government or the government personnel to whom disclosure is reported. In the event the court directs the filing of the disclosure with the clerk's office, it shall be sealed by the clerk and not released except by order of the court for good cause.

(d) Closure of Proceedings. Unless otherwise provided by law, all criminal proceedings shall be held in open court and shall

be available for attendance and observation by the public; provided that upon motion made or agreed to by the defense, the court in the exercise of its discretion may order a proceeding closed to the public in whole or in part on the following grounds:

(1) There is a reasonable likelihood that the dissemination of information disclosed at such proceeding would impair the defendant's rights; and

(2) That reasonable alternatives to closure will not adequately protect a defendant's rights. If the court orders closure it shall state for the record its specific findings concerning the need for closure.

* * *

RULE CR55.1
VERIFICATION OF RECEIPT OF TRANSCRIPTS

The clerk of the court is authorized to verify the receipt of transcripts from court reporters on behalf of *pro se* persons and all Criminal Justice Act parties.

* * *

RULE CR58.1
PAYMENT OF A FIXED SUM IN LIEU OF APPEARANCE IN CERTAIN PETTY OFFENSE CASES

A person charged in this district with the commission of specified petty offenses may pay a fixed sum to the clerk of this court in lieu of appearance before a judge or a magistrate judge. For the purposes of this rule, the Central Violations Bureau for the Tenth Circuit may act as agent for the clerk of the court. Payment of the fixed sum to the clerk signifies that the person charged with the petty offense does not contest the charge nor request a trial, and is tantamount to the entry of a plea of guilty. The amount so paid must be forfeited to the United States of America.

* * *

NOTE: The following categories of alleged offenders must appear for trial:

(a) Persons charged with any offense not listed in the standing order.

(b) Persons charged with an offense resulting in personal injury, death, or property damage in excess of $100.

(c) Persons charged with any listed offense may be required to appear before a judge or magistrate judge if in the opinion of the law enforcement officer the circumstances surrounding the alleged offense are aggravated.

* * *

- XVI -
STANDING ORDERS

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 88-1

It is ordered that whenever a judge or magistrate judge of this court shall determine that there are reasonable grounds to believe that there may be disruption of any matter, hearing or trial over which he is to preside he may enter a Special Order containing the following provisions together with other provisions which he may deem necessary to insure that there be no such disruption:

1. No person shall be permitted to loiter, sleep or conduct himself in an unseemly or disorderly manner in the rooms, halls, courtrooms or entry ways of the building in which the trial or hearing is to be conducted or on any stairway leading thereto; or otherwise interfere with or obstruct judicial activities or proceedings;

2. Jurors, attorneys, witnesses and others having business with the court shall enter and leave the courtroom only by such doorways and at such times as shall be designated by the United States Marshal or the United States Security Officer having responsibility for the security of the court;

3. No persons carrying a bag, case, or parcel shall be permitted to enter or remain in any courtroom, room, hall or entry way of the courthouse without first, if requested, submitting such bag, case, or parcel to the appropriate United States Marshal, Deputy Marshal, or Security Officer for inspection;

4. Spectators shall be allowed to sit in that portion of a courtroom allocated by the Marshal or Security Officer for spectator seating. No spectator shall be admitted to or allowed to remain in a courtroom unless spectator seating is then available. If spectator seating is not available within the confines of the courtroom, those persons for whom seating is not available shall

not be permitted in the halls or rooms adjacent to the courtroom;

5. Spectators leaving a courtroom while court is in session or at any recess shall not loiter in the halls or rooms of the courthouse and may be readmitted to the courtroom only in accordance with the provisions of this order.

Whenever any such Special Order is issued, a copy shall be posted at each doorway or entrance to the courtroom.

Any such order shall remain in effect until revoked, suspended or modified by the issuing judge or magistrate judge or by a majority vote of the district judges.

This Standing Order shall be effective when filed and shall remain in effect until further order of the court.

DATED this 1st day of January, 1988.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS STANDING ORDER NO. 88-6

CONDITIONS OF PROBATION AND/OR SUPERVISED RELEASE

Pursuant to D. Kan. Rule 83.1.2(a) it is

ORDERED that all persons placed on probation or supervised release by any judge or magistrate judge of this district, in addition to any special conditions ordered by the judge or magistrate judge, shall comply with the following conditions of probation or supervised release:

1. The person shall not commit another federal, state, or local crime during the term of supervision;

2. The person shall not leave the judicial district or other specified geographic area without the permission of the court or probation officer;

3. The person shall report to the probation officer as directed by the court or probation officer, and shall submit a truthful and complete written report within the first five days of each month;

4. The person shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

5. The person shall support his or her dependents and meet other family responsibilities;

6. The person shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;

7. The person shall notify the probation officer within 72 hours of any change in residence or employment;

8. The person shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

9. The person shall not frequent places where controlled substances are illegally sold, used, distributed, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

10. The person shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;

11. The person shall permit a probation officer to visit at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;

12. The person shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;

13. The person shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;

14. As directed by the probation officer, the person shall notify third parties of risks that may be occasioned by his or her criminal record or personal history or characteristics, and shall permit the probation officer to make such notification and to confirm his or her compliance with such notification requirement.

This Standing Order shall become effective on the date of its adoption and shall remain in effect until the further order of the court.

Adopted January 19, 1988.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS STANDING ORDER NO. 88-8

Pursuant to D. Kan. Rule 83.6.8(a)(2) it is ORDERED that the advance cost deposit which must accompany a petition for reinstatement of an attorney subjected to discipline is fixed at $500.

This Standing Order shall become effective on the date of its adoption and shall remain in effect until the further order of the Court.

Adopted May 6, 1988.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 03-1

In re Procedural Rules for Electronic Case Filing.	))	Standing Order No. 03-1

Rules 5 and 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, authorize courts to establish practices and procedures for filing, signing, and verifying documents by electronic means. Consistent with the general authorization contemplated by these rules, this court intends to implement an electronic case filing (ECF) system effective March 20, 2003 for civil cases, and effective May 20, 2003 for criminal cases.

Later this year, the court will publish and invite comment from the practicing bar concerning numerous proposed amendments to the court's local rules. In the interim, however, this Standing Order will set forth those rules that are necessary and appropriate to implement ECF.

In consideration of the foregoing,

IT IS HEREBY ORDERED:

1. As of March 20, 2003 in civil cases, and as of May 20, 2003 in criminal cases, the court will accept for filing all documents submitted, signed, or verified by electronic means that comply with procedures established by the court.

2. Most of the specific provisions needed to implement ECF in civil cases will be contained in a new local rule with several subsections, and it probably will be designated D. Kan. Rule 5.4. Several other existing local rules will need to be modified slightly. All of the anticipated local rule amendments dealing with ECF in civil cases are set forth in Exhibit 1 hereto and, pursuant to this Standing Order, shall be effective March 20, 2003, until further court order.

3. Most of the specific provisions needed to implement ECF in criminal cases will be contained in a new local rule with several subsections, and it probably will be designated D. Kan. Rule CR49.1. Several other existing local rules will need to be modified slightly. All of the anticipated local rule amendments dealing with ECF in criminal cases are set forth in Exhibit 2 hereto and, pursuant to this Standing Order, shall be effective May 20, 2003, until further court order.

4. The Clerk of this court is authorized to develop, implement, publish, and modify as necessary *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Civil Cases*, as well as a separate *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means in Criminal Cases*, which will include the procedures for registration of attorneys and distribution of passwords to permit electronic filing and notice of pleadings and other papers.

IT IS SO ORDERED.

Dated this 4th day of February, 2003.

BY THE COURT:
s/ John W. Lungstrum
John W. Lungstrum
Chief U.S. District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

Authority to Refund	)	
Erroneous or Duplicate	)	Standing Order No. 07-2
On-Line Filing Fee Payments	)	

This Order promulgates procedures for the refund of duplicate filing fees which occur through an error made during electronic filing of documents which require filing fees. The Judicial Conference of the United States has a long standing policy of not refunding filing fees for cases which may have been filed in error or which the court dismissed. (JCUS-Mar 49, p. 202.)

With the advent of electronic filing and payment of fees, errors during the filing and payment of the fees have occurred resulting in duplicate payments of the applicable filing fee.

To remedy the problem, the Judicial Conference in March 2005 approved guidance regarding the refund of erroneous or duplicate fees paid electronically.

Authority to approve a refund is a judicial determination, but the Judicial Conference decided that the Chief Judge may delegate authority to make the determination to the Clerk of the Court so long as the court has clear procedures that specify the type of refund that the Clerk may approve.

Accordingly, the undersigned Chief Judge delegates authority to the Clerk or designee to approve refunds of filing fees paid

electronically via pay.gov. The following procedures will govern such refunds.

1. The Clerk may refund only:
   (A) Duplicate payments, i.e , those payments where the payor has inadvertently paid the filing fee more than once in the same case, resulting in two or more identical credit card charges.
   (B) Erroneous payments, i.e., those where the payor has inadvertently entered the wrong amount for the filing fee.
2. A payor may request a refund by either written motion or application addressed to the Clerk of Court at the Kansas City office:

   Clerk, U.S. District Court
   Attn: Finance Department
   500 State Ave., RM 259
   Kansas City, KS 66101

3. The application must contain the following information:
   a. Date of Request
   b. Full and correct account holder name
   c. Credit Card type and full number, including expiration date
   d. Current and complete billing address
   e. Reason for Refund
   f. Case Number
   g. Date of Pay.Gov transaction
   h. Receipt Number or Pay.Gov tracking ID number
4. Upon filing, the Clerk's office will review the application, and if appropriate, issue a Clerk's Order approving a refund. The Finance Department will issue a refund against the credit card of ACH transaction through Pay.Gov. **A refund check will not be issued.**
5. If the Clerk's office denies a refund, the payor may, within 5 days, move to have the Chief Judge review the denial.
6. If a filer repeatedly requests refunds for mistakes made when paying filing fees on line, the Clerk may ask the Chief Judge to order remedial action, such as additional training, or to order the filer to show cause why the Clerk should consider further requests for refunds.

This limited approval for the clerk to issue refunds does not otherwise amend the general refund policy.

IT IS SO ORDERED.
Dated this 31st day of May, 2007.

BY THE COURT:
s/ John W. Lungstrum
John W. Lungstrum
Chief U.S. District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS
STANDING ORDER NO. 07-5

Good cause appearing therefore, and in accordance with the action taken by the Judicial Conference of the United States at its September 2007 proceedings, it is by the court,

ORDERED that effective November 19, 2007, transcript rates to be charged by the Official Court Reporters of this court are established as follows:

	Original	First Copy To Each Party	Additional Copy To The Same Party
Ordinary Transcript A transcript to be delivered within thirty (30) calendar days after receipt of an order.	$3.65	$.90	$.60
14-Day Transcript A transcript to be delivered within fourteen (14) calendar days after receipt of an order.	$4.25	$.90	$.60
Expedited Transcript A transcript to be delivered within seven (7) calendar days after receipt of an order.	$4.85	$.90	$.60
Daily Transcript A transcript to be delivered following adjournment and prior to the normal opening hours of the court on the following morning whether or not it actually be a court day.	$6.05	$1.20	$.90

	Original	First Copy To Each Party	Additional Copy To The Same Party
Hourly Transcript A transcript of proceedings ordered under unusual circumstances to be delivered within two (2) hours.	$7.25	$1.20	$.90
Realtime Transcript A draft unedited transcript produced by a certified realtime reporter as a byproduct of realtime to be delivered electronically during proceedings or immediately following adjournment.	$3.05	$1.20	

The term "daily transcript" is defined as the copy of a transcript of each day's proceedings which is delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually be a court day. This Standing Order shall remain in effect until further order of the court.

Dated this 7th day of November 2007.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____,	)	
Plaintiff(s),	)	
	)	**CIVIL ACTION**
	)	**CASE NO. _____**
v.	)	
	)	
	)	
_____,	)	
Defendant(s).	)	
	)	

MOTION FOR LEAVE TO APPEAR PRO HAC VICE

Pursuant to D. Kan. Rule 83.5.4., I move that_____ be admitted to practice in the United States District Court for the District of Kansas, for purposes of this case only.

I certify that I am a member in good standing of the Bar of this Court and that in compliance with D. Kan. Rule 83.5.4(c), I will sign all pleadings and other papers which are signed and filed by said attorney. I also agree that I will participate meaningfully in the preparation and trial of this case, to the extent required by the Court.

Pursuant to D. Kan. Rule 83.5.4 (a), I have attached the required affidavit in support of this motion, along with a proposed order granting this motion. I have also verified that the information contained in the affidavit is true and accurate.

[Motion must be signed and served in accordance with D. Kan. Rule 5.1.]

NOTE: The motion and affidavit shall be accompanied by payment of a registration fee in the sum of $50.00. Attorneys employed by any department or agency of the United States government shall not be required to pay a pro hac vice registration fee.

Each attorney admitted pro hac vice must complete and sign an Electronic Filing Registration Form. The form is available on the Court's website at http://www.ksd.uscourts.gov.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____,	)	
Plaintiff(s),	)	
	)	**CIVIL ACTION**
	)	**CASE NO. _____**
v.	)	
	)	
	)	
_____,	)	
Defendant(s).	)	
	)	

AFFIDAVIT IN SUPPORT OF MOTION FOR LEAVE TO APPEAR PRO HAC VICE

Pursuant to D. Kan. Rule 83.5.4., I declare that the following facts are true, to the best of my knowledge, information and belief:

1. My full name is:

2. I practice under the following firm name or letterhead:

   Name:

   Address:

   Telephone Number:

   Fax:

   Email address:

3. I have been admitted to practice in the following courts (here list the dates and places of admission to all bars, state or federal, and any bar registration numbers):

Court	Date of Admission	Bar Number

4. I have reviewed D. Kan. Rule 83.5.4. Pursuant to that rule I have retained local counsel to assist in the representation in this case, and I agree that local counsel will sign all pleadings or other papers and participate meaningfully in the preparation and trial of the case or proceedings to the extent required by the Court.

5. I consent to the exercise of disciplinary jurisdiction over any alleged misconduct that occurs during the progress of this case.

6. I am in good standing in all bars of which I am a member.

7. No disciplinary or grievance proceedings have been previously filed against me.

8. No disciplinary or grievance proceedings are pending against me in any jurisdiction.

9. I have not been charged in any court of the United States or of any state, territory or possession of the United States with the commission of a felony or unprofessional conduct.

10. I have registered to receive electronic notification by completing the Court's Electronic Filing Registration Form. I understand I will receive System-generated notices of electronic filing.

[NOTE: To the extent that the applicant cannot truthfully affirm the statements contained in paragraphs 6 through 9, the applicant shall attach additional pages which state all relevant facts in connection with that matter. At a minimum, if disciplinary or grievance proceedings have been filed, or criminal proceedings have been commenced, the applicant shall identify the court, case name, docket number and disposition.]

[Affidavit must be notarized and/or contain a declaration that it is being signed under penalty of perjury in accordance with 28 U.S.C. § 1746 and served in accordance with D. Kan. Rule 5.1.]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

_____,	)	
Plaintiff(s),	)	
	)	**CIVIL ACTION**
	)	**CASE NO. _____**
v.	)	
	)	
	)	
_____,	)	
Defendant(s).	)	
	)	

ORDER GRANTING MOTION FOR LEAVE TO APPEAR PRO HAC VICE

Having considered the Motion For Leave To Appear Pro Hac Vice filed _____ (insert date), and for good cause shown, the Court finds that said motion should be sustained and that_____(insert name) should be and hereby is admitted to practice in the United States District Court for the District of Kansas for purposes of this case only.

Dated this _____day of_____, 2010.

_____
UNITED STATES MAGISTRATE JUDGE

LOCAL RULES

OF THE

UNITED STATES

BANKRUPTCY COURT

FOR THE

DISTRICT OF KANSAS

Robert E. Nugent
Chief Judge

Janice Miller Karlin
Judge

Dale L. Somers
Judge

Robert D. Berger
Judge

EFFECTIVE MARCH 17, 2010

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

ORDER OF ADOPTION

Pursuant to the authority vested in this court by Rule and Statute;

IT IS ORDERED that the attached rules designated "Local Rules of the United States Bankruptcy Court for the District of Kansas" are adopted and become effective March 17, 2010, and will supersede the court's existing rules and standing orders, which are repealed effective March 17, 2010.

DATED this 1st day of February, 2010.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

ATTEST:

s/ Fred W. Jamison
Fred W. Jamison, Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
IN THE MATTER OF RULES OF PRACTICE
AND PROCEDURE IN THIS COURT
MEMORANDUM AND ORDER

By means of this Memorandum and Order, the Judges of this court express their appreciation to the members of the Bench Bar Committee appointed to make recommendations on possible revisions of the Local Rules of Practice and Procedure.

The 2010 rules were substantially modified to conform with the District of Kansas 2010 Civil Rules Restyling Project. Substantive corrections to the rules are noted at the end of each rule substantively changed.

The individuals composing the committee devoted much time studying the existing local rules, the applicable federal statutes and rules, and the rules of other United States Bankruptcy Courts. The Bench Bar Committee performed its task competently, unselfishly, and in the best tradition of the legal profession.

IT IS, THEREFORE, ORDERED that the Clerk file this Memorandum and Order as a permanent record of the court and that he deliver an attested copy to each member of the committee, namely:

Emily B. Metzger, Chairman

Joyce G. Owen	**Edward J. Nazar**
Tom R. Barnes II	**Chelsea S. Herring**
Lisa A. Epps	**Larry G. Michel**
Jay Douglas Befort	**Richard C. Wallace**
W. H. Griffin	

DATED this 1st day of February, 2010.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

ATTEST:
s/ Fred W. Jamison
Fred W. Jamison, Clerk

THE HONORABLE ROBERT E. NUGENT
CHIEF JUDGE
United States Bankruptcy Judge
104 U.S. Courthouse
401 North Market
Wichita, Kansas 67202

THE HONORABLE JANICE MILLER KARLIN
United States Bankruptcy Judge
215 U.S. Courthouse
444 Southeast Quincy Street
Topeka, Kansas 66683

THE HONORABLE DALE L. SOMERS
United States Bankruptcy Judge
225 U.S. Courthouse
444 Southeast Quincy Street
Topeka, Kansas 66683

THE HONORABLE ROBERT D. BERGER
United States Bankruptcy Judge
125 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, Kansas 66101

*** * * * * * * * * * ***

BANKRUPTCY CLERK
Fred W. Jamison
167 U.S. Courthouse
401 North Market
Wichita, Kansas 67202

Kansas City Clerk's Office
161 Robert J. Dole U.S. Courthouse
500 State Avenue
Kansas City, Kansas 66101

Topeka Clerk's Office
240 U.S. Courthouse
444 Southeast Quincy Street
Topeka, Kansas 66683

Wichita Clerk's Office
167 U.S. Courthouse
401 North Market
Wichita, Kansas 67202

Please see www.ksb.uscourts.gov for
the most current telephone contact information.

PREFACE

Attorneys unfamiliar with Kansas bankruptcy practice may find some helpful information in this preface to *The Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Kansas*.

1. **Background**

The Bankruptcy Code consists of amendments to the Bankruptcy Reform Act of 1978, P.L. 95-598, Title I, Sec. 101, 92 Stat. 2549, enacted into law November 6, 1978, effective October 1, 1979. Since its enactment, Congress has amended this law many times.

In 1982, the Supreme Court declared the jurisdictional support for the 1978 Act unconstitutional in *Northern Pipeline Const. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982). It did so because 28 U.S.C. § 1471(c) invested non-Article III bankruptcy courts with powers exercisable only by Article III courts.

After *Marathon*, the bankruptcy system operated under an Emergency Rule promulgated by the Judicial Conference of the United States until 1984, when Congress enacted corrective legislation in the form of 28 U.S.C. § 1334, which states:

> (a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11.
> (b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

Hoping to cure the constitutional infirmity, Congress also declared that bankruptcy judges would "constitute a unit of the district court to be known as the bankruptcy court for that district." 28 U.S.C. § 151.

To transfer the bankruptcy power to the bankruptcy courts, the 1984 amendments provided, through 28 U.S.C. § 157(a) that, "[e]ach district court may provide that any or all cases under title 11 and any or all proceedings arising under title 11 or arising in or

related to a case under title 11 shall be referred to the bankruptcy judges for the district."

In Kansas, 28 U.S.C. § 157(a) is implemented by a Standing Order dated August 1, 1984 (effective July 10, 1984). However, the order itself does not appear in the *Rules of Practice and Procedure of the District Court*. Rather, it is mentioned in District Court Rule 83.8.5 entitled "Clarification of General Reference to Bankruptcy Judges." The exact text of the standing order reads:

> STANDING ORDER
>
> Pursuant to Sec. 104 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, 28 U.S.C. Sec. 157, this court refers all cases under Title 11, and any and all proceedings arising under Title 11, or arising in or related to a case under Title 11, to the bankruptcy judges for the District of Kansas, for consideration and resolution consistent with the law. The court recognizes the exception contained in Sec. 157(b)(5).
>
> IT IS HEREBY ORDERED that the Bankruptcy judges for the District of Kansas be and they hereby are directed to exercise the authority and responsibilities conferred upon them by the Bankruptcy Amendments and Federal Judgeship Act of 1984.
>
> IT IS FURTHER ORDERED, effective as of July 10, 1984, that any and all cases under Title 11, and any and all proceedings arising under Title 11, be and hereby are referred to the bankruptcy judges of the District of Kansas for consideration and resolution consistent with the law.
>
> Dated this 1st day of August, 1984.

2. **Hierarchy of Rules.**

The following hierarchy of rules underlie and aid the application of the statutory bankruptcy law:

The Federal Rules of Civil Procedure
The Federal Rules of Evidence
The Federal Rules of Bankruptcy Procedure
The Rules of Practice and Procedure of the United States District Court for the District of Kansas
The Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Kansas
Bankruptcy Court Standing Orders
Procedural Guidelines of Individual Bankruptcy Judges

The Federal Rules of Civil Procedure apply in bankruptcy adversary proceedings through Rule 7001 and in contested matters through Rule 9014 of *The Federal Rules of Bankruptcy Procedure*.

Rule 101 of The Federal Rules of Evidence states: "These rules govern proceedings in the courts of the United States and before United States bankruptcy judges . . . to the extent and with the exceptions stated in rule 1101."

The following terms of Rule 83 (a) (1) of the *Federal Rules of Civil Procedure* permit district courts to enact local rules:

> After giving public notice and an opportunity for comment, a district court, acting by a majority of its district judges, may adopt and amend rules governing its practice. A local rule shall be consistent with--but not duplicate--federal statutes and rules adopted under 28 U.S.C. §§ 2072 and 2075, and must conform to any uniform numbering system prescribed by the Judicial Conference of the United States. A local rule takes effect on the date specified by the district court and remains in effect unless amended by the court or abrogated by the judicial council of the circuit. Copies of rules and amendments must, on their adoption, be furnished to the judicial council and the Administrative Office of the United States Courts and be made available to the public.

(Emphasis added).

Accordingly, in Kansas the court has enacted *The Rules of Practice and Procedure of the United States District Court for the District of Kansas* to assist litigants.

Next in the hierarchy are *The Federal Rules of Bankruptcy Procedure*. They find their source in 28 U.S.C. § 2075, which provides, in pertinent part:

> The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure in cases under title 11.
>
> Such rules shall not abridge, enlarge, or modify any substantive right.
>
> The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.

Rule 9029(a)(1) of *The Federal Rules of Bankruptcy Procedure* authorizes the District Court to adopt local rules relating to bankruptcy:

> Each district court acting by a majority of its district judges may make and amend rules governing practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction which are consistent with--but not duplicative of--Acts of Congress and these rules and which do not prohibit or limit the use of Official Forms. Rule 83 F. R. Civ. P. governs the procedure for making local rules. A district court may authorize the bankruptcy judges of the district, subject to any limitation or condition it may prescribe and the requirements of 83 F. R. Civ. P., to make and amend rules of practice and procedure which are consistent with--but not duplicative of--Acts of Congress and these rules and which do not prohibit or limit the use of the Official Forms. Local Rules shall conform to any uniform numbering system prescribed by the Judicial Conference of the United States.

Rule 9009 of *The Federal Rules of Bankruptcy Procedure* fixes the responsibility for *Official Bankruptcy Forms:*

> The Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use. The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code...

To effectuate *Federal Rule of Bankruptcy Procedure* 9029, Rule 83.8.12 of *The Rules of Practice and Procedure of the United States District Court* provides: "The Bankruptcy Court may adopt supplemental Local Rules not inconsistent with these District Court Rules, the Bankruptcy Rules, or Title 11 or Title 28 of the United States Code."

The Rules of Practice and Procedure of the United States Bankruptcy Court for the District of Kansas flow from the outlined authorities and the efforts of the Bankruptcy Bench Bar Committee, which periodically reviews and recommends revisions to the bankruptcy rules.

Bankruptcy Court Standing Orders primarily supplement the rules on administrative issues. The standing orders appear at the end of the rules, but there may be additional standing orders not published here. Attorneys can obtain any additional standing orders from the Clerk of the Bankruptcy Court.

Procedural Guidelines of Individual Bankruptcy Judges are also published to aid attorneys on procedural matters when practicing before a particular judge. Attorneys may obtain the guidelines of a particular judge from the Deputy Clerk where the judge presides.

The Rules, Standing Orders, and Procedural Guidelines can also be electronically accessed through the court's website, www.ksb.uscourts.gov, and through PACER.

3. Applicability of District Court Local Rules

The bankruptcy court is a unit of the district court and these rules merely supplement the district court rules. This means attorneys in bankruptcy proceedings must follow the district court rules relating to bankruptcy (D. Kan. Rules 83.8.1 through 83.8.13) and, where applicable, the other district court rules. Attorneys who are not admitted to practice before the federal courts in Kansas must carefully note and follow D. Kan. Rules 83.5.1 through 83.6.12 on the responsibility, registration, appearance, and withdrawal of counsel.

Finally, D. Kan. Rules 83.8.1 through 83.8.13 are devoted to bankruptcy topics on withdrawal of reference, removal, abstention, jury trial, and appeal of bankruptcy cases from the Bankruptcy Court to the 10th Circuit Bankruptcy Appellate Panel or the United States District Court.

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LBR 1001.1
SCOPE AND MODIFICATION OF RULES; CITATION

(a) Authority. These supplemental rules are promulgated under the authority of Fed. R. Bankr. P. 9029 and D. Kan. Rule 83.8.12. Practice before this court is governed by applicable D. Kan. Rules, unless there is a more specific Fed. R. Bankr. P. or D. Kan. LBR. *See* D. Kan. Rule 83.8.2.

(b) Citation. These rules should be cited as D. Kan. LBR 1001.1, *et seq*. All statutory references are to the Bankruptcy Code, 11 U.S.C. § 101, *et seq*., unless otherwise specified.

(c) Modification. In special cases, the court may modify these rules as necessary or appropriate.

(d) Revision information. Effective with the rule revisions in March, 2005, any rule that is substantively revised will indicate its last revision date.

(e) Effective Date. All rules are effective for all cases, whenever filed, unless otherwise stated.

* * *

As amended 3/17/10, 3/17/09, 10/17/05, 3/17/05.

LBR 1004.1
PARTNERSHIP AND CORPORATE PETITIONS

No party may combine the petition of a partnership or corporation with the petition of any individual or other entity.

* * *

As amended 3/17/10.

LBR 1005.2
CAPTIONS; CASE NUMBERING SYSTEM

(a) Captions. In addition to meeting the requirements of Fed. R. Bankr. P. 1005 and Official Form 16A or 16B, as applicable, the caption of each petition must state the full and correct name of the debtor.

(b) Case Numbering System. The clerk assigns each case a number, which begins with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the five- digit individualized case number. The five-digit individualized case numbers are as follows:

- Kansas City cases begin with "2", e.g., 10-20001;
- Topeka cases begin with "4", e.g., 10-40001; and
- Wichita cases begin with "1", e.g., 10-10001.

* * *

As amended 3/17/09, 3/17/05.

LBR 1006.1
FILING FEES

The court may permit payment of filing fees in installments as provided by Fed. R. Bankr. P. 1006. The court may also waive filing fees in Chapter 7 cases, as provided in Fed. R. Bankr. P. 1006. The clerk will not accept checks issued by a debtor for filing fees.

* * *

As amended 3/17/09, 10/17/05.

LBR 1007.1
INITIAL FILINGS

(a) Assembly of Petition and Accompanying Documents. Petitions, schedules and statements of affairs, and lists of creditors not filed electronically (e.g., by unrepresented debtors) must conform to the Official Bankruptcy Forms and must be printed on only one side of the paper. Original documents and pleadings filed with the court may not be stapled.

(1) Parties must assemble voluntary petitions and accompanying documents, if applicable, in the following order:

(A) petition (Official Form 1 and any accompanying exhibits);

(B) statement of financial affairs (Official Form 7);

(C) list of creditors holding 20 largest unsecured claims (Official Form 4, only in Chapter 11);

(D) schedules A through J (Official Forms 6A thru 6J, inclusive);

(E) summary of schedules (Official Form 6-Summary, Cover Sheet);

(F) statistical summary of certain liabilities (Official Form 6-Summary, Cover Sheet);

(G) declaration concerning debtor's schedules (Official Form 6-Declaration);

(H) Chapter 7 individual debtor's statement of intention (Official Form 8);

(I) Rule 2016(b) statement of attorney compensation (Procedural Form 203);

(J) statement of current monthly income and means test calculation (Official Form 22A, in Chapter 7);

(K) statement of current monthly income (Official Form 22B, in Chapter 11);

(L) statement of current monthly income and disposable income calculation (Official Form 22C, in Chapter 13);

(M) declaration and signature of non-attorney bankruptcy petition preparer (Official Form 19);

(N) notice to debtor by non-attorney bankruptcy petition preparer (Official Form 19);

(O) for small business case filed under Chapter 11, the most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed; and

(P) certificate required under § 521(a)(1)(B)(iii)(I) or (II) (Procedural Form 201).

(2) The following documents, if applicable, must **not** be attached to the petition:

(A) Application to pay filing fees in installments (Official Form 3A);

(B) Application for waiver of Chapter 7 filing fee (Official Form 3B);

(C) matrix and matrix verification;

(D) the plan (if submitted when petition is filed in Chapters 11, 12 and 13);

(E) Statement of Social Security Number (Official Form 21);

(F) Declaration Regarding Payment Advices or Evidence of Payment under 11 U.S.C. § 521(a)(1)(B)(iv), in compliance with Appendix 1-01 to D. Kan. LBR 1007.1, that the debtor has not been employed by any employer within the 60 days before filing of the petition, or that the debtor was employed within the 60 days, but has not received payment advices or other evidence of payment, or that copies of payment advices or other evidence of payment are attached (with all but the last four numbers of the debtor's Social Security Number redacted);

(G) a record of any interest that the debtor has in an account or program of the type specified in § 521(c); and

(H) a certificate for credit counseling and debt repayment plan, if any, a certification under § 109(h)(3), or a request for determination by the court under § 109(h)(4).

(3) Electronically filed petitions must follow the same order as listed in paragraph (a)(1) above, except that counsel must conventionally submit the Declaration Re: Electronic Filing in lieu of Official Form 21.

(b) Creditors' Schedules. Debtors must list creditors alphabetically with the full address of each, including post office box or street number, city or town, state and zip code. If the debtor knows that an account or debt, including any applicable domestic support obligation, as that term is defined in § 101(14A), has been assigned or is in the hands of an attorney or other agency for collection, the full name and address of the assignee or agent must be listed, but without twice extending the dollar amount of the debt. Each entry required by this subsection must be separated by two spaces from the next entry. If an agency of the United States or the State of Kansas is listed as a creditor, the agency must be listed as D. Kan. LBR 2002.2 provides.

* * *

As amended 3/17/08, 3/17/07, 10/17/05, 3/17/05.

Appendix 1-01 to LBR 1007.1(F)
(Must be filed by every individual debtor)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS

In Re:	)	
	)	Case No.
Debtor(s)	)	

DECLARATION REGARDING PAYMENT ADVICES OR EVIDENCE OF PAYMENT UNDER 11 U.S.C. § 521(a)(1)(B)(iv)

I declare (or certify, verify, or state) under penalty of perjury that the following is true and correct (CHECK ONE OF THESE BOXES):

☐ I have not been employed by any employer within the 60 days before the date of the filing of the petition.

☐ I was employed by an employer within 60 days before the date I filed my bankruptcy petition, but I have not received payment advices or other evidence of payment because_____
_____
_____

☐ I have received payment advices or other evidence of payment within 60 days before the date I filed my bankruptcy petition from any employer, and they are attached, except_____
_____
_____
_____

Executed on _____ (date) by _____ (debtor).

LBR 1007.2
PREPARATION AND FILING OF MATRIX

(a) General Requirements. A matrix not electronically filed must be prepared as follows:

(b) Matrix Required. An optically scannable creditor(s) matrix, signed and verified as provided in Fed. R. Bankr. P. 1008, is required when:

(1) a new case (all chapters) is filed,

(2) an amendment to a case (all chapters) is filed containing additional creditors. This matrix must list only those creditors added.

(c) Original. A matrix must be an original printed document on standard bond paper that is free of lines, marks, or smudges.

(d) Fonts/Typefaces. Parties must prepare matrices in one of the following standard typefaces or print styles: Courier 10 pitch, Prestige Elite 12 pitch, or Letter Gothic 12 pitch. Character pitch must match character spacing. Do not use proportional spacing. Dot matrix printer fonts are not scannable and will not be accepted.

(e) Format. Parties must type matrices in a single column with left line justification. A matrix must list addresses must be in a single column in order for the optical character reader to automatically scan the material from left to right, line by line.

(f) Lines. Each name/address must consist of no more than five lines with the city, state, and zip codes located on the last line. Do not type "attention" lines or account numbers on the last line. If needed, this information should be placed on the second line of the name/address. At least one blank line must be placed between each of the name/address blocks.

(g) Postal Codes. All state names must be represented by the two-letter abbreviations (both letters capitalized) authorized by the U.S. Postal Service.

(h) Margins. Lists must not contain letters closer than one inch from any edge of the document.

(i) Line Length. The name line must not exceed 50 characters. Subsequent lines must not exceed 40 characters.

(j) Punctuation. In conformity with U.S. Postal Service guidelines, addresses must exclude punctuation, including periods,

commas, or special characters, including #, %, /, and ( ), except the hyphen in the ZIP+4 code.

(k) Excluded Names. Do not include the debtor, joint debtor, attorney for debtor, trustee, or United States trustee on the matrix. The computer will automatically retrieve them for noticing. The name of the debtor must be listed on the reverse side of each page for identification purposes.

(l) Alphabetical Order. All creditors must be listed in alphabetical order.

(m) Duplication. Do not duplicate names and addresses.

* * *

Adopted 3/17/2008.

LBR 1009.1
AMENDMENTS TO LISTS AND SCHEDULES OF CREDITORS AND APPLICABLE DEADLINES

(a) Notice. Debtor must serve amendments to Schedules D, E, F, G or H and matrices on any entity affected by the amendment, the case trustee and the United States trustee, with a notice in compliance with Appendix 1-01.

(b) Verification. Debtor must sign and verify an amendment in the same manner required for originals.

(c) Filing Fees. Debtor must accompany an amendment to schedules or lists of creditors with the applicable filing fee prescribed by the Administrative Office of the United States Courts in effect on the date the amendment is filed.

* * *

As amended 10/17/05.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS

In Re:	)	
	)	Case No.
Debtor(s)	)	

NOTICE OF AMENDMENT OF SCHEDULES D, E, F, G OR H (ADDITION OF CREDITOR(S))

You are notified that the debtor(s) filed the attached amended schedule(s) of debt to include the creditor listed below. Debtor's counsel must also separately provide you a copy of the debtor(s)' full Social Security Number.

1. Creditor (name and address):
   _____
2. Claim (amount owed, nature of claim, date incurred):
   _____
3. This claim is scheduled as (Check one box):
   [ ] secured; [ ] priority; [ ] general unsecured.
4. Trustee, if one has been appointed:
   _____
5. Original deadline for filing proofs of claim:
   _____
6. Deadline for filing complaints objecting to discharge of specific debts or of debtor under 11 U.S.C. 523, 727 [Date]:
   _____

or

_____ This claim was added to the schedules after the deadline for filing complaints stated above.

Check applicable provision(s) below:

_____ This is a no-asset case. It is unnecessary to file a claim now. If it is determined there are assets to distribute, creditors will receive a notice setting a deadline to file claims.

_____ This claim was added to the schedules after the deadline for filing claims stated above.

_____ This is a Chapter 13 case. You have until the bar date to file your proof of claim.

_____ A plan in this case was confirmed on [Date].

_____ No plan has been confirmed in this case, but a confirmation hearing is currently set for [Date] at [Location]. Since the amendment was filed too late to give notice, you may file an objection to either confirmation of the plan or the amendment to the schedules by [Date]. If an objection is timely filed, a non-evidentiary preliminary hearing will be scheduled and notice provided by the clerk after expiration of the deadline date.

_____

Attorney for Debtor(s) (type name and address)

Certificate of Service: I, _____, certify the above notice and a separate notice of the full Social Security Number of the debtor(s) was served on the above-named creditor by first class, postage prepaid mail, on_____.

_____

(Signature above)

* * *

As amended 10/17/05, 3/17/05.

LBR 1072.1
COURT LOCATIONS

The United States Bankruptcy Court for the District of Kansas is in continuous session for transacting judicial business on all business days throughout the year at the Kansas City, Topeka, and Wichita divisions. The court may conduct special sessions of court at other locations within the district.

* * *

LBR 1073.1
ASSIGNMENT OF CASES

(a) Initial Assignment of Cases. The clerk assigns cases to the Kansas City, Topeka, and Wichita divisions based on where the case is filed.

(b) Reassignment of Cases. A bankruptcy judge, in the interest of justice or to further the efficient disposition of court business, may return a case in whole or in part to the clerk for reassignment to another bankruptcy judge as directed by the Chief Bankruptcy Judge.

(c) Judicial Business. The Chief Bankruptcy Judge is responsible for the administration of the judicial business of the court.

* * *

LBR 2002.1
NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

(a) General. The Bankruptcy Noticing Center ("BNC") will generally mail all notices served by the clerk.

(b) Undelivered notices. The clerk will deliver all undelivered notices to the debtor's attorney except where the debtor is not represented by counsel. Debtor's counsel must retain the notices in paper or as a scanned electronic image, for the same period required by *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means* (see D. Kan. LBR 5005.1 and related appendix). The clerk will retain

notices where the debtor is not represented. The BNC will return undelivered notices in Adversary Proceedings to the clerk.

(c) Corrections. A matrix that does not comply with D. Kan. LBR 1007.1 or D. Kan. LBR 1007.2 may cause certain notices to be undeliverable by the BNC. The clerk, or some other person the court directs, will notify the debtor's attorney, or the debtor if not represented, of any undelivered notices, together with the underlying matrix deficiency (e.g., incomplete address, missing zip code). Within 7 days after notification, the debtor's attorney, or the debtor if not represented, must:

(1) file the corrected BNC Bypass Notice; and

(2) serve any undelivered notices to all parties not served by the BNC.

(d) Preferred Addresses and National Creditor Register Service in Chapter 7 or 13 cases filed after October 16, 2005 under 11 U.S.C. § 342(e) and (f).

(1) Pursuant to 11 U.S.C. § 342(e) and (f), an entity and the BNC may agree that when the court directs the BNC to give a notice to that entity, the BNC will give the notice in the manner agreed to and at the address or addresses the entity supplies to the BNC. That supplied address is conclusively presumed to be a proper address for notice. The BNC's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

(2) A creditor's filing of a notice directly with the BNC of its preferred address pursuant to 11 U.S.C. § 342(f) will constitute a filing of the notice with the court.

(3) Registration with the National Creditor Registration Service must be accomplished through the BNC. Forms and registration information is available at http://ncrs.uscourts.gov.

(4) A local form to use when filing notice of preferred address under 11 U.S.C. § 342(e) is available on the court's website at http://www.ksb.uscourts.gov.

* * *

As amended 3/17/10, 3/17/09, 3/17/08, 10/17/05, 3/17/05.

LBR 2002.2
SCHEDULING, LISTING AND NOTICING THE UNITED STATES AND AGENCIES OF THE STATE OF KANSAS AS A CREDITOR

(a) Departments, Agencies and Instrumentalities of the United States. When a department, agency, or instrumentality of the United States is a creditor, the schedules and matrix must list that agency at the address provided in this rule. Any notice or service given to an address listed in this rule will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(4) and (5) regarding service in adversary proceedings and contested matters.

(b) United States Attorney's Office. When any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and matrix must also list the United States Attorney's Office located in the division headquarters where the petition for relief is filed. The addresses are:

1. Office of United States Attorney
   Robert J. Dole U.S. Courthouse, Ste 360
   500 State Avenue
   Kansas City, Kansas 66101

2. Office of United States Attorney
   U.S. Courthouse, Suite 290
   444 Southeast Quincy Street
   Topeka, Kansas 66683

3. Office of United States Attorney
   1200 Epic Center
   301 N. Main
   Wichita, Kansas 67202

(c) Addresses for certain Departments, Agencies and Instrumentalities of the United States. When one of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule and matrix must list the agency at the address indicated:

1. DEPARTMENT OF AGRICULTURE
(excepting Farm Services Agency, Ag Credit Division and Commodity Credit Divisions; and Rural Economic Community Development, which are individually listed)

Regional Counsel
Department of Agriculture
Post Office Box 419205
Kansas City MO 64141-0205

Farm Services Agency
Farm Loan Programs Division
3600 Anderson Avenue
Manhattan KS 66503-2511

Farm Services Agency
Commodity Credit Division
3600 Anderson Avenue
Manhattan KS 66503-2511

USDA Rural Development
PO Box 66879
St Louis MO 63166

2. DEPARTMENT OF EDUCATION (DOE)

U.S. Department of Education
Litigation Support
50 Beale Street Suite 8629
San Francisco CA 94105

3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

U. S. Dept. of Health and Human Services
Office of the General Counsel
601 East 12th Street Room N1800
Kansas City MO 64106

4. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
   Regional Counsel
   Dept. of Housing and Urban Development
   Professional Building
   400 State Avenue
   Kansas City KS 66101-2406

5. INTERNAL REVENUE SERVICE (IRS)
   Internal Revenue Service
   PO Box 21126
   Philadelphia PA 19114

6. SMALL BUSINESS ADMINISTRATION (SBA)
   District Counsel
   US Small Business Administration
   Kansas City District Office
   1000 Walnut Street Suite 500
   Kansas City MO 64106; or

   District Counsel
   US Small Business Administration
   271 W Third Street North
   Suite 2500
   Wichita KS 67202-1212

7. SOCIAL SECURITY ADMINISTRATION
   Office of General Counsel, Region VII
   Social Security Administration
   Richard Bolling Federal Building
   601 East 12th St Room 965
   Kansas City MO 64106

8. UNITED STATES POSTAL SERVICE
   Law Department
   US Postal Service
   9350 South 150 East
   Suite 800
   Sandy UT 84070-2716

9. VETERANS ADMINISTRATION (VA)
   Department of Veterans Affairs
   Office of Regional Counsel
   1201 Walnut Street
   Suite 800
   Kansas City MO 64106

(d) Departments, Agencies and Instrumentalities of the State of Kansas. When any department, agency, or instrumentality of the State of Kansas is a creditor, the schedules and matrix must list that agency at the address provided in this rule. Any notice or service given to an address listed in this rule will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(6) regarding service in adversary proceedings and contested matters.

(e) Addresses for certain Departments, Agencies and Instrumentalities of the State of Kansas. When one of the following departments, agencies or instrumentalities of the State of Kansas is a creditor, the schedule and matrix must list the agency at the address indicated:

1. Kansas Department of Administration
   Attn Director of Accounts and Reports
   Landon State Ofc Bldg Rm 351-S
   900 SW Jackson
   Topeka KS 66612

2. Kansas Department on Aging
   New England Building
   503 S Kansas Ave
   Topeka KS 66603-3404

3. Kansas Department of Agriculture
   Office of Chief Counsel
   109 SW 9th 4th Floor
   Topeka KS 66612

4. Kansas Department of Commerce
   1000 SW Jackson
   Suite 100
   Topeka KS 66612-1354

5. Kansas Department of Education
   120 SE 10th Ave
   Topeka KS 66612-1182

6. Kansas Dept of Health and Environment
   1000 SW Jackson
   Suite 540
   Topeka KS 66612-1290

7. Kansas Department of Labor
   Attn Legal Services
   401 SW Topeka Blvd
   Topeka KS 66603-3182

8. Kansas Department of Revenue
   Civil Tax Enforcement
   PO Box 12005
   915 SW Harrison
   Topeka KS 66612-2005

9. Kansas Dept of Soc and Rehab Svcs
   Office of the Secretary
   Docking State Office Building 6th Floor
   915 SW Harrison
   Topeka KS 66612-1570

10. Kansas Department of Transportation
    Eisenhower State Office Bldg
    3rd Floor West
    700 SW Harrison
    Topeka KS 66603-3754

11. Kansas Department of Wildlife and Parks
1020 South Kansas Ave
Room 200
Topeka KS 66612-1233

* * *

As adopted 3/17/2008.

LBR 2014.1
APPLICATION FOR EMPLOYMENT OF PROFESSIONALS

(a) Trustee/Debtor-in-Possession's Application to Employ Attorney to Conduct Chapter 11 Case. To employ attorneys under § 327 to conduct a Chapter 11 case (as distinguished from attorneys employed other than to conduct the case) the trustee/debtor-in-possession must file *with the petition* an application to employ attorneys to conduct the case in accordance with the limitations on compensation contained in § 328.

(1) The application must include the following information for *the firm and for each individual attorney* who will appear before the court:

(A) the attorney's name and address;

(B) specific facts showing the necessity for the employment;

(C) the reasons for the selection;

(D) the professional services to be rendered; and

(E) any proposed arrangement for compensation.

(2) The application must include the statement of compensation paid or agreed to be paid, required by § 329--Procedural Form 203, Disclosure of Compensation of Attorney for Debtor.

(b) Accompanying Affidavit. The application must include a separate affidavit signed by *each* individual attorney who will appear before the court, stating:

(1) that the attorney is disinterested;

(2) that the attorney does not hold or represent an interest adverse to the estate;

(3) a description of the inquiry made to determine that the attorneys and all the members of the firm are disinterested

persons and do not hold or represent an interest adverse to the estate;

(4) the firm's and the attorney's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee;

(5) that the attorney understands the continuing duty to disclose any adverse interest and change in disinterestedness; and

(6) that the attorney understands that the court's approval of the application is not approval of any proposed terms of compensation and that, under § 328(a), the court may allow compensation on terms different from those proposed.

(c) Notice and Certificate of Service. The application must be accompanied by a Notice with Opportunity for Non-Evidentiary Hearing or Notice with Objection Deadline in accordance with the noticing guidelines applicable to the division and judge to whom the case is assigned and must contain a certificate evidencing service of the application, the affidavits, and the notice on the required parties.

(d) Service. The application, attorney affidavits, and notice must be served on the following:

(1) the United States trustee;

(2) all creditors holding secured claims;

(3) all parties requesting notice; and

(4) any operating creditors' committee, or if none, on the List of Creditors Holding 20 Largest Unsecured Claims--Official Form 4.

(e) Objections. Interested parties must object to the application within 21 days. If no party timely objects to the application, the court may approve the attorney's employment to represent the trustee/debtor-in-possession.

(f) Proposed Order Approving Employment. The trustee/debtor-in-possession must submit with the application a proposed Order Approving Employment in accordance with the noticing guidelines for submission of orders applicable to the division and judge to whom the case is assigned. The proposed order must acknowledge that:

(1) the court's approval of an application in which a professional states an intention to be compensated at a specific hourly rate does not constitute approval of the hourly rate or other terms of compensation; and

(2) approval of the terms of compensation will be considered by the court when the attorney makes a final application for allowance of compensation.

(g) Trustee's or Committee's Application to Employ Professionals Other Than Attorneys to Represent the Trustee/Debtor-in-Possession in Conducting a Chapter 11 Case. Trustees or committees applying to employ firms of professionals or individual professionals (whether special counsel, accountants, appraisers, or otherwise) must also follow the above procedures. Each individual professional seeking employment (whether or not an attorney) must file an affidavit containing the information required by subsection (a)(1).

(h) Noticing by Chapter 7 Trustee. When a Chapter 7 trustee applies for appointment as attorney for the estate, the notice required by paragraph (b) may be restricted to the United States trustee, only.

* * *

As amended 3/17/10, 10/17/05.

LBR 2016.1
MONTHLY COMPENSATION OF PROFESSIONALS

(a) Submission and Service. In a Chapter 11 or 12 case, an attorney employed or seeking employment under § 327 to conduct the case may file a separate motion for monthly payment of fees and expenses. The motion must state the filing date of the application to employ and, if applicable, the date an order granting the application to employ was entered of record.

(b) Provisions for Payment of Fees and Expenses. The motion must state the percentage amount of fees and expenses the professional seeks to collect on a monthly basis. The motion may request that up to 100% of the fees and 100% of the expenses be paid monthly. The motion and the proposed order granting the motion must provide that in the event 100% of the fees are paid, the

professional will hold no less than 10% of the fees in trust pending the court's approval of an interim or final fee application, unless the court orders otherwise.

(c) Service. The motion must be served with notice required by the noticing guidelines applicable to the division and judge to whom the case is assigned. Unless the court directs otherwise, the motion must be served on:

(1) the debtor;
(2) debtor's attorney;
(3) the United States trustee;
(4) all creditors holding secured claims;
(5) all parties requesting notice; and
(6) any operating creditors' committee, or if none, on the List of Creditors Holding 20 Largest Unsecured Claims--Official Form 4.

(d) Order. The attorney must submit a proposed order with the motion in accordance with the court's guidelines for submission of orders. It must state that the allowance of monthly payments of fees and expenses does not constitute an interim or final approval of the fees and expenses.

* * *

As amended 3/17/10.

LBR 2090.1
ATTORNEYS - ADMISSION TO PRACTICE

(a) Admission of Attorneys. The bar of this court consists of those attorneys admitted to practice and in good standing now and in the future as members of the bar of the United States District Court for the District of Kansas, in accordance with D. Kan. Rules 83.5.1 through 83.5.4.

(b) Appearance *Pro Hac Vice*. D. Kan. Rule 83.5.4 applies to the attorneys of the court.

* * *

LBR 2090.2
PROFESSIONAL CONDUCT

D. Kan. Rules 83.5.4 through 83.6.12 apply to the attorneys of the court.

* * *

LBR 3001.1
CLAIMS

(a) Service. Claimants in Chapters 11, 12, and 13 must send a copy of the proof of claim directly to the debtor at the time of filing, if the debtor is not represented by an attorney.

(b) Withdrawal of Written Instruments Filed with Claims. Claimant may request, in writing, withdrawal of written instruments or other documents not filed electronically with a proof of claim, if the claimant provides exact copies of the documents to be withdrawn. Documents that are original negotiable instruments must be stamped with a statement indicating they were filed in support of a claim, and must show the name, case number, and date the claim was filed.

(c) Secured and Unsecured Claims. A proof of claim must indicate whether the claim is secured, unsecured, or if both, must specify the respective amounts claimed. The claim may include proposed amounts for secured and unsecured claims and must clearly indicate that it includes a proposed amount.

(d) Amendment to Claim in Chapter 7. A proof of claim, other than a priority claim, may be amended at any time prior to the trustee's notice of final distribution. A priority claim may be filed or amended on or before 14 days after the trustee mails the summary of the trustee's final report to creditors or the date on which the trustee commences final distribution under § 726, whichever is earlier. If the trustee has not objected to secured claims, the trustee must give 21 days' notice to all parties who have filed secured claims of his or her intent to file and serve a notice of final distribution.

(e) Filing of Requests for Administrative Expenses in a Chapter 7 Case. A request for payment of administrative expenses must be filed prior to the trustee's notice of final distribution.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

LBR 3010
SMALL DIVIDENDS IN CHAPTER 13 CASES

Chapter 13 Trustees may distribute payments of less than $15, without a court order, when the Trustee determines it is unlikely that the distribution to a particular creditor(s) will ever reach the $15.00 limit provided by Fed. R. Bankr. P. 3010(b), or that the Trustee would need to hold funds longer than reasonable if an earlier distribution is not made.

* * *

As adopted 3/17/08.

LBR 3015(b).1
CHAPTER 13 PLAN AND PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS

(a) Filed with Petition. A Chapter 13 plan filed with the petition will be served, together with notice of the time for filing objections and the hearing to consider confirmation, by the Bankruptcy Noticing Center ("BNC").

(b) Filed after Petition. A plan filed after the petition must be served, together with notice of the time for objections and the hearing to consider confirmation, by the debtor's attorney, or the debtor if not represented.

(c) Failure to File. Unless an extension was obtained, failure to file a plan, together with a certificate of service, prior to the first scheduled meeting of creditors held pursuant to § 341 will result in dismissal of the case for unnecessary delay without further notice to the debtor or debtor’s attorney.

(d) Treatment of Real Estate Mortgage Arrearage Claims and Continuing Payments. A timely claim for mortgage payments or mortgage arrearages will be paid by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation, or specific language in the Order of Confirmation directs otherwise.

(e) Treatment of Priority Claims. A timely priority claim will be paid in full by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation or specific language in the Order of Confirmation directs otherwise.

(f) Objection to claim. Nothing in this Rule alters the right of the debtor, trustee or other party in interest to object to any claim.

(g) Plan Payments; Adequate Protection Payments under § 1326(a)(1)(C):

(1) Pre-confirmation § 1326(a)(1) Payments to Trustee. Unless the court orders otherwise, debtors must pay directly to the trustee all pre-confirmation adequate protection payments payable to creditors whose claims are secured by purchase money security interests in personal property. The trustee must promptly distribute those payments to the secured creditors whose interests are being protected, except the trustee may retain the portion of the payment representing the statutory percentage trustee fee.

(2) Plan Payments. The Chapter 13 plan must specify the amounts to be paid to each allowed secured claim treated under the plan. The total amount of the plan payment the debtor must make pursuant to § 1326(a)(1) must include:

(i) an amount equal to the proposed adequate protection payment of each secured creditor whose claim is secured by a purchase money security interest;

(ii) any trustee's fees to be paid on the distributions; and

(iii) any other amounts to be paid to the trustee under the plan.

(3) Amount of Adequate Protection Payments under § 1326(a)(1)(C). Unless the court orders a different payment amount, the debtor must pay adequate protection payments equaling the payment provided in the debtor's Chapter 13 plan pursuant to subsection (g)(2) plus statutory percentage trustee fees required when that payment is made to the trustee.

(4) Direct Payment Opt-Out. Secured creditors eligible for direct payment of adequate protection under § 1326(a)(1) may opt for direct payments by filing a motion and noticing it for objection in accordance with these rules and the procedures of the division where the case is pending. If no timely objection is filed, the court may enter an order requiring direct payments without further

hearing. In the event such an order is entered, the debtor must make the payments directly to the secured creditor, and file a certification of the payments in accordance with § 1326(a)(1)(C).

(5) Pre-confirmation Disbursements of Adequate Protection Payments to Secured Creditors by Trustee. Pre-confirmation disbursements of adequate protection payments under § 1326(a)(1) are authorized without further order, but no disbursement may be made unless the secured creditor has filed a proof of claim. Pre-confirmation disbursements under § 1326(a)(1) may be made to creditors within 35 days of the filing of the proof of claim, unless, within 7 days prior to the end of the 35-day period, the trustee has not received sufficient, cleared funds to make the payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) pre-confirmation disbursements.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

LBR 3015(g).1
CHAPTER 13 TRUSTEE'S MODIFICATION OF PLAN AFTER CONFIRMATION

Notice to all creditors of post-confirmation motions to modify plan, required by Fed. R. Bankr. P. 3015(g), is waived when the motion is filed by a Chapter 13 Trustee, and the sole purpose of the motion is to recover an asset that the court ordered debtor to repay to the estate, but has not repaid. Notice to the Debtor and Debtor's Attorney, only, is required.

* * *

As adopted 3/17/09 (formerly D. Kan. S.O. 08-2).

LBR 3022.1
FINAL DECREE IN NON-INDIVIDUAL CHAPTER 11 REORGANIZATION CASES

(a) Timing. Within 3 months after the court orders confirmation, the plan proponent must file an application for a final decree, or show cause why the final decree cannot be entered. If an

application is not filed within 3 months, the plan proponent must file a status report every 6 months until entry of the final decree.

(b) Content. The application for final decree must show that the estate is fully administered and must include information concerning:

(1) the date the order confirming the plan became final;

(2) whether deposits required by the plan were distributed;

(3) whether the property proposed by the plan to be transferred was transferred;

(4) whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;

(5) whether payments under the plan have commenced;

(6) whether all motions, contested matters and adversary proceedings are finally resolved;

(7) whether all fees due under 28 U.S.C. § 1930 are paid;

(8) a summary of professional fees awarded in the case;

(9) the percentage paid to unsecured creditors; and

(10) other facts enabling the court to decide the provisions of the final decree.

(c) Notice. The applicant must give 28 days' notice to the following in accordance with the noticing guidelines provided by the clerk:

(1) all parties requesting notice;

(2) the United States trustee; and

(3) any operating creditors' committee, or if none, creditors holding the largest 20 unsecured claims.

* * *

As amended 3/17/10, 10/17/05.

LBR 4001(a).1
STAY RELIEF

(a) Adequate Protection. A creditor may combine a motion for stay relief with a request for adequate protection.

(b) Waiver. The following constitutes a voluntary waiver of the 30-day requirement for a hearing contained in § 362(e):

(1) the motion for stay relief includes a request for any other relief;

(2) movant sets a motion for stay relief, pursuant to D. Kan. LBR 9013.2 for a docket more than 30 days from the filing of the motion, which is considered a preliminary hearing under that section; and

(3) movant fails to request that the final hearing conclude within 30 days of the preliminary hearing.

(c) Effect of Debtor's Stated Intent to Surrender Property. If an individual Chapter 7 debtor's Statement of Intention (Official Form 8) to surrender property securing a debt owed to a creditor was not amended or withdrawn, the debtor is deemed to agree to the creditor's stay relief motion concerning that property. When a stay relief motion clearly informs the clerk that it is filed pursuant to this provision, the filing fee is the same as for a motion for approval of an agreement or stipulation for stay relief. A creditor filing a stay relief motion pursuant to this provision must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure.

(d) Information and Documentation Required With Motions For Relief From Automatic Stay. Motions for Relief From Stay must include the following:

(1) copies of documents on which the claim is based, including loan documents and documents evidencing both the grant of the lien, security interest, mortgage or other encumbrance, and its proper perfection or proper recordation;

(2) the balance owing on the petition date, and the date and amount of any payments received since the filing;

(3) the number of payments the debtor is in arrears, and the amount of each payment, including the total arrearage on the petition date;

(4) the movant's best estimate of the collateral's value; and

(5) the identity of any person or entity claiming an interest in the property that is the subject of the motion and of whom movant is aware.

(e) Post-Petition Stay Relief in Chapter 13 Cases. If the movant seeks stay relief for default in post-petition payments on the debtor's principal residence or a long term debt provided by the

Chapter 13 Plan pursuant to § 1322(b)(5), the motion and/or exhibit(s) must contain the following:

(1) a legible post-petition payment history listing the date each post-petition payment was received, the amount of each post-petition payment, and how each post-petition payment was applied;

(2) an itemization of any other expenses or fees due post-petition, including attorney fees, filing fees, late payment fees, and escrow advances;

(3) the total dollar amount necessary to cure the post-petition debt on a date certain; and

(4) the address where the current monthly payment is to be mailed if the mailing address is not listed in the movant's filed proof of claim or if the mailing address has changed.

(f) Conditional Orders Granting Stay Relief in Chapter 13 Cases. An agreed order resolving the motion for stay relief that does not grant immediate stay relief will be known as a "Conditional Order Granting Stay Relief." The following will apply upon alleged default:

(1) the movant must file and serve a notice of the default on debtor and debtor's attorney that lists each payment allegedly missed and any other term(s) allegedly breached;

(2) if debtor disputes the default, debtor may file a response within the time listed in the Conditional Order Granting Stay Relief or within 14 days, whichever is later, and the court will set the matter for hearing. If debtor does not timely file a response to the notice of default, movant should submit to the court a final order granting stay relief; and

(3) the trustee will continue to disburse on movant's claim until the final order granting relief from stay is entered. After that order is entered, the trustee will adjust movant's claim to zero ($0.00), effective the date of the order, and make no further disbursements on the claim. It is the responsibility of the parties to notify the trustee of the terms of any agreement or decision reinstating the automatic stay, so that the claim may be restored.

(g) Stay Relief. A creditor filing a stay relief motion pursuant to this rule must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure. Notice with an objection deadline is not required when the creditor simultaneously submits, with the motion for stay relief, an agreed order signed by the creditor's attorney, debtor's attorney, and trustee.

* * *

As amended 3/17/10, 10/17/05.

LBR 4001(a).2
EFFECT OF AUTOMATIC STAY IN CHAPTER 12 AND 13 CASES ON INCOME WITHHOLDING ORDERS FOR CHILD SUPPORT IN CASES FILED BEFORE OCTOBER 17, 2005

(a) Income Withholding Orders for Current Child Support. Unless the debtor files a motion pursuant to paragraph (c) when the petition is filed, the automatic stay imposed by § 362(a) does not affect current child support orders enforced by income withholding orders in place on the petition date, whether imposed or voluntary.

(b) Income Withholding Orders for Past Due Child Support. The automatic stay remains in force for past-due child support enforced through an income withholding order, whether imposed or voluntary, if the debtor's plan specifically addresses and treats the debtor's obligation to pay past-due child support.

(c) Termination of Income Withholding Orders. Requests to terminate an income withholding order that enforces a current child support obligation must be made by motion that provides specific grounds justifying the termination of the income withholding order and the continued application of the automatic stay. If the motion is denied, the prevailing party may be awarded reasonable costs, fees, and expenses incurred in opposing the motion, as authorized by applicable rule or statute.

(d) No Income Withholding Order. Nothing in this rule affects the debtor's obligation to pay child support not being collected by an income withholding order.

(e) Applicability. This rule is abrogated for all cases filed after October 16, 2005.

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As amended 10/17/05.

LBR 4002.1
TRUSTEE REQUESTS FOR EVIDENCE OF INCOME, INCLUDING TAX RETURNS

(a) Debtor's Duty to Provide Trustee most recently filed Federal and State Income Tax Returns. In addition to the other duties required under § 521, the debtor must provide to the trustee at least 7 days prior to the meeting of creditors held under § 341, a complete copy of the most recent one year of Federal and State income tax returns filed pre-petition with the respective taxing authority, where applicable.

(b) Debtor's Duty regarding Unfiled Returns.

(1) *Most recent unfiled return.* If the debtor has not filed a tax return for the most recent tax year ending before the bankruptcy is filed and that return is not yet due, the debtor must timely file the return with the appropriate taxing authorities, and provide a signed copy of the return to the trustee, within 7 days of its filing.

(*2) Other unfiled tax returns.* If the debtor has not filed any other tax return that is due for a tax year ending before the date the bankruptcy was filed, the debtor must comply with the trustee's request for a copy of the signed return(s), the original of which must be filed with the appropriate taxing authority, within 28 days after the trustee requests a copy of the return.

(c) Debtor's Duty to Provide Trustee Previously Filed Tax Returns and Income and Expenditure Statements. The trustee may request that the debtor provide a copy of Federal and State income tax returns for pre-petition tax periods and for post-petition tax periods for any year in which the case is pending. The trustee may also request that the debtor provide a statement of income and expenditures described in § 521(f)(4). This rule or any trustee

request for a return does not constitute a request to the debtor under § 521(f) to file copies of the tax returns or statement of income and expenditures directly with the court.

* * *

As amended 3/17/10, 10/17/05.

LBR 4002.2
TRUSTEE REQUESTS FOR INFORMATION FROM DEBTORS

(a) Compliance with Trustee's Request. Unless the court orders otherwise, a debtor must comply with any written request for information made by a trustee or the United States trustee within 14 days.

(b) Filing of Requests and Responses. The trustee may not file copies of the requests with the court unless the debtor fails to comply with this rule and the trustee requests the court to compel compliance. The debtor must not file copies of responses with the court unless in response to a trustee's motion to compel.

* * *

As amended 3/17/10, 10/17/05.

LBR 4002.3
TAX RETURNS

(a) Place of filing.

(1) The original of all Federal tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Internal Revenue Service
271 W 3rd Street N Suite 3000
STOP 5333 WIC
Wichita KS 67202

A signed copy of each return must be sent to the United States Attorney's Office located in the city where the bankruptcy case is filed.

(2) Except as required by paragraph (a)(3), the original of all State of Kansas tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Kansas Department of Revenue
Civil Tax Enforcement
P O Box 12005
Topeka KS 66612-2005

(3) The original of all State of Kansas unemployment tax returns for pre-petition tax periods filed by a Kansas employer after the filing of the bankruptcy petition must be filed with:

Kansas Department of Labor
Attn Delinquent Account Unit
401 Topeka Blvd
Topeka KS 66603-3182

* * *

As amended 10/17/05.

LBR 4070.1
INSURANCE ON MOTOR VEHICLES

(a) Definitions.

(1) "Motor vehicle" includes, but is not limited to, any automobile, motorized mobile home, or house trailer designed to travel and/or capable of travel, on the public highways.

(2) "Proof of insurance" means a certificate of insurance, or other written evidence of sufficient reliability from the insurance carrier, stating the property that is insured, that insurance is in force, the amounts and types of coverage, a notation of the secured party as a loss payee, and the time period for which the coverage exists.

(b) Proof of Insurance. Except as provided in § 1326(a)(4), proof of insurance against physical damage and loss for any motor vehicle belonging to or leased by the debtor or the estate that is subject to the lien of a creditor holding an allowed secured claim must be furnished to the trustee and the creditor at or before the meeting held under § 341, or on written demand of the creditor. Written demand by the creditor for proof of insurance must be served on the debtor by first-class mail and on debtor's attorney by first-class mail or ECF notification. Failure to furnish proof of

insurance at or before the meeting held under § 341 or on written demand as provided by these rules is presumed to mean there is no insurance in effect. Any written "binder" must be followed by proof of permanent insurance.

(c) Termination of Insurance. If during the pendency of a case, insurance is canceled, not renewed, expires, or lapses for any reason, on any motor vehicle, the following sequence of events may occur:

(1) *Injunction.* The debtor is enjoined from using the motor vehicle as long as the motor vehicle remains uninsured.

(2) *Surrender of Possession.* If the debtor fails to provide proof of re-insurance to the creditor within 3 business days following delivery of the notice provided in subsection (b), or fails to provide proof of re-issuance by the day before termination of any grace period granted by the insurer, if later, the debtor must surrender the motor vehicle to the creditor.

(d) Motion for Relief From Stay. If debtor fails to furnish proof of insurance under (b), above, the creditor may file a motion for expedited relief from the automatic stay under § 362. Failure to furnish proof of insurance under this rule constitutes *prima facie* evidence of irreparable injury, loss or damage pursuant to § 362(f) and Fed. R. Bankr. P. 4001(a)(2)(A).

(e) Subsequent Termination. In the event insurance on a motor vehicle lapses twice during the pendency of a case, the court may, on the filing of a motion in accordance with (d), accompanied by an affidavit evidencing compliance by the creditor with this rule and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the automatic stay, without further hearing.

* * *

As amended 3/17/09, 10/17/05.

LBR 5003.1
ACCESS TO COURT RECORDS

(a) Access. The public records of the court are available for examination in the clerk's office during normal business hours. Access to electronically-filed documents is available as set forth in Appendix 1-01 of D. Kan. LBR 5005.1.

(b) Copies. The clerk will make and furnish copies, as time permits, of official public court records after request and payment of prescribed fees.

(c) Sealed or Impounded Records. Records or exhibits ordered sealed or impounded by the court are not public records within the meaning of this rule.

(d) Restricted Access Records. Records or exhibits filed with the court, which are nonpublic as specified in the Code or Federal Rules of Bankruptcy Procedure, are not public records within the meaning of this rule.

(e) Search for Cases by the Clerk. The clerk may search the most recent 10 years of the master index maintained in the office and issue a certificate of the search. The clerk charges a fee for each name for which a search is conducted, payable in advance, as prescribed by the Administrative Office of the United States Courts.

(f) Judgment/order Registry. The court's CM/ECF computer system fulfills the requirements of Fed. R. Bankr. P. 5003, which requires the clerk to maintain copies of every final judgment or order affecting title to or lien on real property or for the recovery of money or property, and will serve as the court's judgment/order registry.

* * *

As amended 3/17/08, 10/17/05.

LBR 5003.2
WITHDRAWAL AND DISPOSITION OF COURT RECORDS

(a) Case Files. A bankruptcy case file may not be withdrawn.

(b) Exhibits, Sealed Documents, and Filed Depositions. Any exhibit, sealed document, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has

expired or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk if unclaimed after reasonable notice.

* * *

LBR 5005.1
FILING BY ELECTRONIC MEANS

(a) Background and Authority. Federal Rule of Civil Procedure 83, Federal Rules of Bankruptcy Procedure 5005(a)(2), and District of Kansas Rule 83.8.12, authorize this court to establish practices and procedures for the filing, signing, and verification of pleadings and documents by electronic means.

(b) Adoption of Procedures. The court adopts the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means* (a copy of which is attached as Appendix 1-01 to this Rule) as a means of attorney registration and distribution of passwords to permit electronic filing and notice of pleadings and other documents.

(c) Designation of Electronic Filing. All cases are assigned to the Electronic Filing System unless the court orders otherwise. All petitions, motions, memoranda of law, or other pleadings and documents filed with the court in a case assigned to the Electronic Filing System must be filed electronically unless otherwise permitted in these rules, the administrative procedures guide, or court authorization. Electronic filing must be consistent with this Rule and *Appendix 1-01, Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means*.

Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means

(Rev. 3-17-05)

I. Scope of Electronic Filing

A. Electronic Filing Required. Effective September 1, 2004, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the court by an attorney in any case assigned to the Electronic Filing System pursuant to subsection B below shall be electronically filed, except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically.

B. Assignment of Cases. All cases pending or filed on September 1, 2004, will be assigned to the Electronic Filing System.

C. Exception. Notwithstanding the foregoing, persons (other than attorneys) who are not Filing Users in the electronic filing system are not required to electronically file pleadings and other documents in a case assigned to the System. The court may, from time to time, and only in exceptional circumstances, relieve attorneys from the electronic filing requirement. The Debtor's Declaration re: Electronic Filing and trial exhibits are not to be filed electronically unless otherwise directed by the court.

D. Filing Fees. For filings that require a fee to be paid, the office of the clerk will automatically draw payment from the credit card account that was provided by the attorney. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

II. Eligibility, Registration, Passwords

A. Attorney Eligibility. Attorneys admitted to the bar of this court (including those admitted pro hac vice and attorneys authorized to represent the United States), United States trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and others as the court deems appropriate, may register as Filing Users of the court's Electronic Filing System.

Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court.

B. Eligibility of Other Parties. If the court permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

C. Creditor Eligibility. Creditors without counsel may register as Filing Users of the court's electronic filing system for the sole purpose of filing claims, notice of transferred claims, reaffirmation agreements, requests to receive notices, and withdrawal of claims.

D. Registration. Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes: (1) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (2) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

E. Passwords. Once registration and training, as prescribed by the court, are completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised.

F. Revocation of Registration. The court reserves the right to revoke an Electronic Filer’s password and, therefore, his or her authority and ability to electronically file documents for failure to comply with the provisions of these *Administrative Procedures for*

Filing, Signing, and Verifying Pleadings and Documents by Electronic Means, failure to pay fees required for documents electronically filed, or other misuse of the electronic case filing system.

III. Consequences of Electronic Filing

A. Filing. Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Bankr. P. 5003.

B. Legibility. The Filing User is responsible for assuring the legibility of all documents, scanned or otherwise, filed with the court.

C. Official Record. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently converted to electronic form, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

D. Deadlines. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

IV. Entry of Court-Issued Documents

A. Entry of Orders. All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

B. Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.

C. The court may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

D. Submission of Orders. A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

V. Attachments and Exhibits

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless otherwise directed by the court. A Filing User must submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such (*also see* D. Kan. Rule 5.1(f) and D. Kan. LBR 9072.1(a) dealing with bulky/voluminous exhibits). Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The court may require parties to file additional excerpts or the complete document.

VI. Sealed Documents

Documents ordered to be placed under seal must be filed conventionally, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk.

VII. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until 6 years after all time periods for

appeals expire. On request of the court, the Filing User must provide original documents for review.

VIII. Signatures

A. User Log-In and Password. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Electronically filed documents must include a signature block in compliance with D. Kan. LBR 9011.4, and must set forth the name, address, telephone number and the attorney's Kansas bar registration number, or equivalent. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

B. Password Security. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

C. Documents containing the signature of non-Filing Users are to be filed electronically with the signature represented by a “s/” and the name typed in the space where a signature would otherwise appear, or as a scanned image.

D. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) submitting an electronic document upon which the consent of the other parties is represented; or (3) in any other manner approved by the court.

IX. Service of Documents by Electronic Means

A. Notice of Electronic Filing. The “Notice of Electronic Filing” that is automatically generated by the court’s Electronic Filing System constitutes service or notice of the filed document on Filing Users. Parties who are not Filing Users must be provided notice or service of any pleading or other document electronically filed in accordance with the Federal Rules of Bankruptcy Procedure and the local rules.

B. Certificate of Service. A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User. Certificates of Service shall be in substantial compliance with D. Kan. LBR 9013.3.

C. Nothing contained in this procedure relieves counsel of the burden of obtaining personal service under Fed. R. Bankr. P. 7004 or Fed. R. Civ. P. 4, where appropriate.

X. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The clerk, or other party as the court may direct, must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

XI. Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

XII. Public Access

A. PACER Access. Any person or organization, other than one registered as a Filing User under these rules, may access the Electronic Filing System at https://ecf.ksb.uscourts.gov by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents.

B. Clerk's Office Access. Access to all documents is available, without obtaining a password, in the clerk's office during regular business hours, Monday through Friday. Conventional and certified copies of electronically filed documents may be purchased at the clerk's office during regular business hours Monday through Friday. The fee for copying and certifying shall be in accordance with the Schedule of Miscellaneous Fees promulgated by the

Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b).

C. Redaction. In connection with the filing of any material in an action assigned to the Electronic Filing System, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

D. Misuse. Information posted on the System must not be downloaded for uses inconsistent with the privacy concerns of any person.

* * *

As amended 3/17/2008

LBR 5072.1
COURTROOM PRACTICES

(a) Addressing the Court. Attorneys and unrepresented parties must rise when addressing the court, must speak to the court from counsel table or the lectern facing the court and may not approach the bench, except with court permission.

(b) Questioning Witnesses. While questioning witnesses, attorneys and unrepresented parties must stand at counsel table or at the lectern and may not approach the witness, except with court permission. Only one attorney for each party may participate in the examination or cross examination of a witness.

* * *

LBR 5075.1
ORDERS BY BANKRUPTCY CLERK; REVIEW

(a) Orders.

(1) The clerk is authorized to sign and enter the following orders without further direction by the court:

(A) in adversary proceedings,

(i) an order extending once for 14 days, the time to answer, reply or otherwise plead to a complaint,

crossclaim or counterclaim if the time originally prescribed to plead has not expired;

(ii) a consent order dismissing an action, except in cases governed by Fed. R. Bankr. P. 7023 and/or D. Kan. LBR 7041.1; and

(iii) entry of default and judgment by default as provided for in Fed. R. Bankr. P. 7055;

(B) an order for the payment of money on consent of all interested parties;

(C) an order permitting payment of filing fees in installments;

(D) an order for compliance requiring timely filing of schedules and statements or for compliance with filing requirements and a notice of intent to dismiss for failure to comply;

(E) an order granting waiver of Chapter 7 filing fees; and

(F) any other order that is specified by Standing Order as not requiring special direction by the court.

(2) A party or attorney submitting an order under this rule must sign it, and that signature is subject to Fed. R. Bankr. P. 9011 and D. Kan. LBR 9011.3.

(3) A party or attorney submitting an order for an extension of time under paragraph (a) must state:

(A) the date when the time for the act sought to be extended is due;

(B) the date to which the time for the act is to be extended; and

(C) that the time originally prescribed has not expired.

(b) Clerk's Action Reviewable. For good cause, the court may suspend, alter, or rescind any order entered by the clerk under this rule.

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As amended 3/17/07, 10/17/05.

LBR 6004.1
PERSONS PROHIBITED FROM PURCHASING AT SALES

(a) Judges or Clerks. No currently serving bankruptcy judge or clerk, or their employees and spouses, may directly or indirectly purchase property from any bankruptcy estate. No former bankruptcy judge or clerk, nor any former member of their staffs, may purchase property directly or indirectly from any bankruptcy estate pending at the time the person left office.

(b) Other Officers.

(1) *Current Service*. No currently serving trustee, examiner, appraiser, auctioneer, accountant, realtor or attorney for a bankruptcy estate, their spouses, their employees and the spouses of their employees, may directly or indirectly purchase property from any bankruptcy estate pending while the person is serving.

(2) *Former Service*. No person who has served as a trustee, examiner, auctioneer, accountant, realtor or attorney for a bankruptcy estate, and no spouse or employee of those persons, may purchase, directly or indirectly, property from a bankruptcy estate pending at the time the person ceased service.

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As amended 10/17/05.

LBR 6007.1
ABANDONMENT OF PROPERTY OF THE ESTATE

When the clerk of the court provides the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines, the Notice must contain a provision that within 60 days from the conclusion of the meeting of creditors held under § 341, the trustee may file notice of intended abandonment of any or all of the debtor's property in the estate as authorized by § 554 without further service on creditors or interested parties. Unless a creditor or interested party objects to abandonment within 75 days after the meeting of creditors held under § 341 concludes, the property subject to the intended abandonment will be deemed abandoned without further notice or order of the court.

* * *

As amended 10/17/05.

LBR 7003.1
COMMENCEMENT OF ADVERSARY PROCEEDING

(a) Cover Sheet. An Adversary Proceeding Cover Sheet, in a form supplied by the clerk, must be completed and submitted with any complaint commencing an action or any notice or removal from state court.

(b) Case Number System. The clerk will assign each adversary proceeding a number that begins with a two-digit indicator of the year in which the proceeding is filed, followed by a hyphen and the individualized case number of four digits. The four-digit individualized case numbers are as follows:

- Kansas City proceedings begin with a "6" (e.g., 10-6001);
- Topeka proceedings begin with a "7" (e.g., 10-7001);
- Wichita proceedings begin with a "5" (e.g., 10-5001).

* * *

As amended 10/17/05.

LBR 7004.1
SERVICE OF SUMMONS AND COMPLAINT ON THE UNITED STATES OR THE STATE OF KANSAS

(a) Service on the United States. When the United States and/or a department, agency or instrumentality of the United States is named as a party defendant, service of any summons or complaint must be made:

(1) in the manner prescribed by rule or statute;

(2) on the United States Attorney's Office located in the division city where the petition for relief is filed; and

(3) on the department, agency or instrumentality of the United States as prescribed by D. Kan. LBR 2002.2.

(b) Service on the State of Kansas. When the State of Kansas and/or a department, agency or instrumentality of the State of Kansas is named as a party defendant, service of any summons or complaint must be made:

(1) in the manner prescribed by rule or statute; and

(2) on the department, agency or instrumentality of the State of Kansas as prescribed by D. Kan. LBR 2002.2.

* * *

As amended 3/17/08, 10/17/05, 3/17/05.

LBR 7012.1
MOTIONS TO DISMISS

(a) Memorandum in Support. A party or attorney filing a Motion to Dismiss pursuant to Fed. R. Bankr. P. 7012 must also file a supporting brief or memorandum.

(b) Time for Filing of Responses and Replies. Any party or attorney filing a brief or memorandum in response to a Motion to Dismiss must file and serve it within 21 days of service of the motion. The moving party may file and serve a supporting brief or memorandum in reply within 14 days of service of the response.

(c) Limit on Responses and Replies. Parties and attorneys may file only one response and one reply without prior court order.

(d) Oral Argument. Parties may request oral argument in the motion or any memorandum.

* * *

As amended 3/17/10, 10/17/05.

LBR 7026.1
DISCOVERY

(a) Application. This rule applies to adversary proceedings, and contested matters as prescribed by Fed. R. Bankr. P. 9014 and when the court orders. Fed. R. Civ. P. 26(a) and (f), and the corresponding sections of this rule, do not apply to contested matters unless the presiding judge specifically orders otherwise.

(b) Completion Time. The parties should complete discovery within four months from the later of the date the case becomes at issue or the date a scheduling order is issued pursuant to Fed. R. Bankr. P. 7016. Ordinarily, the parties should have completed discovery before the pretrial conference. For good cause, the court may establish longer or shorter periods for the completion of discovery.

(c) Notice of Depositions Permitted by Fed. R. Bankr. P. 7030. The reasonable notice for taking a deposition is 7 days. For good cause, the court may enlarge or shorten the time.

(d) Motions for Protective Order.

(1) *Stay of Discovery*. Except as provided in paragraph (2), a motion for protective order filed pursuant to Fed. R. Bankr. P. 7026(c) or 7030(d), or a motion to quash or modify a deposition subpoena filed pursuant to Fed. R. Bankr. P. 9016, stays the particular discovery or deposition pending court order.

(2) *Proper Notice of Deposition.* A motion filed under this rule will not stay a properly noticed deposition unless filed and served on the attorneys or parties within 14 days after service of the deposition notice and at least 48 hours in advance of the deposition.

(3) *No Appearance at Deposition Required*. No party, witness, or attorney is required to appear at a deposition stayed by a motion under this rule until the court decides the motion or it is otherwise resolved.

(e) Additional Interrogatories to Those Permitted by Fed. R. Bankr. P. 7033(a). A party must file a motion to seek leave to serve interrogatories in excess of the number permitted by Fed. R. Bankr. P. 7033(a). The motion must (1) submit the proposed additional interrogatories; and (2) state good cause for those interrogatories. Additional interrogatories served under this rule are subject to subsection (l) of this rule.

(f) Format for Interrogatories. Sufficient space for the insertion of an answer must be provided after each interrogatory. Each answer must directly follow the interrogatory being answered.

(g) Motions Relating to Discovery. Motions under Fed. R. Bankr. P. 7026(c) or 7037(a) directed at depositions, interrogatories, requests for production of documents, or requests for admissions under Fed. R. Bankr. P. 7030, 7033, 7034 or 7036, or at the responses, must be accompanied by copies of the portions of the interrogatories, requests or responses in dispute. Motions under Fed. R. Bankr. P. 9016 directed at subpoenas must be accompanied by a copy of the disputed subpoena.

(h) Depositions. Deposition transcripts may not be filed unless the court orders otherwise. The originals of all stenographically-reported depositions must be delivered to the party noticing the deposition:

(1) after signature by the deponent if he or she has requested to review the transcript and to make changes;

(2) on completion, if the deponent has not requested to review the transcript; or

(3) on certification by the stenographer that following reasonable notice to the deponent and deponent's attorney of the availability of the transcript for signature, the deponent has failed or refused to sign it.

(i) Retention of Originals. The party to whom it is delivered must retain the original of the deposition to be available for appropriate use by any party in a hearing or trial of the case.

(j) Disclosures and Discovery Not to be Filed.

(1) The following must be served on other attorneys and unrepresented parties, but not filed:

(A) disclosures required under Fed. R. Bankr. P. 7026(a)(1) and (2);

(B) interrogatories under Fed. R. Bankr. P. 7033;

(C) requests for production or inspection under Fed. R. Bankr. P. 7034;

(D) requests for admission under Fed. R. Bankr. P. 7036; and

(E) the responses.

(2) At the same time disclosures, discovery, or responses are served, the serving party must file a certificate of service stating the type of disclosure, discovery or response served, the date and type of service, and the party served.

(k) Use of Discovery at Trial. A party must file with the clerk at the beginning of trial, or earlier if required by court order, the portions of any deposition transcript, interrogatories, requests for production or inspection, admissions, or any responses the party reasonably anticipates using.

(l) Duty to Confer Concerning Discovery Disputes. In addition to the duties required by Fed. R. Bankr. P. 7026 through

7037, unless the court orders otherwise, the court will not entertain any motion to quash or modify a subpoena pursuant to Fed. R. Bankr. P. 9016, or any motion under Fed. R. Civ. P. 26(c) or 37(a), unless the attorney for the moving party confers or has made reasonable effort to confer with opposing attorneys concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed. R. Bankr. P. 7026(c) and 7037 and this rule related to attempts to resolve discovery or disclosure disputes must describe the steps taken by all attorneys to resolve the disputed issues.

(1) *Definition of "reasonable effort to confer."* "Reasonable effort to confer" means more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so.

(m) Trial Preparation After Close of Discovery.

(1) Parties should ordinarily take the deposition of a material witness not subject to subpoena during the discovery period. Parties may depose a material witness who agrees to appear at trial, but later becomes unable or refuses to attend, at any time prior to trial.

(2) The court may order the physical or mental examination of a party pursuant to Fed. R. Bankr. P. 7035 at any time prior to trial.

* * *

As amended 3/17/10, 10/17/05.

LBR 7041.1
DISMISSAL OF BANKRUPTCY CODE § 727 COMPLAINTS OBJECTING TO DISCHARGE

(a) Affidavits of No Consideration. Plaintiff and debtor shall execute and file affidavits with any motion to dismiss a complaint objecting to discharge under § 727 stating that no consideration has been promised or given to effect the withdrawal of the complaint, or stating the nature and amount of any consideration promised or given.

(b) Trustee's Motion to Intervene. If the trustee or the United States trustee objects to dismissal of the complaint, the trustee or the United States trustee must, within 14 days after notice under Fed. R. Bankr. P. 7041, file a motion to intervene and be substituted as plaintiff, and serve it on the parties to the complaint.

* * *

As amended 3/17/10.

LBR 7054.1
TAXATION AND PAYMENT OF COSTS

(a) Procedure for Taxation. Any party allowed costs under Fed. R. Bankr. P. 7054(b) must file a bill of costs on the form provided by the clerk within 28 days after:

(1) the expiration of time allowed for appeal of a final order; or

(2) the clerk receives an order terminating the action on appeal.

(b) Waiver. Failure of a prevailing party to timely file a bill of costs constitutes a waiver of any claim for costs.

(c) Date for Presentation. Before filing a bill of costs, the prevailing party must obtain from the clerk a date for presentation of the bill of costs so that adverse parties may be notified when to appear and contest the bill.

(d) To Whom Payable. All costs taxed are payable directly to the prevailing party, not to the clerk, unless the court orders otherwise.

* * *

As amended 3/17/10.

LBR 7056.1
MOTIONS FOR SUMMARY JUDGMENT

(a) Supporting Memorandum. The memorandum or brief in support of a motion for summary judgment must begin with a section containing a concise statement of material facts to which the movant contends no genuine issue exists. The facts must be

numbered and must refer with particularity to those portions of the record on which the movant relies. The court will deem admitted for the purpose of summary judgment, all material facts contained in the statement of the movant unless the statement of the opposing party specifically controverts those facts.

(b) Opposing Memorandum.

(1) A memorandum in opposition to a motion for summary judgment must begin with a section containing a concise statement of material facts as to which the party contends a genuine issue exists. Each fact in dispute must be numbered by paragraph, refer with particularity to those portions of the record on which the opposing party relies, and, if applicable, state the number of movant's fact that is disputed.

(2) If the party opposing summary judgment relies on any facts not contained in movant's memorandum, that party must include each additional fact in a separately numbered paragraph, supported by references to the record, in the manner required by subsection (a). The court will deem admitted, for the purpose of summary judgment, all material facts included in this statement of the non-moving party unless the reply specifically controverts those facts.

(c) Reply Memorandum. In a reply brief, the moving party must respond to the non-moving party's statement of undisputed material facts in the manner prescribed in subsection (b)(1).

(d) Presentation of Factual Material. All facts on which a motion or opposition is based must be presented by affidavit, declaration under penalty of perjury, and/or through the use of relevant portions of pleadings, depositions, answers to interrogatories and responses to requests for admissions. Affidavits or declarations must be made on personal knowledge and by a person competent to testify to the facts stated that are admissible in evidence. Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document must be attached.

(e) Duty to Fairly Meet the Substance of the Matter Asserted. If the responding party cannot truthfully admit or deny the factual matter asserted, the response must specifically explain in detail the reasons why. All responses must fairly meet the substance of the matter asserted.

(f) Time for Filing of Responses and Replies. A party has 21 days to file and serve a response to a motion for summary judgment. After service of the response, the moving party has 14 days to file and serve a reply memorandum in support of the motion.

(g) Limit on Responses and Replies. Parties may file no more than one response and one reply without prior court order.

(h) Oral Argument. Parties may request oral argument in the motion or any memorandum.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

LBR 7065.1
RESTRAINING ORDERS AND TEMPORARY INJUNCTIONS IN ADVERSARY ACTIONS

A prayer for a temporary injunction or restraining order included in an adversary complaint pursuant to Fed. R. Bankr. P. 7001 is not sufficient to bring the issue before the court prior to trial. If a ruling before trial is desired, it must be sought by separate motion filed in the adversary proceeding.

* * *

LBR 8006.1
RECORD AND ISSUES ON APPEAL

Designation of Record. After filing the notice of appeal, the appellant must file by formal pleading within 14 days from the date the notice of appeal is filed, a designation of the items to be included in the record on appeal and a statement of issues. The designation of the record must include the pleading numbers and

file date of those pleadings designated. Parties must perfect their appeal pursuant to Fed. R. Bankr. P. 8006.

* * *

As amended 3/17/10.

LBR 9004.1
FORM OF PLEADINGS AND DOCUMENTS

(a) Pleadings, Motions, Briefs and Other Documents.

(1) *Generally*. Pleadings, motions, briefs, and other documents submitted for filing, including all exhibits and/or attachments, must be:

- submitted on 8-1/2 x 11 inch paper;
- typewritten, printed, or computer-generated with type no smaller than ten points set no more than an average of 12 characters per inch; and
- double-spaced where practicable.

(2) *Subsequent Filings*. All pleadings and documents filed subsequent to those commencing a case must be endorsed on the upper right-hand corner of the first page with the case number. The title of the subsequent pleading or document must describe its contents, and state on whose behalf the document is filed.

(3) *Adversary Proceedings*. Fed. R. Bankr. P. 7010 and Official Bankruptcy Forms apply to all pleadings and documents filed in adversary proceedings.

(b) Orders.

(1) *Generally*.

(A) The following information must appear at the top of the signatory page of all orders:

(i) the name of the court;

(ii) the case caption, the case number and chapter; and

(iii) the caption of the order and page number.

(B) The top margin on the first page of an order must be four inches; all subsequent pages of the order must have a top margin of one inch.

(C) The last line of the order preceding attorney signatures must consist of 3 pound symbols (# # #),

centered, to indicate the end of the order. Omit a signature line for the judge because all orders will be signed electronically in the top margin of the first page.

(2) *Resulting from Hearing.* Unless the court directs otherwise, orders resulting from an actual hearing are due 14 days from the date of the hearing. The first paragraph of the order must begin with the actual date of the hearing, e.g.,: "Now on this 23rd day of March, 2010, this matter came before the court..."

(3) *No Hearing Held.* Orders resulting from the failure to object or respond to a notice with objection deadline are due 14 days after the deadline expires. The first paragraph of the order must begin by stating that the matter was noticed with opportunity for hearing but no objections were filed and no hearing was held.

(c) Requests for Relief in Pleadings. The pleading's caption must contain a short statement of the relief requested. Pleadings may not contain an unrelated request for relief, e.g., a motion for relief from the automatic stay may request adequate protection, but may not request unrelated relief, such as a request to dismiss the case. A responsive pleading may not request relief except as permitted by the Federal Rules of Bankruptcy Procedure.

(d) Orders Addressing Requests for Relief. Orders resolving pleadings must address all the requests for relief made in the pleading and, to assist the clerk with docketing and quality control, must identify in the caption of the order the relief granted and/or denied.

* * *

As amended 3/17/10, 10/17/05, 3/17/05.

LBR 9010.1
APPEARANCE BY CORPORATIONS, PARTNERSHIPS AND ENTITIES OTHER THAN INDIVIDUALS

A corporation, partnership, or entity other than an individual may appear and participate only through an attorney in an adversary proceeding, contested matter or other court hearing involving the questioning of a witness or a presentation to the court. This rule

does not prohibit a corporation, partnership, or other entity from acting without an attorney in filing a claim, voting to elect a trustee, serving on an approved committee, or filing an acceptance/rejection of a plan under Chapters 11, 12, or 13.

* * *

LBR 9011.3
SANCTIONS

(a) Sanctions Under Applicable Rules and Statutes.

(1) *On Court's Own Initiative.* The court, on 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, Fed. R. Bankr. P. 9011, or other applicable statutes. The court will state the reasons for issuing the show cause order. Unless the court orders otherwise, all parties must respond within 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.* A party may raise the issue of sanctions by a timely-filed motion. The responding party may respond in the same manner specified above.

(3) *Procedure.* After the response time expires and without further proceedings, the court may rule on the violation and the nature and extent of any sanction imposed. Discovery and evidentiary hearings on sanctions will be permitted only by court order. The court will articulate the factual and legal bases for its ruling on sanctions.

(b) Imposition of Sanctions. If the court finds a violation of these rules, Fed. R. Bankr. P. 9011, other applicable statutes or a court order, the court may impose sanctions pursuant to Fed. R. Civ. P. 11, Fed. R. Bankr. P. 9011, or other federal rules or statutes. In addition, the court may issue other orders as are just under the circumstances, including the following:

(1) an order designating certain matters or facts as established for purposes of the action;

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

(3) an order striking pleadings, in whole or in part, staying proceedings until compliance with the rule, dismissing the action, in whole or in part, or entering a judgment by default against a party; or

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

(c) Sanctions Within the Discretion of the Court. The court has discretion to impose sanctions for violation of these rules or a court order. In considering sanctions, the court may consider whether a party's failure was substantially justified or whether other circumstances make sanctions inappropriate.

* * *

LBR 9011.4
SIGNATURES

(a) Signing of Pleadings by Attorneys. The original of every pleading, motion or other paper filed by an attorney must bear the genuine signature of at least one attorney of record. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of the Federal Rules of Bankruptcy Procedure, including Fed. R. Bankr. P. 9011, the local rules of this court, and any other purpose for which a signature is required. In addition, the name of the Filing User under whose log-in and password the paper is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

(b) Signing of Pleadings by Unrepresented Parties. The original of every pleading, motion or other paper filed by a party not represented by an attorney must bear the genuine signature of the unrepresented party. Stamped or facsimile signatures on

conventionally filed original pleadings, motions, orders, or other documents are not permitted.

(c) Contact Information and Bar Registration Numbers.

(1) *Requirements for Unrepresented Parties and Attorneys*. Parties or attorneys signing papers submitted for filing must include:

(A) their names;
(B) addresses;
(C) telephone numbers;
(D) facsimile numbers; and
(E) e-mail addresses.

(2) *Additional Requirements for Attorneys*. Attorneys must also include their state supreme court registration numbers, or, in cases where the attorney is not admitted to practice in Kansas, its equivalent. Attorneys admitted from the Western District of Missouri, by reciprocal admission, must include their Kansas District Court registration number.

(3) *Duty to Update Contact Information.* Each attorney or unrepresented party must notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or an unrepresented party is sufficient notice.

* * *

As amended 3/17/10, 3/17/09, 3/17/05.

LBR 9013.1
BRIEFS AND MEMORANDA

(a) Contents. All briefs and memoranda filed with the court must contain:

(1) a statement of the nature of the matter before the court;
(2) a concise statement of the facts with each fact supported by reference to the record in the case;
(3) a statement of the question or questions presented; and
(4) the argument, which must refer to all statutes, rules and authorities relied on.

(b) Page Limitations. The arguments and authorities section of briefs or memoranda must not exceed 30 pages absent court order.

(c) Exhibits. The filing party must separately label any exhibits attached to briefs or memoranda.

(d) Citation of Unpublished Decisions. An unpublished decision cited in a brief or memorandum shall be attached as an exhibit to the memorandum or brief only if it is unavailable via electronic means (e.g., Westlaw or LEXIS). Parties citing unpublished decisions that are available via electronic means must not furnish a copy to the court or to opposing parties unless requested. Unpublished decisions should be cited as follows: *In re Smith*, No. 02-12345 (Bankr. D. Kan. Jan. 7, 2005).

(e) Additional Copies of Briefs for Court. If a pleading, paper or document is filed electronically, additional copies should not be provided to the court in conventional paper format. The court may request that any brief be provided by electronic means, usually in WordPerfect.

* * *

As amended 3/17/07, 10/17/05, 3/17/05.

LBR 9013.2
NON-DISPOSITIVE MOTIONS PRACTICE

(a) Hearing Docket. A bankruptcy judge may establish a regularly scheduled docket for non-evidentiary hearing on motions. A motion may be set on a docket by filing with the motion a separate notice of hearing clearly stating the hour, date, and location of the hearing. A certificate of service must be filed for the motion and notice indicating service on required parties. It is movant's responsibility to determine (1) whether a bankruptcy judge has established a docket, and (2) the correct hour, date, and location of the hearing.

(b) Time. Except for good cause, a motion filed less than 14 days before hearing may not be considered by the court. Motions that require more than 14 days' notice under the Code, the Federal Rules of Bankruptcy Procedure or these rules, must comply with this requirement.

(c) Notice with Objection Deadline. Where otherwise allowed by the Code, the Federal Rules of Bankruptcy Procedure, or these rules, a motion may be filed with a separate notice of objection deadline. The notice may provide for hearing on any objection in accordance with this rule.

(d) Waiver of Briefs in Support of Motions. Briefs and memoranda relating to non-dispositive motions are prohibited unless required by the court notwithstanding D. Kan. Rule 7.1(a). *See* D. Kan. LBR 7056.1 and D. Kan. LBR 7012.1.

(e) Preparation of Motions and Orders. Motions and orders must be prepared and submitted in accordance with D. Kan. LBR 9004.1.

* * *

As amended 3/17/10, 10/17/05.

LBR 9013.3
PROOF OF SERVICE

(a) Certificates of Service. Except as the court or rules provide otherwise, an attorney of record or an unrepresented party must make proof of service of any pleading, motion, or other document required to be served, by filing a certificate. The certificate must either be included in the pleading or document served, or filed separately as soon as possible, and in any event before any action based on the service is requested or taken by the court. The certificate of service must indicate that service was accomplished through the Notice of Electronic Filing for parties and attorneys who are Filing Users and indicate how service was accomplished on any party or attorney who is not a Filing User.

(1) *Contents.* In addition to showing the date, the manner of service, the name and address of the attorney or party served, and the capacity in which such person was serviced (i.e., as attorney for plaintiff, a particular defendant, trustee, debtor or creditor), the certificate must identify the title of *each* pleading or document served. For example:

> I hereby certify that on this [Date], a true and correct copy of the [Title of Document(s)] was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.
>
> Further, I certify that copies of the [Title of Document(s)] were forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the following:
> [Names and addresses]

(2) *Identify and Attach Matrix or List.* If the pleading or other document being served is directed to persons on a matrix or other list, the certificate must identify the matrix or list and attorneys or parties must attach the matrix or list to the certificate. For example:

> I hereby certify that on this [Date], a true and correct copy of the [Title of Document(s)] was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system, and was forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the parties' and/or attorneys' addresses on the attached matrix who do not receive notice electronically via CM/ECF.

* * *

As amended 3/17/10, 3/17/05.

ALTERNATIVE DISPUTE RESOLUTION

The court's primary ADR procedure is mediation facilitated by a private mediator chosen by the parties. The mediation process is intended to improve communication among the parties and provide the opportunity for greater litigant involvement in the early dispute resolution, with the ultimate goal of securing the just, speedy and inexpensive disposition of civil cases.

(a) General Guidelines for Alternative Dispute Resolution Processes.

(1) Any procedure used to resolve a dispute pending before the United States Bankruptcy Court for the District of Kansas is governed by D. Kan. Rule 16.3, any other rules or guidelines adopted by the United States District Court for the District of Kansas, and this rule.

(2) The judge to whom a case has been assigned may, at the earliest appropriate opportunity, encourage or require the parties and their attorneys to attempt to resolve or settle the dispute using an extrajudicial proceeding, such as mediation, a case settlement or evaluation conference, or another alternative dispute resolution process unless, in the judge's discretion, it is determined that:

(A) it would be futile;

(B) the mediator indicates the case is inappropriate for the process;

(C) the parties agree that a request for procedural action by the court will facilitate settlement; or

(D) in the opinion of the mediator or court official, there is a danger of physical harm to any party connected with the process.

(3) The judge may refer a case for an extrajudicial proceeding to be supervised by any other judge of the district or bankruptcy court, any retired district or bankruptcy judge, or any neutral attorney. If the parties mutually agree on a neutral non-attorney, the judge may refer the case to that person. The person to whom the case

is referred will generally be called "mediator" in the balance of this rule.

(4) The mediator will set and convene the first meeting between the participants, and will file with the court a report on the status of the alternative dispute resolution process within 45 days of the initial appointment. As part of the mediation, case settlement, or evaluation conference process, the parties, their attorneys, and the mediator discuss every aspect of the case that bears on its settlement. The mediator will meet privately with each party and the party's attorney to discuss the mediator's evaluation of the case. Except for good cause, it is mandatory that each party have a representative with settlement authority (as defined in D. Kan. Rule 16.3) attend the mediation, case settlement, or evaluation conference process. The court may make this paragraph applicable to any other alternative dispute resolution process.

(5) No written statements or memoranda parties submit to the mediator under this rule will be placed in the court file. The mediator must not communicate to the judge any matter concerning the proceeding except whether the case has settled or that a party or attorney has failed to appear. Fed. R. Evid. 408 governs the admissibility of statements, memoranda, and other communications made during or in connection with the extrajudicial process.

(6) Upon conclusion of the alternative dispute resolution process, either by settlement or by impasse, the mediator will communicate to the court the results of the mediation.

* * *

As amended 10/17/05, 3/17/05.

LBR 9027.1
REMOVAL/REMANDS

(a) Procedure and Fees. Fed. R. Bankr. P. 9027 controls the procedure for removal of claims or causes of action in civil actions under 28 U.S.C. § 1452. The filing of a Notice of Removal with the Clerk of Bankruptcy Court requires payment of a filing fee that will

not be satisfied by the redundant filing of the motion with the Clerk of the District Court.

(b) Motions to Remand. A motion to remand under Fed. R. Bankr. P. 9027(d) must be served within the 21 days allowed for an answer required by Fed. R. Bankr. P. 9027(g).

* * *

As amended 3/17/10.

LBR 9029.1
AMENDMENT OF RULES

These rules may be amended as prescribed by Fed. R. Bankr. P. 9029 and Fed. R. Civ. P. 83 by publication with invitation for written comment.

* * *

LBR 9029.2
STANDING ORDERS

By vote of a majority of the judges of the United States Bankruptcy Court for the District of Kansas, the court may issue standing orders addressing administrative and procedural concerns or matters of temporary or local significance.

(a) Procedure. Each standing order, unless expressly made effective until further order, will include the effective date and the expiration date. Standing orders have the same force and effect as other rules of the court. They are numbered consecutively by calendar year (e.g., 10-1) and are cited as D. Kan. Bk. S.O. 10-2.

(b) Notice of Issuance. Public notice of the issuance of a standing order will be given in the manner and for the time determined by the majority of the bankruptcy judges for the District of Kansas. The notice will be given prior to the effective date of the Standing Order, except in emergencies.

* * *

LBR 9029.3
BANKRUPTCY BENCH BAR COMMITTEE

There is a Bankruptcy Bench Bar Committee appointed by the court.

(a) Membership. The committee consists of the chief judge, any other judges who may from time to time be appointed by the court, the United States Attorney or a designated assistant, the U.S. Trustee for Region 20 or a designated assistant, six actively practicing members of the bar of the bankruptcy court, a Chapter 13 Trustee, and a Chapter 7 Trustee, selected by the bankruptcy judges.

(b) Terms of Office. The court will appoint the six actively practicing members of the bar, the Chapter 13 trustee, and the Chapter 7 trustee to serve three year terms or other lesser terms as the court may decide, to begin on July 1 of each year.

(c) Meetings. The Bench Bar Committee will meet as it determines and as determined by the chief judge.

(d) Duties. The Bench Bar Committee will have general advisory and liaison roles regarding the operation of the court and will, among other things:

(1) provide a forum for the continuous study of the operating procedures of the court;

(2) serve as liaison among the court, its bar and the public;

(3) study, consider, and recommend the adoption, amendment, or rescission of the Rules of Practice of the court; and

(4) make any studies and render any reports and recommendations as the court directs.

* * *

As amended 10/17/05, 3/17/05.

LBR 9072.1
EXHIBITS

(a) Exhibits to Pleadings or Documents. Bulky or voluminous materials must not be filed in their entirety or incorporated by reference unless the court finds the materials are essential and grants leave to file them. The court may strike any pleading or document filed in violation of this rule.

(b) Preparation of Trial Exhibits. When practical, all documentary exhibits must be prepared for trial as follows:

(1) Attorneys or unrepresented parties must pre-mark original exhibits with exhibit stickers. Plaintiffs or movants must use numerical symbols, e.g., 1, 2, etc. Defendants must use alphabetical symbols, e.g., A through Z, AA, BB, etc. If there is more than one plaintiff and/or defendant in the case, the surname or corporate name of the offering party must be placed on the exhibit sticker for further identification.

(2) Copies of exhibits must be prepared for the judge and each party; the witness will use the original.

(3) An exhibit cover sheet in form prescribed by the clerk must be prepared for each set of exhibits. The original must be placed with the clerk and copies provided to the parties and the judge.

(4) The court may exclude any exhibit offered in a hearing or trial that is not clearly legible.

(c) Withdrawal of Exhibits. Exhibits introduced into evidence may be withdrawn from the custody of the clerk with permission of the clerk or upon order of the court. The clerk may destroy or dispose of any exhibit not withdrawn after final disposition of the proceeding.

(d) Electronic Filing. Trial exhibits must not be filed electronically unless the court orders otherwise.

* * *

LBR 9074.1
JOURNAL ENTRIES AND ORDERS

(a) Preparation of Journal Entry or Order. An attorney must upload within 14 days a journal entry or order:

(1) when directed by the court to prepare the journal entry or order reflecting a judgment, decision, or ruling; or

(2) when the parties announce in court that a pending matter has been settled by agreement.

(b) Journal Entry or Order Submitted Without Approval of All Attorneys; Proof of Service. If approval of the Journal Entry referenced in subsection (a) cannot be obtained after

reasonable effort, the attorney may upload the journal entry or order without the approval of all other attorneys involved in the matter. The phrase "order submitted pursuant to D. Kan. LBR 9074.1" must appear above the signature line of any attorney whose signature on the journal entry or order has not been approved.

(1) *Service required.* The attorney uploading a journal entry or order not approved by all attorneys must, on the same date, serve copies of the order on all other attorneys involved and on any unrepresented parties. Attorneys must establish proof of service by filing a certificate of service in the manner prescribed by D. Kan. LBR 9013.3. The attorney must attach the uploaded journal entry or order as an exhibit to the certificate of service.

(2) *Objections to entry of journal entry or order.* Attorneys and unrepresented parties must file any objections to entry of the journal entry or order within 14 days after service of the journal entry or order. The court may enter the journal entry or order if no timely objection is filed and served. The court will settle any objections to the journal entry or order.

(c) Inapplicability to Chapter 13 Trustee. The procedure in subsection (b) may not be used in lieu of obtaining the approval of a Chapter 13 Trustee to any journal entry or order in any Chapter 13 case. If a Chapter 13 Trustee declines to approve any order, the party seeking approval of the order may file a motion requesting the court approve the order without the Chapter 13 Trustee's approval.

(d) Journal Entry or Order Submitted With Approval of All Attorneys or Parties. An attorney may upload a journal entry or order without serving copies when every attorney or unrepresented party involved in the matter has previously authorized their signatures to the specific pleading. The court may enter the journal entry or order on receipt.

* * *

As amended 3/17/10, 10/17/05, 3/17/05.

STANDING ORDERS

AT THE TIME OF PUBLICATION OF THESE RULES, THE FOLLOWING STANDING ORDERS WERE IN EFFECT. FOR ADDITIONS, MODIFICATIONS OR DELETIONS TO THESE ORDERS, CONSULT THE CLERK OF THE COURT'S WEB PAGE, www.ksb.uscourts.gov.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER 08-4

STATEMENTS CREDITORS SHALL PROVIDE TO CONSUMER DEBTORS WHO ARE DIRECTLY REPAYING DEBT SECURED BY A MORTGAGE ON REAL PROPERTY OR A LIEN ON PERSONAL PROPERTY THE DEBTOR OCCUPIES AS THE DEBTOR'S PERSONAL RESIDENCE

(a) Purpose

(1) The purpose of this Standing Order is to maintain, to the greatest degree possible, the routine flow of information from secured creditors to debtors with respect to secured loans constituting consumer debt (as that term is defined by 11 U.S.C. §101(8)) where the debtor is retaining possession of the collateral and continuing to make the regular installment payments directly to the secured creditor during a bankruptcy case. It is the intent of the order to support the normal issuance of regular monthly statements typically issued by secured creditors to consumer borrowers who are not in bankruptcy and to provide consumer debtors with a creditor contact point so that a debtor can obtain specific information on the status of such loans, as needed.

(2) This order also makes clear that a creditor's good faith attempt to comply with this order in furnishing information to the consumer debtor shall not expose the secured creditor to claims of violating the automatic stay.

(3) This Standing Order applies in Chapters 7, 12 and 13; applies only to consumer loan relationships; and applies only as long as the debtor is in bankruptcy and protected by the automatic stay.

(b) Scope: Consumer Debts Secured by a Mortgage on Real Property, or Secured by Personal Property that the Debtor Occupies as the Debtor's Personal Residence.

(1) For purposes of this subsection, the term "Mortgage Creditor" shall include all creditors whose claims represent

consumer debts secured in whole or in part by a mortgage on real property, including a personal property interest in manufactured housing, the debtor occupies as the debtor's personal residence.

(2) Except as provided in paragraph (3) below, and except as provided in Standing Order 08-3, if the Mortgage Creditor provided monthly statements to the consumer debtor pre-petition, the Mortgage Creditor shall provide monthly statements to all Chapter 12 and Chapter 13 consumer debtors who have indicated an intent to retain the Mortgage Creditor's collateral in their Chapter 12 or 13 plan, and to all Chapter 7 consumer debtors whose Statement of Intent indicates an intent to reaffirm the debt secured by the Mortgage Creditor's collateral. Such statements shall be provided unless and until the Mortgage Creditor has been granted relief from the automatic stay under 11 U.S.C. § 362(d). The monthly statements shall contain at least the following information concerning post-petition mortgage payments to be made outside the plan:

(A) The date of the statement and the date the next payment is due;

(B) The amount of the current monthly payment;

(C) The portion of the payment attributable to escrow, if any;

(D) The post-petition amount past due, if any, and from what date;

(E) Any outstanding post-petition late charges;

(F) The amount and date of receipt of all payments received since the date of the last statement;

(G) A telephone number and contact information that the debtor or the debtor's attorney may use to obtain reasonably prompt information regarding the loan and recent transactions; and

(H) The proper payment address.

(3) If pre-petition the Mortgage Creditor provided the debtor with "coupon books" or some other pre-printed,

bundled evidence of payments due, the Mortgage Creditor shall not be required to provide monthly statements under subsection (2) of this Section. The Mortgage Creditor shall, however, be required to supply the debtor with additional coupon books as needed or requested in writing by the debtor.

(4) The Mortgage Creditor shall provide the following information to the debtor upon the reasonable written request of the debtor:

(A) The principal balance of the loan;
(B) The original maturity date;
(C) The current interest rate;
(D) The current escrow balance, if any;
(E) The interest paid year to date; and
(F) The property taxes paid year to date, if any.

(5) If the case is a Chapter 12 or 13 case where the secured consumer debt is not modified by or paid through the Plan, and the Mortgage Creditor believes the debtor to be in default, the Mortgage Creditor shall send a letter alleging such default to the debtor and debtor's attorney upon any perceived or actual default by the debtor not less than 10 days before taking any steps to modify the automatic stay. Such written notice of default shall not be required in instances where the debtor has caused to be filed with the Court a plan or plan modification in which the debtor makes known their intent to abandon or surrender the property securing the Mortgage Creditor's claim.

(c) Form of Communication; Issuance of Monthly Statements is not a Stay Violation; and Motions to Show Cause

(1) For the purposes of this Order, creditors shall be considered to have sent the requisite documents or monthly statements to the debtor when the creditor has placed the required document in any form of communication, which in the usual course would result in the debtor receiving the document, to the address that the debtor last provided to the Court. The form of communication may include, but is

not limited to, electronic communication; United States Postal Service; or use of a similar commercial communications carrier.

(2) Creditors who provide account information or monthly statements under subsections (b) (1-5) above shall not be found to have violated the automatic stay by doing so, and secured creditors may contact the debtor about the status of insurance coverage on property that is collateral for the creditor's claim, may respond to inquiries and requests for information about the account from the debtor and may send the debtor statements, payment coupons, or other correspondence that the creditor sends to its non-debtor customers, without violating the automatic stay. In order for communication to be protected under this provision, the communication must indicate it is provided for information purposes and does not constitute a demand for payment.

(3) As a result of creditor's alleged non-compliance with this Standing Order, a debtor may file a Motion for the Creditor to Show Cause no earlier than sixty days after the creditor's failure to comply with sections (b), (c), or (d). Before filing the motion, the debtor must make good faith attempts in writing to contact the creditor and to determine the cause of any omission, and must indicate in the Motion for the Creditor to Show Cause the good faith steps taken, together with a summary description of any response provided by the creditor.

(4) If a creditor's regular billing system can provide a statement to a debtor that substantially complies with this standing order, but does not fully conform to all of its requirements, the creditor may request that the debtor accept such statement. If a debtor declines to accept the non-conforming statement, a creditor may file a motion, on notice to the debtor and the debtor's attorney, seeking a declaration of the Court that cause exists to allow such non-conforming statements to satisfy the creditor's obligations under this standing order. For good cause shown, the Court may grant a waiver for purposes of a

single case or multiple cases, and for either a limited or unlimited period of time. No waiver will be granted, however, unless the proffered statement substantially complies with the Standing Order.

IT IS HEREBY ORDERED that this Standing Order rescinds D. Kan. Bk. S.O. 07-4 and shall become effective immediately, and shall remain in effect until further order of the Court.

Dated this 1st day of November, 2008.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER 09-2
CONDUIT MORTGAGE PAYMENTS IN CHAPTER 13

This Standing Order is effective for all Chapter 13 cases filed on or after October 1, 2008.

I. REQUIRED CONDUIT PAYMENTS: Regular payments owed by a Debtor to a Creditor holding a claim secured by the Debtor's principal residence shall be made by the Debtor to the Trustee for payment through the Chapter 13 plan if the Debtor is (i) delinquent as of the petition date, or, (ii) becomes delinquent after the petition date. Such payments are referred to herein as "conduit payments."

II. DEFINITIONS: As used in this Standing Order, the following capitalized terms shall mean:

A. The "Arrearage" is the total amount past due as of the petition date, as calculated in the pre-petition arrearage section of Exhibit C [Addendum to Chapter 13 Proof of Claim For Residential Home Mortgage Debt Paid Through Chapter 13 Trustee], and shall be equal to the amount contained in the creditor's filed and allowed Proof of Claim, unless specifically controverted in the plan or by an objection to the claim as required by D. Kan. LBR 3015(b).1.

B. "Debtor" or "Debtors" are hereafter referred to as "Debtor."

C. "Real Property Creditor" is the entity claiming a mortgage or a servicer of the mortgage on the real property that is the principal residence of the Debtor. This Standing Order is intended to cover a loan secured by a security agreement in Debtor's principal residence (i.e., promissory note on a manufactured or mobile home), and such lender will be referred to as a "Real Property Creditor" herein for the sake of simplicity, even if some

specific references, e.g., to "mortgage" or "escrow analysis," are not strictly applicable.

D. The Standing Chapter 13 Trustee is referred to as "Trustee."

III. OTHER RULES APPLICABLE: Nothing in this Standing Order shall relieve any party from complying with any obligation under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules of the District and Bankruptcy Courts of Kansas, or any applicable Standing Orders. These procedures shall not be modified by any plan language without express order from the Court.

IV. DEBTOR'S DUTIES

A. Debtor may be excused from complying with this Standing Order only upon the entry of a Court order upon a showing of circumstances justifying the same.[1]

B. Debtor must complete Exhibit A–Mortgage Creditor Checklist and Exhibit B–Authorization to Release Information to the Trustee Regarding Secured Claims Being Paid by the Trustee and forward those documents to Trustee (not to the Court) within 10 days of the filing of the bankruptcy petition.

C. Debtor or Debtor's attorney shall mail a copy to the Trustee of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any adjustment to the monthly payments or interest rate immediately upon receipt of the same.

D. Debtor shall include the regular payment amount owing to the Real Property Creditor, inclusive of Trustee's fees, in the plan payment to be paid by Debtor to the Trustee.

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[1]*See e.g., In re Perez*, 339 B.R. 385 (Bankr. S.D. Tex. 2006) (Court lists 21 non-exclusive factors to be examined in determining whether to excuse debtors from conduit payment scheme or employer withholding orders). The additional cost associated with the trustee fee on the conduit payment will not, by itself, constitute good cause.

E. Pursuant to provisions of Paragraph V(D) below, in the event the monthly conduit payment changes due to either changed escrow requirements or a change in an adjustable interest rate, Debtor's plan payment to the Trustee shall change by the same amount, plus the Trustee's fee.

F. For any Debtor who is employed and required to make mortgage payments through the Trustee, an employer pay order shall be promptly entered by the Clerk of the Bankruptcy Court as provided in Debtor's plan and served upon the employer of Debtor. Until the employer begins to withhold bankruptcy plan payments from Debtor's pay, Debtor is required to make plan payments directly to the Trustee. A Debtor may be excused from complying with employer pay orders only upon the entry of a Court order upon a showing of circumstances justifying the same.

V. TRUSTEE'S DUTIES

A. The Trustee is authorized to deduct from any payments collected, pursuant to 11 U.S.C. § 1326, the authorized percentage fee on the funds distributed as necessary costs and expenses, together with any fee, charge or amount required under § 1326.

B. The Trustee shall allow as an administrative expense an amount equal to two full regular monthly payments inclusive of escrow deposits and two associated late fees. This allowance shall reimburse Real Property Creditor for post-petition delinquencies that may accrue until the Trustee begins payments to that creditor. This added amount shall bear interest at the contract rate in effect on the date of the petition.

C. The Trustee will not make payments to the Real Property Creditor on the pre-petition arrearage until such time as a Proof of Claim is filed with the Court and the Plan is confirmed. The Court is deemed to have granted authority to the Trustee to disburse conduit payments, as if the plan had been confirmed, once the Real Property Creditor has filed a Proof of Claim to which a fully

executed Exhibit C (Addendum to Chapter 13 Proof of Claim) has been attached. The Trustee is required to make a full mortgage payment for each full plan payment made. The Trustee is not required to make partial payments to Real Property Creditors.

D. Within 30 days after the Trustee has received any notice of a change in the conduit payment, the Trustee shall file a notice of the terms of the change with the Court and provide notice of that change to Debtor, Debtor's attorney, and Real Property Creditor. Such notice shall be treated as an amendment to the creditor's claim and Debtor's plan, and a party in interest shall have an opportunity to object to the amendment within 20 days of the filing of the notice. If no objection is filed, the Trustee shall be authorized to disburse the new conduit payment without seeking formal modification of the plan.

E. Should the new conduit payment jeopardize the feasibility of the plan, the Trustee may file a motion to amend the plan or seek conversion or dismissal of the case, whichever the Trustee deems appropriate.

VI. <u>REAL PROPERTY CREDITOR'S DUTIES</u>

A. The Real Property Creditor shall file a Proof of Claim, to which it shall attach the Addendum for Residential Home Mortgage Debt Paid Through the Chapter 13 Trustee (Exhibit C).

B. Unless otherwise ordered by the court, the Real Property Creditor shall notify the Trustee, Debtor and the attorney for the Debtor 45 days prior to the effective date of any change of payment amount (inclusive of escrow changes) and/or interest rate in a document that conforms with Exhibit D, Notice of Payment Change Due to Escrow Analysis, or Exhibit E, Notice of Payment Change due to Adjusted Rate Mortgage.

1. If a Real Property Creditor has a claim based on an open-end credit agreement such as a home equity line of credit, and if the interest rate or payment term is subject to frequent change that makes compliance

with this sub-part impracticable or burdensome, the Real Property Creditor may file a motion to exempt that claim from compliance with this subpart B or to alter the manner of compliance required. The Real Property Creditor, the Debtor, and the Trustee may also present an agreement to do so for the Court's approval.

C. At least 45 days prior to a change of the name of the Real Property Creditor payee, or the address to which payments should be made, Real Property Creditor shall notify the Trustee, Debtor and the attorney for the Debtor, of any such change in a document that conforms to Exhibit F, Notice of Transfer of Servicing and Claim, or Exhibit F-1, Notice of Transfer of Claim (Other than for Security).

D. If Real Property Creditor is entitled to advance or incur expenses in connection with the servicing of the note or mortgage, it shall notify the Trustee, Debtor and Debtor's attorney of any such advances or expenses within 30 days after the advance or expenses was incurred in a document that conforms to Exhibit G, Real Property Creditor's Notice of Advance or Other Contractual Expense.

E. During the pendency of the Chapter 13 case, Real Property Creditor shall submit to the Trustee, Debtor, and Debtor's attorney on or before the 10th of January of each year, a 12 month summary of the activity on the loan with a form substantially in conformity with Exhibit H, Model Mortgage Payment History.

F. The Real Property Creditor shall mail a copy to the Trustee of all copies of correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any change to the monthly payment or interest rate immediately upon receipt or creation of the same.

G. Any amount paid or tendered to the Real Property Creditor prior to confirmation shall be applied to the next post-petition payment under the terms of the note due,

without penalty. Alternatively, the mortgage holder may apply the payment as it deems appropriate, but said application shall be deemed to be the Real Property Creditor's waiver of all fees and expenses to which it is entitled under the loan documents.

H. Confirmation of the plan shall impose an affirmative duty and legal obligation on the Real Property Creditor to do all of the following:

1. Apply the payments received from the Trustee for payment on the Arrearage, if any, only to such Arrearage pursuant to the plan. The arrearage shall be deemed paid in full upon the entry of the Discharge Order in this case, unless otherwise ordered by the Court.
2. Deem the pre-petition Arrearage (and post-petition Arrearage, if any) contractually current upon confirmation of the plan so as to preclude the imposition of late payment charges or other default-related fees and services based solely on any pre-petition default or the payments referred to in paragraph V(B), above. This obligation will have no force and effect if the case is dismissed or converted.
3. Apply the post-petition monthly mortgage payments paid by the Trustee or by Debtor to the month in which they were designated to be made under the plan. Even if such payments are placed into a suspense, forbearance or similar account, they will be deemed to have been applied to the note pursuant to this subsection.
4. If an escrow account is required by the terms of the mortgage, Real Estate Creditor shall, either with its Proof of Claim or within 30 days of the date of the petition, prepare and provide to Debtor, Debtor's attorney and Trustee an escrow analysis for the current computation year, as defined by Regulation X § 6-1423.14 or for the next computation year if that computation year is scheduled to occur within 30 days

of the date of the petition to reflect the proper post-petition mortgage payment escrow. This should not include any sums or fees that were or should have been included in the pre-petition Arrearage claim.

VII. EFFECT OF PLAN COMPLETION

A. If the Debtor pays the Arrearage, together with interest, if any, as specified in the plan, all pre-petition defaults will be cured and the note and other loan documents will be deemed current as of the date of filing, extinguishing any right of the Real Property Creditor to recover any amount alleged to have arisen prior to the filing of the petition or to declare a default of the note, mortgage, or other loan documents based upon pre-petition events.

B. If Debtor has made all payments required under the Chapter 13 Plan, the Trustee shall file a motion seeking an order of the Court determining that all pre-petition and/or post-petition defaults on Debtor's residential home mortgage debt are deemed cured and all payments made on such debt through the date of plan completion are current, with no arrearage, no escrow balance, late charges, costs or attorney fees owing, except to the extent that the Court orders otherwise.

VIII. These procedures may be varied in a particular case only by order of the Court.

IT IS HEREBY ORDERED that this Standing Order rescinds D. Kan. Bk. S.O. 08-3 and shall become effective immediately, and shall remain in effect until further order of the Court.

Dated this 2nd day of February, 2009.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

-Exhibit A-

MORTGAGE CREDITOR CHECKLIST[1]

(FILE WITH TRUSTEE ONLY
DO NOT FILE WITH THE COURT)

Debtor Name(s): _____ Bk Case #: _____

Property Address: _____

Daytime Phone: ( ) _____ Evening: ( ) _____

Attorney name: (if any) _____

THE FOLLOWING INFORMATION MUST BE COMPLETED FOR ALL MORTGAGES. PLEASE BE SURE TO COMPLETE THIS FORM TO THE BEST OF YOUR ABILITY AND ATTACH THE MOST RECENT PAYMENT COUPON OR STATEMENT THAT WAS SUPPLIED BY YOUR MORTGAGE CREDITOR(S).

Creditor Name: _____

Account #: _____

Payment Address: _____
Street Address

_____
City State Zip

Creditor Phone Number: (if known) _____

Regular Monthly Payment Amount: $ _____ Current Interest Rate: _____

Monthly Payment Due Date: _____

Date Payment Late: _____ Monthly Late Charge Amount $_____

Is this a variable interest rate loan? ☐ Yes ☐ No
If yes, when is the next anticipated adjustment date? _____

Are property taxes included in the monthly payment? ☐ Yes ☐ No

Is insurance included in the monthly payment? ☐ Yes ☐ No

Is the loan due in full and payable in less than 5 years? ☐ Yes ☐ No
If yes, date due: _____

[1]File one of these forms with the Trustee for each creditor to whom you granted a mortgage on your home.

-Exhibit B-

AUTHORIZATION TO RELEASE INFORMATION TO THE TRUSTEE REGARDING SECURED CLAIMS BEING PAID BY THE TRUSTEE

(*FILE WITH TRUSTEE ONLY*
***DO NOT FILE WITH THE COURT*)**

Debtor Name(s): _____ Case #: _____

The debtor(s) in the above captioned bankruptcy case do/does hereby authorize any and all lien holder(s) on real property of the bankruptcy estate to release information to the standing Chapter 13 Trustee in this bankruptcy filing.

The information to be released includes, but is not limited to, the amount of the post-petition monthly installment, the annual interest rate and its type, the loan balance, escrow accounts, amount of the contractual late charge and the mailing address for payments. This information will only be used by the Trustee and his/her staff in the administration of the bankruptcy estate and may be included in motions before the Court.

DATE: _____
Debtor's Signature

DATE: _____
Joint Debtor's Signature

-EXHIBIT C-

ADDENDUM TO CHAPTER 13 PROOF OF CLAIM FOR RESIDENTIAL HOME MORTGAGE DEBT PAID THROUGH CHAPTER 13 TRUSTEE

(Exhibit C has been amended to include additional Mortgage Information effective March 17, 2010)

-EXHIBIT C-

ADDENDUM TO CHAPTER 13 PROOF OF CLAIM
FOR RESIDENTIAL HOME MORTGAGE DEBT
PAID THROUGH CHAPTER 13 TRUSTEE

GENERAL INFORMATION

Debtor(s):
Bankruptcy Case No:

DESCRIPTION OF SECURITY

Security for Debt/Property Address:

County and State:

CREDITOR INFORMATION

Loan No:
Creditor Name:

Servicer Name:
Address:

Contact Person:
Tel No.:
Fax No.:
E-mail:

Payments should be made payable to:

Address to which payments are to be sent:

Creditor Attorney Name:
Address:
Contact:
Tel No.:
Fax No:
E-mail:

MORTGAGE INFORMATION

Original Loan Information:
Original Principal Balance: $
Original Interest Rate: %
Mortgage/Deed of Trust Recorded:
Date of month payment due:
Date of month payment considered late under note:
Amount of late fee: $
Explanation of how the late fee is calculated (i.e., is it a flat dollar amount, a percentage of the overdue payment, or something else):

Type of Loan:
Fixed Rate
Adjustable
Last Adjustment Date:
Next Adjustment Date:
Other:
Fully Amortized
Date Note is all due:

Current Loan Information:
Petition Date Principal Balance: $
Petition Date Payoff: $
Petition Date Interest Rate %

Post-Petition Payments

Principal & Interest: $
Taxes: $
Insurance $
Other: _____ $
Other: _____ $

Total Payment: $

Pre-Petition Arrearage:

From	To	Type of Charge	#	Unit Charge	Total
		Payment			
		Payment			
		Late Charge			
		Late Charge			
		Accrued Late Charge			
		Property Inspection Fees			

Property Preservation Fees
Appraisal/BPO fees
Foreclosure Attorney Fees
Previous Bankruptcy Attorney's Fees
NSF Fees
Escrow Shortage
Advances for Taxes
Advances for Insurance
Other (describe)

Subtotal: _____
Minus Funds Held in Suspense: _____
Total Pre-Petition Arrearages:

Total Post-Petition Attorneys' Fees _____
Total Pre-Petition Arrearage Plus
Post-Petition Attorneys' Fees _____

Interest on Pre-Petition Arrearage:

___ Creditor Demands interest on the full Pre-Petition Arrearage of $ _____
___ This loan was executed prior to October 22, 1994.
___ The loan documents provided for interest on all arrearages.
___ The loan jurisdiction allows for interest on arrearages.
___ Interest is demanded at the contract rate of ____%.
___ Interest is demanded at ___%.

The interest to be paid over the term of the plan is $_____.
Total Pre-Petition Arrearage Plus Post-Petition Attorneys'
fees plus interest: $_____

___ Creditor Demands interest on the advances of $_____.
___ The loan documents provide for interest on advances.
___ The local jurisdiction allows for interest on advances.
___ Interest is demanded at the contract rate of ___%.
___ Interest is demanded at ___%.

The interest to be paid over the term of the ____ month plan is $_____.
Total Pre-Petition Arrearage Plus Post-Petition
Attorneys' Fees plus interest $_____.

NOTICES

Creditor reserves its rights to object to the Court's subject matter and personal jurisdiction, to amend and supplement this Proof of Claim and to file additional proofs of claim for additional claims.

Creditor demands all sums due post-petition as allowable under 11 U.S.C. §§ 506(b), 1322(e), and applicable law.

If this loan is an adjustable rate loan, the payments and late charges will change.

Creditor reserves the right to advance to senior liens.

-Exhibit D-

NOTICE OF PAYMENT CHANGE DUE TO ESCROW ANALYSIS

(FILE WITH TRUSTEE ONLY
DO NOT FILE WITH THE COURT)

Borrower/Loan #: _____

Bankruptcy Case #: _____

In accordance with the terms of the Mortgage, this is notification that the Annual Escrow Analysis has resulted in a post-petition payment change as indicated below:

Effective Date of Change _____
Current monthly payment amount $_____
Principal & Interest $_____
Escrow Amount $_____

New payment amount beginning _____ $_____
Principal and Interest $_____
Escrow Amount (specify taxes, insurance, etc.) $
Taxes (increased/decreased) $_____
Insurance (increased/decreased) $_____
_____(increased/decreased) $_____

Attached to this Notice is a copy of the ANNUAL ESCROW ANALYSIS outlining the basis for the change. Additionally, attached is a Post-Petition Cost and Fee Disclosure of the fees and costs due under the contract in the past 12 months. Questions should be directed to:

CREDITOR: _____

ADDRESS: _____

Contact: _____

Telephone/Fax: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that on _____, I served a copy of this Notice and all attachments to the following by U.S. Mail, postage prepaid:

Debtor: John Q. Debtor, 1234 Main St., Anywhere, IN 46601

Debtor's Attorney: Mary Counselor, 123 Pine St., Anywhere, IN 46601

Trustee: Tom Trustee, 456 Maple St., Anywhere, IN 46601

_____
Marian the Mortgage Servicer Employee

-Exhibit E-

NOTICE OF CHANGE IN PAYMENT AMOUNT DUE TO VARIABLE RATE CHANGE

(FILE WITH TRUSTEE ONLY DO NOT FILE WITH THE COURT)

Borrower/Loan #: _____

Bankruptcy Case #: _____

In accordance with the terms of the Adjustable Rate Mortgage, this is notification that the Interest Rate is adjusting as follows:

Payment Adjustment Date: _____

Next Scheduled Adjustment: _____
(daily, quarterly, semi-annually, annually, etc.)

Old Interest Rate: _____

Index Name/Rate: _____

Margin +/- Index: _____

New Interest Rate: _____

New Principal & Interest Payment $_____

New Monthly Payment, including escrow: $_____

CREDITOR: _____

ADDRESS: _____

Contact: _____

Telephone/Fax: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that on _____, I served a copy of this Notice and all attachments to the following by U.S. Mail, postage prepaid:

Debtor: John Q. Debtor, 1234 Main St., Anywhere, IN 46601

Debtor's Attorney: Mary Counselor, 123 Pine St., Anywhere, IN 46601

Trustee: Tom Trustee, 456 Maple St., Anywhere, IN 46601

_____
Marian the Mortgage Servicer Employee

-EXHIBIT F-

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

IN RE:	)	Case No.
John Q. Debtor,	)	
	)	**NOTICE OF TRANSFER**
Debtor.	)	**OF SERVICING AND**
	)	**CLAIM**
	)	
_____	)	(no hearing required)

PLEASE TAKE NOTICE that the servicing of the mortgage loan represented by the Proof of Claim #4 filed on 2/24/07 in the amount of $100,000, by Many Mortgages Incorporated, Transferor, with the address of 1234 Main St., Anywhere, IN 46601 has been transferred to Universal Servicing Company, Transferee (Loan No. 222222).

Chapter 13 Trustee payments and regular monthly payments should be sent to Universal Servicing Company, Bankruptcy Department, 123 Walnut, Anytown, PA 65432.

Dated:

By: John Smith
Agency for Universal Servicing
Company as Servicer for Many
Mortgages Incorporated

CERTIFICATE OF SERVICE

Creditor (Transferee), Universal Servicing Company, certifies that it has served a copy of this Notice by ordinary U.S. mail or served electronically through the Court's ECF Systems on this

_____day of _____, 2007:

Debtor(s)
John Q. Debtor
1234 Main Street
Anywhere, IN 46601

Debtor's Attorney
Mary Counselor, Esquire
Jones & Associates
123 Pine St.
Anywhere, IN 46601

Trustee
Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor
Many Mortgages Incorporated
123 Walnut
Anytown, PA 65432

U.S. Trustee
Office of the United States Trustee
301 N. Main, Ste 1150
Wichita, KS 67202

-EXHIBIT F- 1-

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS

IN RE:	)	Case No.
John Q. Debtor,	)	
	)	**NOTICE OF TRANSFER**
Debtor.	)	**OF CLAIM (Other than for Security)**
	)	
_____	)	(no hearing required)

A Proof of Claim has been filed in this case. The transferee hereby evidences, by way of documentation attached hereto, that the referenced claim has been transferred, other than the security, as is referenced in this Notice. This Notice must be used when any of the original payment information in a Proof of Claim changes. However, it should not be used for an amendment to the amount of the claim. For changes in the amount of the claim or the arrears only, an Amended Proof of Claim must be filed.

Original Claim Information:

Name of Claimant: _____
Name of Payee [if different from claimant]: _____
Payment Address: _____
Last 4 digits of Account #: _____
Claim # on Court's Registry: _____ [Or date of entry of Order allowing claim]
Amount of Claim: _____ [Total debt] _____[Arrears]

Transferee Information:

Name of Claimant: _____
Name of Payee [if different from claimant]: _____
Payment Address: _____
Name/Address for Notices [if different from payment address]: _____
_____
Phone #: _____
Last 4 digits of Account #: _____

I, _____, do hereby declare under penalty of perjury that the information provided in this Notice is true and accurate to the best of my knowledge. I hereby declare that a copy of this Notice has been mailed to the Transferor and that proof of the transfer is annexed thereto.

By: _____ Date: _____
Transferee/Agent of Transferee

The penalty for making a false statement or claim includes a fine or imprisonment for up to five years, or both, 18 U.S.C. Sec. 152.

CERTIFICATE OF SERVICE

Creditor (Transferee), Universal Servicing Company, certifies that it has served a copy of this Notice by ordinary U.S. mail or served electronically through the Court's ECF Systems on this _____day of _____, 2007:

Debtor(s)
John Q. Debtor
1234 Main St.
Anywhere, IN 46601

Debtor's Attorney
Mary Counselor, Esquire
Jones & Associates
123 Pine St.
Anywhere, IN 46601

Trustee
Jan Hamilton
PO Box 3527
Topeka, KS 66601

Transferor
Many Mortgages Incorporated
123 Walnut
Anytown, PA 65432

U.S. Trustee
Office of the United States Trustee
301 N. Main, Ste 1150
Wichita, KS 67202

-EXHIBIT G-

REAL PROPERTY CREDITOR'S NOTICE OF ADVANCE OR OTHER CONTRACTUAL EXPENSE

(*FILE WITH TRUSTEE ONLY*
***DO NOT FILE WITH THE COURT*)**

In accordance with the terms of the mortgage, this is notification that the servicer has advanced funds for a non-escrowed mortgage loan as indicated below. Pursuant to the terms of the note and/or mortgage, Debtor(s) is/are required to pay these fees and costs. Documentation to support the fees and costs is attached as Exhibit A, hereto:

Type of Advance or Contractual Expense: _____

Total funds advanced/expense: _____

Entity that funds were paid to: _____

_____

_____

If taxes or forced placed insurance,
Dates covered by advance: _____

Any questions regarding this Notice should be directed to_____
(name, address, telephone #, facsimile # and email address of contact person).

_____
Name of Mortgagee

_____

_____
Address of Mortgagee

CERTIFICATE OF SERVICE

I hereby certify that on _____, I have served a copy of this Notice and all attachments to the following by U.S. Mail, postage prepaid:

Debtor: John Q. Debtor, 1234 Main St., Anywhere, IN 46601

Debtor's Attorney: Mary Counselor, 123 Pine St., Anywhere, IN 46601

Trustee: Tom Trustee, 456 Maple St., Anywhere, IN 46601

_____

Marian the Mortgage Servicer Employee

-EXHIBIT H-

MODEL MORTGAGE PAYMENT HISTORY

(FILE WITH TRUSTEE, DEBTOR and DEBTOR'S ATTORNEY ONLY DO NOT FILE WITH THE COURT)

Debtor: John Q. Debtor
Case Number: 07-112345

Plan = POC = $10,300

TRANSACTION DATE	AMOUNT RECEIVED	ARREARS or MONTHLY	POST DUE DATE	POST MONTHLY PAYMENT	PRE-PETITION BALANCE	SPECIAL ASSESSMENT	SUSPENSE
1/1/2007	$ 800.00	Monthly	1/1/2007	$ 800.00	$ 10,300.00		
2/10/2007	$ 800.00	Monthly	2/1/2007	$ 800.00	$ 10,300.00		
2/15/2007	$ 120.00	Arrears	-	-	$ 10,180.00		
3/3/2007	$ 800.00	Monthly	3/1/2007	$ 800.00	$ 10,180.00		
3/15/2007	$ 100.00	Arrears	-	-	$ 10,080.00		
4/3/2007	$ 850.00	Monthly	4/1/2007	$ 800.00			$ 50.00
6/10/2007	$ 1,200.00	Monthly	5/1/2007	$ 800.00			$ 400.00
7/1/2007	$ 1,200.00	Monthly	6/1/2007	$ 800.00			$ 400.00
7/2/2007	$ 800.00*	Monthly	7/1/2007	$ 800.00			
7/16/2007						$32.00 LC	
7/24/2007						$15.00 PI	
7/31/2007						$500.00 Attorney Fee	

Draft

* Payment Made from Suspense

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 09-3
ORDER ADOPTING INTERIM FEDERAL RULE OF BANKRUPTCY PROCEDURE 5012 AND ABROGATING D. KAN. BK. S.O. 08-5

Except for communications for scheduling and administrative purposes, the court in any case commenced by a foreign representative shall give at least 21 days' notice of its intent to communicate with a foreign court or a foreign representative. The notice will identify the subject of the anticipated communication and will be given in the manner provided by Fed. Rule Bankr. P. 2002(q). Any entity wishing to participate in the communication must notify the court of its intention not later than 7 days before the scheduled communication.

IT IS HEREBY ORDERED that this Standing Order abrogates D. Kan. Bk. S.O. 08-5 and is effective December 1, 2009.

IT IS FURTHER ORDERED that this Standing Order shall remain in effect until December 1, 2010.

Dated this 2nd day of November, 2009.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS
STANDING ORDER NO. 09-4
ORDER ADOPTING INTERIM FEDERAL
RULE OF BANKRUPTCY PROCEDURE 1007-I AND
ABROGATING D. KAN. BK. S.O. 09-1

On October 20, 2008, the President signed the National Guard and Reservists Debt Relief Act of 2008, Pub. L. No. 110-438, which amended 11 U.S.C. § 707(b)(2). The Act provides a temporary exclusion from the application of the bankruptcy means test for reservists and certain members of the National Guard. Although the Act became effective December 19, 2008, the effective date of the Act did not provide sufficient time to promulgate rules after appropriate public notice and an opportunity for comment.

Acting on behalf of the Judicial Conference, the Executive Committee approved the transmission of Interim Rule 1007-I to the district courts with a recommendation that it be adopted through a local rule or standing order.

In consideration of the foregoing, and pursuant to 28 U.S.C. § 2071, Rule 83 of the Federal Rules of Civil Procedure and Rule 9029 of the Federal Rules of Bankruptcy Procedure,

IT IS HEREBY ORDERED that Interim Federal Rule of Bankruptcy Procedure 1007-I is adopted in its entirety and without change by the judges of this court.

IT IS FURTHER ORDERED that this Standing Order abrogates D. Kan. Bk. S.O. 09-1, shall become effective December 1, 2009, and shall remain in effect until further order of the court.

IT IS SO ORDERED.

Dated this 2nd day of November, 2009.

s/ Robert E. Nugent
ROBERT E. NUGENT
Chief Judge

s/ Janice Miller Karlin
JANICE MILLER KARLIN
Judge

s/ Dale L. Somers
DALE L. SOMERS
Judge

s/ Robert D. Berger
ROBERT D. BERGER
Judge