

**Summary of Proposed Changes to the Local Rules of the United States
District Court for the District of Kansas**

Below is a brief summary of the proposed changes to the local civil and criminal rules.

Rule 1.1 Scope and Modification of Rules; Definitions; Citation

Clarifying what local rules apply in criminal cases.

Rule 38.1 Random Selection of Grand and Petit Jurors

Removing the Jury Plan from the local rules and maintaining it as a stand-alone plan. Because of its length, this deletion is not included in the attached redline.

Rule 47.1 Communication with Jurors After Trial

Clarifying language to primarily address juror-initiated conduct.

Rule 72.1.2 Assignment of Matters to Magistrate Judges

Non-substantive change to remove outdated language.

Rule 72.1.4 Objections; Appeals/ Stay of Magistrate Judge's Orders

Substantive change regarding the appeal or review of a magistrate judge's order in a criminal case.

Rule 79.3 Custody and Disposition of Trial Exhibits, Sealed Documents, and Filed Depositions

Removing unnecessary language that is otherwise covered by other rules or ethical obligations.

Rule CR1.1 Local Rules Applicable to Criminal Cases

New proposed rule specifying which local rules apply in criminal cases.

Rule CR1.2 Time

New proposed rule specifying the time for filing a motion response or reply.

Rule CR1.3 Motions and Briefing in Criminal Cases

New proposed rule specifying the format and contents for criminal motions.

Rule CR17.1 Subpoenas in Criminal Cases Involving Court-Appointed Counsel

New proposed rule with substantive and procedural changes regarding criminal subpoenas.

Rule CR32.1 Presentence Reports

Substantive changes regarding the timing for presentence reports.

Rule CR44.1 Representation of Indigent Defendants

Removing the CJA Plan from the local rules and maintaining it as a stand-alone plan. Because of its length, this deletion is not included in the attached redline.

Rule CR44.2 Appearances in Criminal Cases

Clarifying the pro hac vice process in a criminal case.

Rule CR44.3 Withdrawal of Appearance

Clarifying which existing local rules for withdrawal of counsel apply in the criminal context and excluding the portion of the rule that imposes certain requirements on counsel seeking to withdraw when a client would be left unrepresented.

Rule CR49.1 Scope of Electronic Filing

Abolishing as obsolete.

Rule CR49.2 Eligibility, Registration, Passwords

Removing obsolete language.

Rule CR49.3 Consequences of Electronic Filing

Abolishing as obsolete.

Rule CR49.4 Entry of Court Issued Documents

Abolishing as obsolete.

Rule CR49.5 Attachments and Exhibits

Abolishing as obsolete.

Rule CR49.6 Sealed Documents

Adding substantive language to allow certain applications and warrants to be filed under seal initially without a motion.

Rule CR49.7 Retention Requirements

Abolishing as obsolete.

Rule CR49.8 Signatures

Abolishing as obsolete.

Rule CR49.9 Service of Documents by Electronic Means

Abolishing as obsolete.

Rule CR49.10 Notice of Court Orders and Judgments

Abolishing as obsolete.

Rule CR49.11 Technical Failures

Abolishing as unnecessary because it is covered in the Administrative Manual.

Rule CR49.12 Public Access

Abolishing as obsolete.

Rule CR49.13 Administrative Procedures

Abolishing as unnecessary.

Rule CR50.1 Implementation of the Speedy Trial Act

Removing the Speedy Trial Act plan from the local rules and maintaining it as a stand-alone plan. Because of its length, this deletion is not included in the attached redline.

Rule CR53.1 Dissemination of Information

Proposed language simplifying this rule.

Rule CR55.1 Verification of Receipt of Transcripts

Abolishing as unnecessary.

RULE 1.1

SCOPE AND MODIFICATION OF RULES; DEFINITIONS; CITATION

- (a) **Scope.** Unless otherwise stated, these rules govern the procedure in all proceedings before this court except criminal proceedings. CR1.1 governs the procedure in all criminal 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.

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As amended 2/16/95.

RULE 47.1

COMMUNICATION WITH JURORS AFTER TRIAL

- (a) **Court Order or Permission Required.** ~~No one—including the parties, their attorneys, or the agents or employees of either—is permitted to~~their representatives must not initiate contact, examine, or interview any juror, either orally or in writing, except:
 - (1) by permission or order of the court in its discretion; and
 - (2) under any such terms and conditions as the court may establish.
- (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) **Juror-Initiated Contact.** Subject to any terms or conditions the court previously may have imposed under subsection (a), nothing in this rule prohibits jurors, on their own initiative, from contacting the parties, their attorneys, or their representatives. The restrictions set forth in subsection (b) continue to apply even when the juror first initiates the contact.
- (d) **Notice of Rule.** When discharging or excusing empaneled jurors, the court will advise them of this rule.

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

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. Crim. 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.

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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 to appeal or otherwise seek review by a district judge of ~~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~~. The District Judge may extend this deadline on a showing of good cause.

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

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

- (a) **During Trial.** After being marked for identification, all exhibits – except weapons, drugs, or other sensitive materials – will be placed in the custody of the clerk during the duration of the trial, unless the court orders otherwise. Any weapons, drugs, or other sensitive exhibits must be held in the custody of the counsel offering the exhibits during trial.
- (b) **After Trial.** Upon completion of the trial, all exhibits will be returned to counsel offering them, unless the court orders otherwise. A party or his attorney who has custody of an exhibit must keep it available for the use of the court or an appellate court, and must grant the reasonable request of any party to examine or reproduce the exhibit for use in the proceeding. Such party is responsible for documentation of the chain of custody of such exhibits. ~~This obligation continues until one year after: (1) any appeal has been finally resolved or (2) time for filing a notice of appeal or petition for writ of certiorari has expired.~~
- (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.

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As amended 4/15/20.

-XV-
RULES APPLICABLE TO CRIMINAL CASES

RULE CR1.1
LOCAL RULES APPLICABLE TO CRIMINAL CASES

The rules in Part XV and the following rules govern the procedure in all criminal proceedings before this court:

| <u>Rule</u> | <u>Topic</u> |
|----------------------------------------|---------------------------------------------------------------|
| <u>D. Kan. Rule 1.1</u> | <u>Scope and Modification of Rules; Definitions; Citation</u> |
| <u>D. Kan. Rule 5.1(a)-(c)(1), (e)</u> | <u>The form of pleadings and papers</u> |
| <u>D. Kan. Rule 5.4.1</u> | <u>Eligibility, registration, and passwords</u> |
| <u>D. Kan. Rule 5.4.3</u> | <u>Technical failures</u> |

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|-------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| <u>D. Kan. Rule 5.4.4</u> | <u>Authorizing the clerk to adopt administrative procedures for filing</u> |
| <u>D. Kan. Rule 7.2</u> | <u>Oral Argument on Motions</u> |
| <u>D. Kan. Rule 7.3</u> | <u>Motions to reconsider</u> |
| <u>D. Kan. Rule 11.1</u> | <u>Sanctions</u> |
| <u>D. Kan. Rule 26.4</u> | <u>Expert witnesses</u> |
| <u>D. Kan. Rule 38.1</u> | <u>Random selection of grant and petit jurors</u> |
| <u>D. Kan. Rule 40.1</u> | <u>Assignment of cases</u> |
| <u>D. Kan. Rule 47.1</u> | <u>Communication with jurors after trial</u> |
| <u>D. Kan. Rule 62.1</u> | <u>Mandates of an appellate court</u> |
| <u>D. Kan. Rule 72.1.1</u> | <u>Authority of magistrate judges</u> |
| <u>D. Kan. Rule 72.1.2</u> | <u>Assignment of matters to magistrate judges</u> |
| <u>D. Kan. Rule 72.1.4(d)-(e)</u> | <u>Objections, appeals, and stays of a magistrate judge's order</u> |
| <u>D. Kan. Rule 77.1(a)-(b)</u> | <u>Record offices and the filing of documents</u> |
| <u>D. Kan. Rule 77.3(b)</u> | <u>Case numbering system for criminal cases</u> |
| <u>D. Kan. Rule 77.5</u> | <u>Dissemination of information by court supporting personnel</u> |
| <u>D. Kan. Rule 79.1</u> | <u>Access to court records</u> |
| <u>D. Kan. Rule 79.3</u> | <u>Custody and disposition of trial exhibits, sealed documents, and filed depositions</u> |
| <u>D. Kan. Rule 80.1</u> | <u>Use of transcripts</u> |
| <u>D. Kan. Rule 83.1.2</u> | <u>Standing orders and mandated rules</u> |
| <u>D. Kan. Rule 83.2.1</u> | <u>Photographs, recordings, and broadcasts</u> |
| <u>D. Kan. Rule 83.2.2</u> | <u>Court security</u> |
| <u>D. Kan. Rule 83.2.3</u> | <u>Special orders in sensational cases</u> |
| <u>D. Kan. Rule 83.2.4</u> | <u>Electronic communication devices</u> |
| <u>D. Kan. Rule 83.2.5</u> | <u>Conflicts involving spouses and children of judges</u> |
| <u>D. Kan. Rule 83.5.1</u> | <u>Roll of attorneys</u> |
| <u>D. Kan. Rule 83.5.2</u> | <u>Admission to the bar</u> |
| <u>D. Kan. Rule 83.5.2.1</u> | <u>Special admissions for the U.S. Government and the Federal Public Defender Office</u> |
| <u>D. Kan. Rule 83.5.3(a)-(e), (g)-(i)</u> | <u>Registration of attorneys</u> |
| <u>D. Kan. Rule 83.5.4</u> | <u>Appearance for a particular case</u> |
| <u>D. Kan. Rule 83.5.5(b)-(e)</u> | <u>Withdrawal of appearance</u> |
| <u>D. Kan. Rule 83.5.6</u> | <u>Legal interns</u> |
| <u>D. Kan. Rule 83.5.7</u> | <u>Appearances by former law clerks</u> |
| <u>D. Kan. Rules 83.6.1 through 83.6.10</u> | <u>Professional responsibility & discipline</u> |
| <u>D. Kan. Rule 83.6.12</u> | <u>General Provisions</u> |

RULE CR1.2

TIME

Time for Filing of Responses and Replies. Unless otherwise ordered by the court, any response must be filed within 14 days. Any reply must be filed within 7 days of the response.

RULE CR1.3

MOTIONS AND BRIEFING IN CRIMINAL CASES

(a) Form and Filing. All motions, unless made during a hearing or at trial, must be filed in writing with the clerk. The motion or opening brief filed in support of the motion must contain:

- (1) a statement of the specific relief sought;
- (2) a statement of the nature of the matter before the court;
- (3) a concise statement of the facts;
- (4) the argument, which must refer to all statutes, rules, and authorities relied upon; and
- (5) when appropriate, whether there has been prior consultation with other parties and, if so, the views of other parties.

(b) Joint or Unopposed Motions. If a motion is joint or unopposed, the caption and the body of the motion must so state.

(c) Supplemental Authorities. If pertinent and significant authorities come to a party's attention after the party's final brief has been filed—or after oral argument but before a decision—a party may promptly advise the court by notice filed on the CM/ECF system setting forth the citations. The notice must state reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally; if the supplemental citations refer to a brief, the notice must be linked in the ECF system to that brief. The body of the notice must not exceed 350 words. Any response must be made within 5 days and must be similarly linked and limited.

RULE CR17.1

SUBPOENAS IN CRIMINAL CASES INVOLVING COURT-APPOINTED COUNSEL

(a) Issuance of Subpoenas for Witness Testimony at a Hearing or Trial. In any criminal matter in which the defendant is represented by the Federal Public Defender or other court-appointed counsel, upon request of such counsel, the clerk shall issue a subpoena for witness testimony at a hearing or trial in blank, signed and sealed, to counsel without the necessity for an individual court order. By completing a blank subpoena, defense counsel represents that counsel believes the defendant is unable to pay the witness fees and that the presence of the witness is necessary to an adequate defense. Subpoenas issued under this subsection shall be deemed issued by court order pursuant to Fed. R. Crim. P. 17(b).

- (b) Service of Subpoenas.** Upon presentation of such a subpoena, the United States Marshal shall serve it in the same manner as in other criminal cases pursuant to Fed. R. Crim. P. 17(b).
- (c) Process Costs and Witness Fees.** The United States Marshal shall pay the process costs and fees of any witness subpoenaed pursuant to this rule as provided in Fed. R. Crim. P. 17(b) and 28 U.S.C. § 1825.
- (d) Subpoenas in Certain Hearings.** A subpoena may not be issued under this rule to compel the attendance of a witness at a preliminary hearing, or any hearing related to pretrial detention, or revocation or modification of supervision.

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, unless otherwise requested by a party and ordered by the court. 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.
- (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: except upon an order issued by this court.
- (c) Sentencing Factors.** After the final version of the presentence report has been provided to the parties, but no later than five 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 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.

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RULE CR44.2
APPEARANCE IN CRIMINAL CASES

Retained attorneys appearing for defendants in criminal cases shall promptly file a written entry of appearance. An attorney seeking pro hac vice admission for a criminal case shall follow D. Kan. Rule 83.5.4.

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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**(b)-(e) only.**

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Adopted 3/17/09.

~~RULE CR49.1~~
~~SCOPE OF ELECTRONIC FILING~~

~~As authorized by Fed. R. Crim. P. 49(d) and Fed. R. Crim. 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.~~

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~~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 email 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.~~

~~Rule 5.4.1 applies except that a~~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 email 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 login 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.~~

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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.~~

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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.~~

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~~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 Procedures 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.~~

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~~Adopted 3/17/04.~~

RULE CR49.6

SEALED DOCUMENTS

- (a) Procedure for Requesting Leave to File Under Seal.** In criminal cases and except as described in (d) below, 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.
- (d) Search Warrants and Orders for Electronic Evidence.** Any application and warrant for search, seizure, and/or tracking devices, applications and orders obtained pursuant to 18 U.S.C. §§ 2703(d) and 3123, and affidavits in support of such applications shall be kept and retained under seal by the clerk against everyone except attorneys and employees of the Office of the U.S. Attorney. In the event

that execution of the warrant results in the seizure of evidence later discoverable in a criminal proceeding, any duly appointed Assistant United States Attorney or Special Assistant United States Attorney is authorized to disclose the application, affidavit, and warrant or order to counsel for the defendant(s) without further authorization of Court and such documents will be unsealed when a return is filed absent a further order of the court.

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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 six years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.~~

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~~Adopted 3/17/04.~~

~~RULE CR49.8~~

~~SIGNATURES~~

~~The user login 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(e). In addition, the name of the Filing User under whose login 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 seven days after filing; or (4) in any other manner approved by the court.~~

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~~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.~~

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~~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.~~

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~~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.~~

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~~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 login 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.~~

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~~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 the District of Kansas* (“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.~~

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Adopted 3/17/04.

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; or
 - (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; or
 - (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; or
 - (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, a~~All criminal proceedings shall be held in open court unless otherwise provided by law or ordered by the 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.~~

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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.~~

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