

**RULE 5.1**  
**FORM OF PLEADINGS AND PAPERS.**

**(a) Form.** Documents filed electronically must comply with this rule to the extent practicable. Pleadings, motions, briefs, and other papers submitted for filing must be typewritten or printed on letter size paper, double-spaced, in no less than 12-point font. ~~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.~~

**(be) 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.~~

**(dc) 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 (eb) of this rule.

**(ed) 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.* Within 21 days of the removal or transfer, 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.

**(fe) 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.

**(gf) Certificates of Service.** ~~If a certificate of service is required under Fed. R. Civ. P. 5(d), it such e~~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.

#### **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; or~~
- ~~(2) otherwise permitted in the Administrative Procedures Guide;~~
- ~~(3) 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.~~

**RULE 5.4.12**  
**ELIGIBILITY, REGISTRATION, PASSWORDS**

~~(a) **In-General; Registration Requirements.** Attorneys admitted to the bar of this court—including those admitted pro hac vice—and pro se parties may register as An electronic filer must register as a Filing User of the court’s Electronic Filing System, using the form prescribed by the clerk that ~~(b) **Registration Requirements.** Registration is in a form prescribed by the clerk and~~ requires the Filing User’s name, address, telephone number, and email 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.~~

~~(e)~~ **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 login 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.

**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.

#### **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.

## **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.~~

## **RULE 5.4.6~~2~~**

### **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.~~

(a) **Provisional Under-Seal Filings.** A party may provisionally file a document that it reasonably believes may contain confidential information under seal. The document will be deemed filed as of that date and will remain provisionally sealed until further court order. The clerk's office will grant access to sealed documents to all attorneys who have entered an appearance in the case and have not been terminated.

(b) **Notice.** No later than the next court business day, the filing party must file a notice of proposed sealed record that identifies the subject confidential information by the ECF docket number of the provisional under-seal filing and the corresponding party or non-party that the filing party reasonably believes may assert a confidentiality interest in the identified confidential information ("the proponent"). The filing party must serve the notice on all proponents and provide notice to any proponent that is a non-party to the litigation that the proponent should follow the procedure set forth in subsection (c) to the extent the proponent wants to assert its own confidentiality interests to maintain the document or portions thereof under seal. The party that provisionally filed the document under seal has no obligation to assert the confidentiality interests of others.

(c) **Motion to Seal or Redact.** A proponent that seeks to maintain any portion of the document under seal, or to allow the document to be filed in the public record with redactions, must file a motion to seal or redact according to the following procedure:

- (1) Within 7 days after the document is filed provisionally under seal, provide notice to the other parties (but not file with the court) identifying the specific portions of the document that it intends to ask the court to maintain under seal or allow to be redacted from the public record. Any party that receives such notice must respond to the proponent with its objections within 2 days. The parties (and the proponent, if a non-party) must then meet and confer to try to eliminate or minimize filings under seal and redactions, and try to agree on an unopposed motion.
- (2) The motion to seal or redact must be filed within 14 days after the document is filed provisionally under seal.
- (3) The motion must be filed in the public record, and it must include the following:
  - (A) the portions of the document that the proponent asks the court to maintain under seal or allow to be redacted, which must be narrowly tailored to the asserted confidentiality interest;
  - (B) the confidentiality interest to be protected and why such interest outweighs the presumption of public access (stipulations between the parties or stipulated protective orders, alone, are insufficient to justify restriction);

(C) a clearly defined and serious injury that would result in the absence of restricting public access;

(D) why no lesser alternative is practicable or why restricting public access will adequately protect the confidentiality interest in question; and

(E) the extent to which the motion is opposed or unopposed.

(4) A filing party requesting redactions from the public record must separately email the document to chambers with its proposed redactions highlighted in yellow.

(d) **Disposition of Documents Filed Provisionally Under Seal.** A proponent that receives the notice required by subsection (b) and does not timely file a motion to seal or redact in accordance with subsection (c) waives its right to maintain that the filing contains confidential information. Under those circumstances, within 2 days after the deadline for filing a motion to file under seal or redact expires, the filing party must notify the court that the document that was filed provisionally under seal may be unsealed. Any court order on a motion to seal or redact will direct the party that provisionally filed the document under seal to make the appropriate filing in the public record.

#### **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 six years after all time periods for appeals expire. If the court requests, the Filing User must provide original documents for review.~~

#### **RULE 5.4.8**

#### **SIGNATURES**

~~(a) **Effect of User LogIn and Password.** 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 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 seven days after filing; or~~
- ~~(4) in any other manner the court approves.~~

#### **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.~~

#### **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.

**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](http://www.ksd.uscourts.gov), by obtaining a PACER login 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.~~

**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.~~

**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 a motions to continue a pretrial conference, a hearing on a motion, or ~~the trial of an action~~ reasonably in advance of the ~~hearing date~~ current setting and must specify the views of other parties.

(c) **Joint or Unopposed Motions.** ~~Subject to~~ In accordance with Fed. R. Civ. P. 29, stipulations for extensions of time ~~are subject to court approval~~ must be approved by the court only if such extensions affect the following: time for completing discovery, hearing a motion, submitting the parties' jointly proposed pretrial order, or the pretrial conferences, hearings, or trial settings. ~~If an extension of these specified deadlines is jointly requested, the parties must still demonstrate good cause for such extensions, and the court will not continue pretrial conferences, hearings, or trial upon stipulation of the parties~~ any discovery, conference, or trial deadline solely because the parties so stipulate.

(d) **Time for Filing ~~of~~ Responses and Replies.** Except for motions filed under D. Kan. Rule 7.3 or u ~~Unless the court orders otherwise, the following time periods apply to the filing of responses and replies:~~

- (1) ~~Non-dispositive—Discovery-related~~ Discovery-related motions. Responses to ~~non-dispositive~~ discovery motions (~~motions other than motions to dismiss, motions for summary judgment, motions to remand, or motions for judgment on the pleadings~~) must be filed ~~and served~~ within 14 days. Replies must be filed ~~and served~~ within ~~14~~ 7 days ~~of the service of the response.~~ Any motion to extend any such response or reply deadline must be filed at least 3 days before the brief's filing deadline.
- (2) ~~Dispositive—Other~~ Other motions. Responses to all other motions ~~to dismiss, motions for summary judgment, motions to remand, or motions for judgment on the pleadings~~ must be filed ~~and served~~ within 21 days. Replies must be filed ~~and served~~ within 14 days ~~of the service of the response.~~ Any motion to extend any such response or reply deadline must be filed at least 3 days before the brief's filing deadline.

## **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.~~

**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. 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, with each statement of fact supported by reference to the record; and
- (4) the argument, which must refer to all statutes, rules, and authorities relied upon.

~~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 responseresponsive brief or memorandum, and the moving party may file ~~and serve a written reply~~ brief or memorandum within the time provided in D. Kan. Rule 6.1(d). If a response is not filed by the applicable deadline, the court will consider and decide the motion as an uncontested motion. Ordinarily, the court will grant the motion without further notice.

**~~(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)(d) Page Limitations.~~** ~~The arguments and authorities section of briefs or memoranda must not exceed 30 pages absent a court order. Unless the court orders otherwise, the following page limits apply to briefs on motions:~~

- (1) *Discovery-related motions.* Principal briefs in support of, or in response to, discovery-related motions must not exceed 10 pages and replies must not

exceed 3 pages. Any motion to exceed these page limits must be filed at least 3 days before the brief's filing deadline.

(2) Other motions. Principal briefs in support of, or in response to, all other motions must not exceed 30 pages and replies must not exceed 10 pages. Any motion to exceed these page limits must be filed at least 3 days before the brief's filing deadline. Unless otherwise ordered, these page limits also apply to non-motion briefs, e.g., merits briefs in Social Security or bankruptcy appeals and proceedings addressed by D. Kan. Rule 9.1(a) (those filed under 28 U.S.C. §§ 2241, 2254, and 2255, and motions to correct or reduce a sentence or civil rights complaints by prisoners).

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

~~(f)~~**(ef) 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 ~~clerk~~ by ~~letter~~notice filed on the CM/ECF system, ~~with a copy to all other parties~~, setting forth the citations. The ~~letter~~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 ~~letter~~notice must be linked in the ECF system to that brief. The body of the ~~letter~~brief must not exceed 350 words. Any response must be made within ~~five~~5~~business~~ days and must be similarly linked and limited.

### 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.~~ Except for motions under Fed. R. Civ. P. 59(e) or 60, ~~Parties~~ seeking reconsideration of a court ~~non-dispositive orders~~ must file a motion within 14 days after the order is ~~filed~~served 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.

Upon reviewing a motion to reconsider, the court may deny the motion without further briefing or set a deadline for response. No response to a motion to reconsider is necessary unless the court establishes a response deadline.

**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 response responsive brief or memorandum within the time specified in D. Kan. Rule 6.1(d) waives the right to later file such response brief or memorandum. If a response responsive brief or memorandum is not filed within the D. Kan. 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.~~

**RULE 7.54**  
**APPLICATION OF THIS RULE**

D. Kan. Local Rules 7.1 through 7.63 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) — **Content.** 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).~~

**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, including both:
  - (A) a redlined version of the proposed amendment that shows all proposed changes to the pleading; and
  - (B) a clean version of the proposed pleading; 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 145 days of the court's order granting the motion, or as the court otherwise directs.

### RULE 16.1

#### MATTERS EXEMPT FROM 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; and
- (7) actions to enforce arbitration awards.

~~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

#### PRETRIAL CONFERENCES AND WITNESS/EXHIBIT DISCLOSURES

**(a) General Provisions.** In most cases, the court will conduct a pretrial conference after discovery is complete and before the filing of dispositive motions (e.g., summary judgment). If the case remains at issue after dispositive motions have been decided, the judge who will preside at trial usually will enter a separate trial order or conduct another pretrial conference ~~(or~~

~~conferences~~) to formulate a trial plan to facilitate the admission of evidence at trial. T; the court will also set deadlines for filing and ruling on any objections to final witness and exhibit disclosures and deposition designations, motions in limine, proposed instructions in jury cases, proposed findings of fact and conclusions of law in non-jury cases, and any other matters calculated to make trial more efficient.

~~The pretrial conferences contemplated by Fed. R. Civ. P. 16(d) will be held before a judge or magistrate judge with court participation throughout unless otherwise directed by the court. Parties may be present at the pretrial conference and they must be present when ordered by the court.~~

The court will prepare the pretrial order or designate counsel to do so. At a time as may be ordered by the court under Fed. R. Civ. P. 16(b)(3)(B)(v<sub>1</sub>), the parties must submit a proposed pretrial order in the form prescribed by the court. The parties have joint responsibility to attempt in good faith to formulate an agreed order which the judge can sign at the conference. If the parties disagree on any particulars, they are each to submit proposed language on the points in controversy<sub>5</sub>; for the judge 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 that the parties in good faith converse, confer, compare views, consult<sub>1</sub>, and deliberate, or in good faith attempt to do so. Objections to the pretrial order must be made in writing and within such time as the court may specify.

~~**(b) Effect of Pretrial Order.** The pretrial order, when approved by the court and filed with the clerk, together with any memorandum entered by the court at the conclusion of the pretrial conference, will control the subsequent course of the action unless modified by consent of the parties and court, or by an order of the court to prevent manifest injustice.~~

~~**(c) Sanctions.** Should counsel or a pro se litigant fail to appear at the pretrial conference or fail to comply in good faith with the provisions of this rule, the court may, in its discretion, enter a judgment of dismissal or default. Alternatively, or in addition thereto, the court may impose any sanction provided for in Fed. R. Civ. P. 16(f) or D. Kan. Rule 11.1.~~

~~**(db) \_\_ Witness and Exhibit Disclosures.** At times ordered by the court under Fed. R. Civ. P. 16(b) and (c)(2)(G), the parties will exchange and must file witness and exhibit disclosures pursuant to Fed. R. Civ. P. 26(a)(3).~~

- (1) *Content of Disclosures.* Witness disclosures must set forth the address of each witness as well as the subject matter about which each witness is expected to testify. Witness and exhibits disclosed by one party may be called or offered by the other party. If a witness or exhibit appears on a final Fed. R. Civ. P. 26(a)(3) disclosure that has not previously been included in a Fed. R. Civ. P. 26(a)(1) disclosure (or timely supplement thereto), that witness or exhibit probably presumptively 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. The disclosures of the parties must also specifically identify specific

deposition exhibits to be used. Witnesses expected to testify as experts must be so designated.

- (2) *Trial Exhibits.* Before meeting with the courtroom deputy to mark exhibits, the parties must exchange copies of all proposed exhibits and attempt to agree as to their authenticity and relevancy.
- (3) *Testimony by Deposition.* 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 ~~read-offer~~ into evidence. The opposing party must then ~~serve upon the offering party file~~ a counter-designation of those portions of the deposition which 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). Any disputes ~~between the parties~~ concerning deposition testimony, including any unresolved evidentiary objections, must be brought to the court's attention ~~of the court by a separate filing with the Clerk of Court, by the deadline—as~~ set forth in the pretrial order or separate trial order. ~~The objecting party must deliver a copy of the deposition to the judge along with this filing. 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, all exhibit designations must be re-marked by the offering party to correspond to the trial exhibit designations.~~

#### **~~RULE 26.1~~**

**~~COMPLETION TIME FOR DISCOVERY~~**—(Rule abolished as of 3/17/2014)

#### **RULE 26.2\_1**

#### **MOTIONS FOR PROTECTIVE ORDERS**

- (a) **Stay of Discovery.** ~~The filing of a~~ 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(ed)(3)(A); or
    - (B) motion to order appearance or production only upon special conditions pursuant to Fed. R. Civ. P. 45(ed)(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.

### 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;
- (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").~~

(eb) **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.

### 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.

~~(e) 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.~~

### RULE 30.1 NOTICE OF DEPOSITIONS

The reasonable notice provided by Fed. R. Civ. P. 30(b)(1) for ~~the~~taking of depositions is seven7 days. For good cause, the court may enlarge or shorten such time. ~~Fed. R. Civ. P. 6 governs the computation of time.~~

### RULE 33.2 FORMAT FOR INTERROGATORIES UNDER FED. R. CIV. P. 33

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

### RULE 37.1 MOTIONS RELATING TO DISCOVERY

(a) Pre-Motion Conference. Before filing any disputed discovery-related motion, and after satisfying the duty to confer or to make a reasonable effort to confer in D. Kan. Rule 37.2, the party intending to file a discovery-related motion must contact the court to arrange a telephone conference with the judge and opposing counsel. The court will inform the parties whether any information, other than a nonargumentative statement of the nature of the dispute, should be submitted or filed in advance of this conference. Unless otherwise requested by the court, no disputed discovery-related motion, material, or argument should be filed or submitted prior to this telephone conference.

(ab) Content of Motions. ~~Motions under Fed. R. Civ. P. 26(e) 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, Discovery-related motions 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(ed) directed at subpoenas must be accompanied by a copy of the subpoena in dispute.~~

~~(c) Time for Filing Discovery-Related Motions. If a Any discovery-related motion to compel discovery in compliance with D. Kan. Rules 7.1 and 37.2 is not must be filed and served within 30 days of the default or service of the response, answer, or objection, or disclosure that is the subject of the motion, or, for all other disputes, within 30 days after the movant knew or reasonably should have known of the potential dispute. 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. The court may deny any motion filed after that 30-day period as untimely unless the movant demonstrates diligence in attempting to resolve the specific discovery dispute at issue.~~

## 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(ed), 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 emailing, 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.

**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)~~ **(1) *Kansas City - Leavenworth Division.*** Atchison, Doniphan, Douglas, Franklin, Johnson, Leavenworth, Miami, and Wyandotte.
- ~~(2)~~ **(2) *Topeka Division.*** Brown, Chase, Clay, Dickinson, Geary, Jackson, Jefferson, Lyon, Marshall, Morris, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Wabaunsee, and Washington.
- ~~(3)~~ **(3) *Wichita - Hutchinson Division.*** Butler, Cowley, Harper, Harvey, Kingman, Marion, McPherson, Reno, Rice, Sedgwick, and Sumner.
- ~~(4)~~ **(4) *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.
- ~~(5)~~ **(5) *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.
- ~~(6)~~ **(6) *Fort Scott Division.*** Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Elk, Greenwood, Labette, Linn, Montgomery, Neosho, Wilson, and Woodson.

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

- (A) All six divisions in the state will be included in creating petit jury panels. On a quarterly basis at each courthouse, as many numbers of persons as may be required for assignment to a petit jury panel will be randomly drawn from the qualified jury wheel as follows:
- (i) at Kansas City from the Kansas City – Leavenworth and Fort Scott divisions;
  - (ii) at Topeka from the Topeka and Salina divisions; and
  - (iii) at Wichita from the Wichita – Hutchinson and Dodge City divisions.
- (B) The clerk may also create petit jury panels from a single division or from a combination of any of the six divisions, where a trial is held in a location other than Kansas City, Wichita, or Topeka or to address other practicalities as may exist.
-

- (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 are barred from jury service on the grounds that they are exempt:
  - (A) members in active service in the Armed Forces of the United States;
  - (B) members of the fire or police departments of any State, the District of Columbia, or such territory possession;
  - (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, or such territory or possession, 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 two 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."

**(I) 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 3/17/18, 3/17/10, 3/17/09, 3/17/08, 3/17/06, 4/8/99, 2/28/97, 3/13/92.

**RULE 40.2**  
**DETERMINATION OF PLACE OF TRIAL**

(a) ~~In~~ **General Provisions.** 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.

~~**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 54.1**  
**TAXATION AND PAYMENT OF COSTS**

(a) **Procedure for Taxation.**

- (1) *Form and Deadline.* The party entitled to recover costs must file a bill of costs on a form provided by the clerk (available at the clerk's office or on the court's website under the Forms section) within 30 days after:
  - (A) the expiration of time allowed for appeal of a final judgment or decree;
  - or
  - (B) receipt by the clerk of an order terminating the action on appeal.

- (2) ~~Memorandum~~Brief Required. The party seeking costs must file a ~~memorandum~~brief in support of its costs with the bill of costs. The ~~memorandum~~brief must:
    - (A) clearly and concisely itemize and describe the costs (the clerk may disallow costs for failure to itemize and verify costs);
    - (B) set forth the statutory and factual basis for the reimbursement of those costs under 28 U.S.C. § 1920;
    - (C) reference and include copies of relevant invoices, receipts, and disbursement instruments in support of the requested costs; and
    - (D) state that the party has made a reasonable effort, in a conference with the opposing counsel or pro se party, to resolve disputes regarding costs.
  - (3) *Waiver*. The failure of a prevailing party to timely file a bill of costs constitutes a waiver of taxable costs.
  - (4) *Stipulation*. If the parties resolve costs, the party seeking costs must file a stipulation setting forth the amount of costs agreed upon within 14 days after the conference with the opposing counsel or pro se party.
- (b) **Objections to Bill of Costs.**
- (1) *Response* ~~Memorandum~~Brief. Within 14 days from the date the bill was filed, a party who objects to any item in a bill of costs must file a ~~memorandum~~brief setting forth such objections with supporting documentation.
  - (2) *Reply* ~~Memorandum~~Brief. Within ~~seven~~7 days from the date the response ~~memorandum~~ was filed, the moving party may file a reply ~~memorandum~~.
  - (3) *Clerk's Action*. When objections are filed, the clerk will consider the objections and any reply, and will tax costs subject to review by the court. If no timely objections are filed, the clerk may tax costs as claimed in the bill.
- (c) **Judicial Review.** Pursuant to Fed. R. Civ. P. 54(d), the court may review the clerk's action when a party files and serves a motion for review within ~~seven~~7 days of the date the clerk taxes costs.
- (d) **To Whom Payable.** All costs taxed are payable directly to the party entitled thereto — not to the clerk or court — 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.

## RULE 56.1 MOTIONS FOR SUMMARY JUDGMENT

- (a) **Supporting** ~~Memorandum~~Brief. 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 Brief.**

- (1) A ~~memorandum brief~~ 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 brief~~, 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 Brief.** 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.~~

**(d) Notice to Pro Se Litigant Who Opposes a Summary Judgment Motion.** Any represented party moving for summary judgment against a party proceeding pro se must serve and file as a separate document, together with the papers in support of the motion, the following "Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment" with the full texts of Fed. R. Civ. P. 56 and D. Kan. Rule 56.1 attached. Where the pro se party is not the plaintiff, the movant must amend the form notice as necessary to reflect that fact.

**"Notice to Pro Se Litigant Who Opposes a Motion for Summary Judgment"**

The defendant in this case has moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. This means that the defendant has asked the court to decide this case without a trial, based on written materials, including affidavits, submitted in support of the motion. The claims you assert in your complaint may be dismissed without a trial if you do not respond to this motion on time by filing sworn affidavits and/or other documents as required by Rule 56(c) of the Federal Rules of Civil Procedure and by D. Kan. Rule 56.1. The full text of these two rules

is attached to this notice. In short, Fed. R. Civ. P. 56 provides that you may not oppose summary judgment simply by relying upon the allegations in your complaint. Rather, you must submit evidence, such as witness statements or documents, countering the facts asserted by the defendant and raising specific facts that support your claim. If you have proof of your claim, now is the time to submit it. Any witness statements must be in the form of affidavits. An affidavit is a sworn statement of fact based on personal knowledge stating facts that would be admissible in evidence at trial. You may submit your own affidavit and/or the affidavits of others. You may submit affidavits that were prepared specifically in response to defendant's motion for summary judgment. If you do not respond to the motion for summary judgment on time with affidavits and/or documents contradicting the material facts asserted by the defendant, the court may accept defendant's facts as true, in which event your case may be dismissed and judgment entered in defendant's favor without a trial.

**RULE 62.2**  
**SUPERSEDEAS BONDS SECURITY**

A ~~bond or other security~~~~supersedes 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.

**RULE 65.2**  
**SURETIES SECURITY PROVIDERS**

(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~~~~other security~~.

(b) **Security.** Unless the court directs otherwise, every bond or ~~undertaking other security~~ 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 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) **Investment in Income-Earning Account.** In cases where a party depositing funds with the clerk desires that the funds be invested with a named institution, the order shall so specify but, in the absence of specific directions to the contrary, all registry funds will be invested in a general interest-bearing account in the bank selected for that period through appropriate bidding procedures.

(c) **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% of the income earned regardless of the nature of the case underlying the investment.

**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~~ submitted to the clerk prior to the time of trial.

(b) **Referral by the Court.** After the consent form has been first executed by all parties and filed then submitted to the clerk to ensure compliance with this Rule, the clerk will transmit it

to the district 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.

## 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 transmissions. 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.~~

**(dc) Email Filing.**

- (1) *Unrepresented Parties.* Only pro se filers may file papers in civil matters as an attachment to an email sent to the clerk's office.
- (A) *Form, Format, Service, and Signature.* Such papers, when transmitted through email, 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) *Notice.* A copy of the papers transmitted to the clerk must also be immediately transmitted to all parties who have the capability of receiving ~~e-mail~~email transmissions. The filer must immediately notify parties not having such capability of the email filing by telephone.
- (C) *Court's Review.* Pro se filers may file papers by email under any circumstance and do not need to provide an affidavit setting forth the facts constituting compelling circumstances.

## 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, and the chair of the Bench-Bar Committee of the Kansas Bar Association. The judges shall also select ~~one law clerk and~~ nine actively-practicing members of the bar of the court.

**(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. ~~The law clerk shall 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.

**RULE 81.2**  
**COPIES OF STATE COURT PROCEEDINGS IN REMOVED ACTIONS**

| ~~Within 21 days after~~ Upon 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.