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PREFACE

The following Rules are adopted by the Judges of the Fourteenth Judicial District (Montgomery and Chautauqua Counties), pursuant to Kansas Supreme Court Rule 105. They are subservient to the Kansas Code of Civil Procedure, the Kansas Rules of Evidence and the Kansas Supreme Court Rules for District Courts and should be relied on only subsequent to reading those.

These rules may be amended by the judges of this judicial district. These rules and any amendments become effective upon the filing of the same with the Clerk of the Kansas Supreme Court. All prior rules of the Fourteenth Judicial District are repealed upon these rules becoming effective.

Any of these rules may be modified by the judge presiding over any action to meet emergencies or to avoid injustice or great hardship as determined by that judge.

GENERAL AND ADMINISTRATIVE

RULE NUMBER ONE **RULES OF DECORUM**

When appearing in Court, all attorneys shall be suitably attired, and to the extent possible shall advise their clients to be similarly attired in apparel other than shirts without collars, shorts, sandals, overalls, torn or tattered jeans.

All persons seeking entry to a courtroom are subject to search of their person or possessions by the Sheriff or his designee.

No one shall display materials in the judicial center area designed to communicate a position or message to others while court is in session.

With the exception of peace officers no weapons other than exhibits shall be permitted in any courtroom or the judicial center.

Food or beverages or active communication devices are not allowed in the courtroom. Reading or engaging in any other activity which interferes with giving attention to the court proceedings is prohibited.

Attorneys or pro se litigants shall rise when addressing the Court, and shall make all statements to the Court from the counsel table or the lectern facing the Court. They shall approach the bench or witness only with leave of the judge.

RULE NUMBER TWO
REGULAR DOCKETS

Independence –

Each Monday	9:00 a.m. – Uncontested Domestic and Civil Matters
2 nd & 4 th Monday	10:00 a.m. – Child Support Enforcement Matters
Every 3 rd Monday	1:00 p.m. – Juvenile Offenders (Division 3 Docket week) North
Every 3 rd Monday	1:00 p.m. – Juvenile CINC (Division 1 Docket week)
Each Tuesday	9:00 a.m. – Criminal Cases Originating in North Half of County
	10:30 a.m. – Care and Treatment Hearings
	1:30 p.m. – Preliminary Hearings
Each Thursday	9:00 a.m. – Criminal Cases Originating in South Half of County
	9:00 a.m. – Probate*
	9:30 a.m. – Limited Actions*
	10:00 a.m. – Small Claims*
	10:30 a.m. – Care and Treatment Hearings

Coffeyville –

Each Tuesday	9:00 a.m. – Probate*
	9:30 a.m. – Limited Actions*
	10:00 a.m. – Small Claims*
Each Wednesday	9:00 a.m. – Uncontested Domestic and Civil Matters
1 st & 3 rd Wednesday	10:00 a.m. – Child Support Enforcement Matters
2 nd & 4 th Wednesday	10:00 a.m. – Traffic (except DUI & other certain offenses)*
Every 3 rd Wednesday	1:00 p.m. – Juvenile Offenders (Division 3 Docket week) South
Each Thursday	1:30 p.m. – Preliminary Hearings

Sedan –

Each Monday	9:00 a.m. – Criminal 1 st Appearances*
	9:00 a.m. – Probate*
	9:00 a.m. – Limited Actions*
	9:00 a.m. – Small Claims*
Every 3 rd Wednesday	9:00 a.m. – Criminal Arraignments (Division 2 Docket week)
	9:00 a.m. – Uncontested Domestic and Civil Matters
Each Friday	9:00 a.m. – Criminal 1 st Appearances*
	9:00 a.m. – Traffic*
	9:00 a.m. – Juvenile Matters*

*denotes Magistrate presiding

RULE NUMBER THREE
FILING & ASSIGNMENT OF CASES

1. Filing of Cases: Criminal and Care and Treatment cases shall all be filed in Independence. All other actions in Montgomery County may be filed in either Coffeyville or Independence. Files and records will be maintained in the office in which the case is filed.
2. Assignment of Cases: Assignment of cases shall be as the judges in this district shall agree.
3. Assignment Process: The clerk in each office shall assign files in each case category rotationally among the three district judges except for uncontested foreclosures, SRS support establishment and URESA cases. The magistrate shall hear all Traffic, Probate, Limited and Small Claims. Appeals from the magistrate shall be assigned to a district judge by rotation within each case category.
4. Refiled Cases: Any case dismissed and refiled shall be assigned to the same judge to whom it was previously assigned.
5. Assignment of Consolidated Cases: Companion cases shall be assigned to the judge having the case assigned the first case number.
6. Unavailability of Judge: When a judge is unavailable, any case assigned to that judge may be tried and any pending motion heard by any other available judge in this district on the consent and agreement of the available judge. Ex parte orders and agreed orders may be similarly granted when an assigned judge is unavailable.
7. Reassignment: When any judge has occasion to ask that a case or cases be reassigned, such reassignment shall be: a) by consultation and agreement between the judges; b) by the method of random assignment set forth in paragraph 2 above; or c) by the Chief Judge.

RULE NUMBER FOUR
CLERK'S OFFICE HOURS

As a general rule the District Clerk's offices shall be open to the general public from 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. each working day. The Chief Judge may, however in accordance with Kansas Supreme Court procedures, authorize the closing of the clerk's office to accommodate emergencies, weather conditions, courthouse closings, personnel issues or to complete accumulated filing, docketing and accounting records.

RULE NUMBER FIVE
RECORDS, FILES AND EXHIBITS

All files checked out to court officers, abstractors or members of the bar pursuant to Supreme Court Rule 106 shall be returned within five (5) business days unless an earlier return is requested or a longer period is permitted by order of the court.

RULE NUMBER SIX
DISPOSAL OF EXHIBITS AND SUBPOENAED BUSINESS RECORDS

When business records are subpoenaed into the clerk's office pursuant to K.S.A. 60-245a, records not introduced into evidence or otherwise made part of the record will be disposed of upon termination of the case. If return of records has not been requested by the record custodian, the clerk will destroy said records, or they may be released to counsel of record with the written consent of the record custodian.

Likewise, all exhibits in any non-criminal or juvenile case not withdrawn are subject to destruction thirty (30) days after the case is terminated unless an appeal is docketed.

RULE NUMBER SEVEN
JURY QUESTIONNAIRES

Jury questionnaires shall be confidential. Jury questionnaires will be available to counsel prior to trial dates. Copies may be made, but are to be destroyed or returned to the court at the conclusion of the trial. Neither counsel nor parties shall keep any copies of juror questionnaires and all information contained therein shall remain confidential.

RULE NUMBER EIGHT
VOIR DIRE EXAMINATION

Questions asked and answered on juror questionnaires shall not be unnecessarily repeated by counsel during voir dire examination. Counsel should, so far as practicable, direct questions to the panel as a whole, avoid unnecessary repetition of questions, and avoid eliciting promises, posing hypotheticals and inquiring about anticipated instructions and the law.

RULE NUMBER NINE
MONIES INVOLVED IN CASES BEFORE THE COURT

A Judge of the District Court may order that any monies in actions pending before the Court be invested in any local financial institution for safe keeping. As an alternative to investing said funds a Judge may also order that any such funds be held by the Clerk of the District Court in existing accounts.

The Court may specify that an attorney hold the monies and be responsible for opening an interest bearing account in such financial institution for deposit of said funds prior to determination of ownership by the Court. Proof of such investment must be placed in and become part of the court record and be retained by the Clerk of the District Court.

When the action has been resolved by settlement or judicial determination, said funds shall be paid out only upon order of the court providing for distribution, division or apportionment thereof and of any interest accumulated thereon. Unless otherwise ordered, interest shall be payable to the person found to be the owner of the principal fund deposited, or if more than one owner, proportionately on the basis of the division of the principal amount.

Accounts receivable on cases that have reached maturity will be turned over for collection with a collection agency selected by the Clerk of the Court. A case is deemed mature:

- | | |
|-------------|---|
| 1. Traffic | Once a suspension/bench warrant has been issued or, when probation is involved, six months after there has been no payment. |
| 2. Juvenile | Once the juvenile has turned eighteen (18) years of age. |
| 3. CINC | Six months after no payment has been made. |
| 4. Criminal | Six months after no payment has been made or immediately following incarceration in a state correctional facility. |
| 5. Other | When requested by the Judge, District Clerk or Court Service Officer. |

RULE NUMBER TEN
PREPARATION OF PAPERS

Except as otherwise specifically directed by statute, attorneys appearing in this district shall be required to complete all summons, garnishment orders, and subpoenas. Blank forms will be provided by the clerks on request. Process papers shall be accompanied by a check in the appropriate amount payable for the fees and charges of the process server. Subpoenas shall be accompanied by a check for the statutory witness and mileage fees.

RULE NUMBER ELEVEN
CHAMBERS COPIES

It is counsel's responsibility to direct a chambers copy of every item filed in a case to the assigned judge. All such copies and correspondence concerning the case shall be directed to the assigned judge at the assigned judge's address.

RULE NUMBER TWELVE
PUBLIC RECORDS SEARCH REQUESTS

Purpose: The purpose and goal of this rule is to guide the access of public records under control of the courts in this district, to protect court records from damage and disorganization, to prevent excessive disruption of court functions, to provide guidelines for requesting and obtaining information and to ensure effective and timely action in response to requests for inspection of public records. [K.S.A. 45-215 *et seq.*, K.S.A. 28-170, Kansas Supreme Court Administrative Order No. 156.]

Public Information Officer: The 14th Judicial District Chief Court Clerk shall be the Public Information Officer for this judicial district.

Hours of Inspection: Public records shall be open for inspection during the time the District Clerks Offices are open to the general public.

Access to Records: Inspection requests should be made in writing on a form to be provided by the Clerk. The use of the form is encouraged but not mandatory in all

circumstances. The Clerks of the Courts in this district have designated all trial court clerks as additional persons to be custodians of the records for the purposes of the Open Records Act.

Fees: The fee to be paid for a copy of any record and for certification shall be set by the clerk. An hourly access fee of not less than \$12.00 per hour may be assessed for employee time when concentrated attention of a custodian of the records is required. Payment in advance of the custodian's estimated fees may be required.

Clerks Authority: No district court employee may conduct a search that requires the making of a legal judgement or determination.

Criminal Records: Requests for criminal record searches for employment, credit or the like shall be referred to the executive branch agency most likely to have centralized reference files, e.g., the Kansas Bureau of Investigation or the Division of Vehicles.

Confidential Records: Certain court records are confidential and are excepted from public examination and disclosure under the Kansas Open Records Act. The disclosure of these records is specifically prohibited or restricted by federal law, state law or by Kansas Supreme Court Rules. Confidential records include, but are not limited, to the following:

<u>Description of Confidential Record</u>	<u>Authority</u>
Certain sections of a criminal presentence investigation report	K.S.A. 21-4714(c)
Expunged criminal records including diversion agreements and juvenile offender records	K.S.A. 21-4619 K.S.A. 38-2312
Affidavits or sworn testimony in support of the issuance of a Search warrants or summons	K.S.A. 22-2302 K.S.A. 22-2502
Unserved arrest warrants in criminal cases	K.S.A. 21-3827
Non-moving traffic violations	K.S.A. 8-1560d
Grand jury proceedings	K.S.A. 22-3012
Certain juvenile records	K.S.A. 38-2201 & 2309
Adoption records	K.S.A. 59-2122
Certain employee personnel records	K.S.A. 45-221(a)(4)
Mental illness, alcohol, and drug abuse treatment records	K.S.A. 59-2979

RULE NUMBER THIRTEEN
MEDIA COORDINATOR

In accordance with Kansas Supreme Court Rule 1001 (9) the 14th Judicial District Chief Court Clerk is designated as Media Coordinator.

RULE NUMBER FOURTEEN
JURY ADMINISTRATOR

In accordance with 10(c) of the Kansas Supreme Court Standards relating to jury use and management the Clerk of the District Court of each respective 14th Judicial District Court or that clerk's designee shall be the jury administrator.

RULE NUMBER FIFTEEN
PRO TEM JUDGES

Whenever all of the four District / Magistrate Judges are all simultaneously absent from the District the Municipal Judges of Independence, Coffeyville and Sedan, Kansas are hereby designated Judges Pro Tem of the Fourteenth Judicial District.

RULE NUMBER SIXTEEN
PROCESS SERVERS

Process Servers appointed under the provisions of K.S.A. 60-303 and K.S.A. 61-11803 shall be appointed for no more than a period of one year, expiring on December 31 of each year for which appointed.

The appointment of a Process Server shall be limited and so state in the Order of Appointment that it is for the purpose of serving process under K.S.A. 60-303 and K.S.A. 61-1803 without authority to serve Writs of Execution, Orders of Attachment, Replevin Orders, Orders for Delivery, Writs of Restitution and Writs of Assistance. The appointment may be made by any District Judge in this district.

All Process Servers shall comply with the General Guidelines for Process Servers issued by the court.

The person being appointed as a Process Server shall state in an application, under oath, that he or she has no felony or misdemeanor convictions, or list such convictions. Accompanying the Application for Appointment of Process Server shall be an affidavit by an attorney duly authorized to practice law in the State of Kansas, which attest to the good reputation of the person applying for appointment.

JUVENILE MATTERS

RULE NUMBER SEVENTEEN **UNIFORM PROCEDURE FOR EXTENDED JURISDICTION JUVENILE** **PROSECUTION**

The basic procedure for processing extended jurisdiction juvenile prosecutions in this judicial district pursuant to K.S.A. 38-1636(a)(3) and the mandate of K.S.A. 38-1636(f)(2), are as follows:

- 1 Any motion filed by the State of Kansas seeking to designate proceedings as an extended jurisdiction ("EJ") juvenile prosecution shall be filed within thirty (30) days of the initial filing of charges against the Respondent. A request to file said motion out-of-time may be granted only for good cause shown.
- 2 A motion seeking EJ status shall be set for hearing by the court as soon as is reasonably practicable.
- 3 Pursuant to K.S.A. 38-1636(b), the State of Kansas shall include, in any motion seeking EJ status, a statement that the prosecuting attorney will introduce evidence to the offenses alleged in the complaint and request that, on hearing the motion and designating the proceedings as an EJ prosecution, the court may make the finding provided in K.S.A. 22-2902, and the finding that there is no necessity for further preliminary examination.
- 4 Any motion seeking EJ status shall identify by name and address all persons who are to be notified of the hearing pursuant to K.S.A. 38-1636©. The motion shall be accompanied by a proposed Order for Hearing for the Clerk's use in scheduling and providing notice. The clerk of the court will send notice, by first class mail, of the date, time and place of hearing, to all persons listed in the motion.

- 5 The original guardian-ad-litem assigned to the case shall represent the respondent throughout all stages of the proceedings, including any jury trial proceedings requested by respondent.

RULE NUMBER EIGHTEEN
INSPECTION OF JUVENILE FILES

All district juvenile files shall be accessed by non-judicial personnel for public inspection only after permission by a District Judge.

RULE NUMBER NINETEEN
RELEASE OF MEDICAL INFORMATION

When and if the Kansas Department of Social and Rehabilitation Services (“SRS”), and its contractors, come into information concerning a child in custody, or the natural parents of the child, which is in the nature of confidential personal health information, as defined by the Health Insurance Portability Accountability Act of 1996 (“HIPPA”) to include but not be limited to such medical information such as pregnancies, abortions, births, deaths, illnesses, operations, diseases, or other maladies and medical conditions, SRS shall have the authority to relay said information to the Judge who is assigned the case at the time SRS or their contractor learns the information without unnecessary delay followed by written letter or other memo. This rule constitutes a standing Court order in compliance with HIPPA and consists of the necessary consent that SRS will need to comply with this request/order to furnish information to the Court regarding medical information.

RULE NUMBER TWENTY
PARENT ALLY PROGRAM

The purpose of this program is to allow up to two people designated by the parents whose child, or children are subject to the Kansas Code for the Care of Children, to attend and be present at Child in Need of Care (CINC) hearings. In order for persons so designated to perform in said capacity, from and after this date, each will be required to attend and participate in a Parent Ally Orientation Program (PAOP) approved by OJA.

The orientation program shall consist of the following:

- 1 The participant must view the cd-rom version of the PAOP prepared by OJA.
- 2 Each participant shall review the Parent Ally Orientation Manual (PAOM) prepared by OJA.
- 3 Additionally, the participant(s) is encouraged to review the basic concepts of the CINC process by going online at www.kscourts.org.
- 4 Each participant must execute a written "acknowledgement of participation" form evidencing his or her completion of the above.

Pursuant to OJA policy, judges who preside over CINC cases shall see that the procedure outlined below is followed at the earliest practical point in the CINC process:

- a Inform parents that they entitled to designate up to two people to attend court with them, provided the participants have completed the program requirements as stated above, and so long as they do not become disruptive.
- b Let parents know how to accomplish the requirements of the PAOP as set forth above. This may consist of viewing the program online or the cd-rom version and/or reading the written materials consisting of the Parent Ally Orientation Program Manuel.
- c Verify that the designated persons have participated in the PAOP through submission of the "Acknowledgement of Participation" form mentioned above, or secure a sworn affidavit that the parties have completed the program, or secure sworn testimony of the same, or secure stipulation of the parties that the designated person(s) have participated in the requirements of the PAOP.

PROBATE & LIMITED ACTIONS

RULE NUMBER TWENTY-ONE **PROBATE PROCEEDINGS**

HEARING DATES: All Petitions in K.S.A. Chapter 59 matters, except Care and Treatment, shall be set for hearing on Monday at 9:00 a.m. in Sedan, Tuesday at 9:00 a.m. in Coffeyville or Thursday at 9:00 a.m. in Independence.

It shall be the duty of the filing attorney (or pro se petitioner) to obtain, at the time of the filing of the petition, a date for the petition to be heard, and to provide an "Order

for Hearing” to the Court for execution and filing. The judge assigned to hear the case shall be consulted before scheduling matters expected to take longer than five minutes.

GUARDIAN/CONSERVATOR, QUALIFICATION TO SERVE: Any person whose name appears in the Central Registry of Confirmed Perpetrators of adult or child abuse, as having been confirmed for abuse, shall be presumed to be ineligible to serve as a guardian or conservator. Any person, who has been convicted within the last ten years of a felony, or any crime involving violence or dishonesty, shall be presumed to be ineligible to serve as a guardian or conservator. The petitioner seeking to establish a guardianship and/or conservatorship shall have the duty to obtain and file by written report or affidavit, prior to the hearing on the petition, evidence that the proposed guardian and/or conservator is not listed on an abuse registry and does not have a felony conviction or a misdemeanor conviction for an act involving violence or dishonesty within the last ten years.

ORDERS FREEZING ASSETS: Any asset otherwise subject to statutory bond requirements, in a conservatorship or a decedent estate, may be deposited, subject to an Order Freezing Assets, in any federally insured banking institution authorized and doing business in Kansas and approved by the Court. The amount of bond to be required shall then be calculated excluding the amount subject to the Order Freezing Assets. No such order shall be effective unless the institution, by a qualified officer, agrees in writing to be subject to such order of the Court. Assets subject to an Order Freezing Assets shall only be released upon proper application to and approval by the Court.

CONFIDENTIALITY OF MEDICAL REPORTS: The confidentiality order authorized by K.S.A. 59-3093 shall be automatically imposed in every guardianship and conservatorship case. However, a written request for disclosure shall not be required of the proposed ward/conservatee, the petitioner, the proposed guardian/conservator or counsel for any of said parties.

RULE NUMBR TWENTY-TWO
LIMITED ACTIONS PRACTICE

ANSWER DATES: All answer dates in Chapter 61 cases will be on Monday at 9:00 a.m. in Sedan, Tuesday at 9:30 a.m. in Coffeyville or Thursday at 9:30 a.m. in Independence. If the defendant fails to appear or answer, default as prayed may be entered. Plaintiff or plaintiff’s counsel is not required to appear on the answer date.

SERVICE OF PROCESS: Service by first class mail is permitted for orders to appear in aid of execution and for orders to reappear (call back orders). Service of contempt citations by certified mail shall be sufficient if the signature on the return receipt card is definitely distinguishable as a signature that purports to be that of the defendant. Otherwise, contempt citations must be served by personal service.

In cases where attempted service reveals the address furnished for service was not correct, no further attempt at service at that same address shall be made, unless the person or attorney seeking service certifies by letter that they have verified, subsequent to the service attempt, that the address is now good.

TRIAL SETTINGS: Landlord tenant eviction trials will be conducted one week after the answer date, but for good cause shown. The Court will schedule all other limited actions trials on a regular docket day as promptly as the underlying circumstances allow.

CONTINUANCES: Answer dates will not be continued, but for good cause shown. Except to prevent manifest injustice, trial settings will only be continued upon written motion and order of the Court entered prior to the scheduled time of trial, or upon the joint request of all parties. Continuances of a trial setting will not be granted ex parte.

JOURNAL ENTRIES: It is counsel's responsibility to ascertain the status of service of process and to present a proposed journal entry/judgment form reflecting service, appearances and the proposed judgment to be entered, if appropriate.

POST JUDGMENT ACTIVITY: All post judgment activity shall occur in the same court where judgment was entered. Plaintiff's attorney or an authorized representative to cover for plaintiff's attorney and all defendants are required to appear for all post judgment activity unless said appearance is excused by the Court. Orders to reappear (call back orders) are authorized but no defendant shall be required to appear more frequently than every three months, absent exceptional circumstances. Absent a court ruling to the contrary, a defendant who appears on a contempt citation and who submits to a judgment debtor examination shall be deemed to have purged the contempt. Income tax refund orders may be granted upon verbal motion if the defendant is present or upon written motion and notice.

BENCH WARRANTS AND BONDS: A bench warrant may be issued if the debtor fails to appear for a contempt hearing. The bond shall be cash only, in the amount of the unpaid judgment or a lesser sum set by the Court. If the debtor cannot post a cash bond, the amount of the bond shall be reviewed on a weekly basis.

AUTOMOBILE NEGLIGENCE CASES: In cases involving property damage as a result of automobile accidents, the court will enter default judgment for attorney fees as authorized by K.S.A. 60-2006 in the amount of \$300.00 unless plaintiff requests an evidentiary hearing.

WORTHLESS CHECK ATTORNEY FEES: The accepted standard for costs of collection, including attorney fees, in civil worthless check cases filed pursuant to K.S.A. 60-2610 shall be the sum of \$250.00 per case. Upon motion and for good cause shown, the court may deviate from there on a case-by-case basis.

REINSTATEMENT OF DISMISSED CASES: Dismissed cases may be reinstated one time if the reinstatement is filed within two years of the original filing and within one year of the dismissal date. Reinstatement beyond those time limits must be filed as a new case, accompanied by a new filing fee.

TRANSER OF VENUE: Upon motion and notice, and for good cause shown, cases may be transferred among the three district courts within the Fourteenth Judicial District.

DOMESTIC RELATIONS

RULE NUMBER TWENTY-THREE MANDATORY PARENTING THROUGH DIVORCE CLASS ATTENDANCE

The parents of minor children who are parties to an action for divorce, annulment, separate maintenance, paternity, or otherwise, that in any manner pertains to custody or parenting time with minor children, shall attend and complete an education seminar, approved by the assigned judge, concerning the emotional and psychological effect or the termination of marriages on children and/or the effect of custody and parenting time issues on their children. This rule also applies to parents involved in

post-decree motions for modification of custody and/or parenting time who have not previously taken the class.

Both parents prior to trial or final hearing must complete the seminar, unless attendance is excused or deferred by the assigned judge for good cause shown.

RULE NUMBER TWENTY-FOUR
DOMESTIC RELATIONS MEDIATION

Unless waived by the assigned judge, any contested child custody, residency or parenting time issue shall be submitted to mediation, by a neutral court approved mediator before being scheduled for a final evidentiary hearing. This rule applies to all such actions, including those filed under the Kansas Parentage act and may be required in Protection From Abuse actions.

Counsel shall submit a proposed order for mediation to the court, approved by one or both counsel.

In accordance to Supreme Court Rule 907 (Mediation) and 918 (Ethics) the mediator shall conduct mediation and report the results of mediation to the court and to the attorneys for the parties.

When the mediation is performed by 14th Judicial District Court Service officers qualified as mediators, a mediation fee in the amount set by the Court shall be collected prior to the commencement of the mediation and each subsequent referral including subsequent self referrals. The fee shall be paid to the Clerk of the District Court who is authorized to handle and disburse same in accordance with written procedures set by the Court.

RULE NUMBER TWENTY-FIVE
MEDIATED AGREEMENT CHANGES

Changes in a parenting plan may be made by agreement of the parents without prior approval of the mediator. In the event that the original mediation agreement allows, the parents may actively seek assistance and negotiations through mediation before any court action is initiated.

RULE NUMBER TWENTY-SIX

PARENTING TIME AND CONTACT GUIDELINES

The following is a sample parenting time and contact schedule that the judges in this district will normally consider minimally consistent with the best interests of the child(ren) under a joint legal custody and parenting time order:

- 1 Alternate Weekends: Parent B to have alternate weekend parenting time beginning at 6:00 p.m. on Friday until 7:00 p.m. on Sunday.
- 2 Evening Physical Custody: Parent B to have one weekday evening per week which, if feasible, should be overnight.
- 3 Easter Weekend: Parenting time with parent B from 6:00 p.m. Friday until 7:00 p.m. Sunday during even numbered years and with parent A during odd numbered years.
- 4 Spring Break: Parenting time with each parent during one half of the spring break, with a transfer to occur on Wednesday evening at 7:00 p.m. The parent normally having the child during the first weekend of spring break shall continue to have the child until the Wednesday transfer.
- 5 Mother's Day: From 9:00 a.m. until 7:00 p.m. with the child's mother.
- 6 Memorial Day: From 6:00 p.m. Friday until 7:00 p.m. Monday with parent A in even numbered years and parent B during odd numbered years.
- 7 Father's Day: From 9:00 a.m. until 7:00 p.m. with the child's father.
- 8 Independence Day: From 6:00 p.m. July 3 until 9:00 p.m. on July 5 with parent A during even numbered years and parent B during odd numbered years.
- 9 Labor Day: From 6:00 p.m. Friday until 7:00 p.m. Monday with parent B during even numbered years and parent A odd numbered years.
- 10 Halloween: A minimum of three hours Halloween evening with parent A in even numbered years and with parent B during odd numbered years.
- 11 Thanksgiving: From 7:00 p.m. Wednesday until 7:00 p.m. Thursday with parent B during even numbered years and parent A during odd numbered years.
- 12 Christmas Eve: From 7:00 p.m. the day school is dismissed for Christmas vacation until 10:00 p.m. Christmas Eve, December 24th with parent B during even numbered years and parent A during off numbered years.
- 13 Christmas Period: From 10:00 p.m. December 24th until 7:00 p.m. December 30th with parent A during even numbered years and parent B during odd numbered years.
- 14 New Years Eve and New Years Day: From 7:00 p.m. December 30th until 7:00 p.m. on the evening before school resumes with parent B in even numbered years and parent A in odd numbered years.

- 15 Parent's Birthday: The child shall spend part of the day (minimum of three hours) with the respective parent on that parent's birthday.
- 16 Child's Birthday: the child shall spend the child's birthday with parent B in even numbered years and with parent A in odd numbered years. The child shall spend the day before or the day after the child's birthday with the other parent.
- 17 Vacation: After 30 days advance notice and consultation with the other parent, each parent may arrange to take a vacation trip with the child for a period not exceeding 14 days.
- 18 Conflicts and Good-Faith Considerations:
- a. Birthday – Holiday: Conflicts between a holiday and a birthday shall be resolved in favor of the holiday schedule. However, the parties are directed to be flexible in allowing the birthday to be celebrated before or after the holiday period.
 - b. Weekend – Holiday: Conflicts between holiday and birthday shall be resolved in favor of the holiday schedule.
 - c. Weekend: The schedule of weekend parenting time shall be determined without regard to whether the regular schedule has been preempted from time to time by one of the scheduled holidays. There shall be no adjustment for "missed" weekends due to interruption by the holiday visitation schedule, however, the parties are encouraged to compensate for missed parenting time so a non-residential parent will not go three weekends without seeing the child.
 - d. Adjustments: It is expected that parents will exercise good faith with each other and act in the best interests of their child(ren) so that each parent can have a full and active participation in the lives of their child(ren). Any parenting plan or schedule, for example, should take into consideration the age of the child. For infants and preschool children, consideration should be given to scheduling more frequent but shorter contacts with parent B during the week on a routine and consistent basis. Consideration should also be given to older adolescents whose personal schedules may interfere with these guidelines.
- 19 Telephone and Internet Communication: Telephone and Internet communication between parent and child should be liberally permitted at reasonable hours and at the expense of the calling parent. Weekly telephone communication with the child should be permitted.
- 20 Mail and E-Mail Contact: Parents and children should have an unrestricted right to send cards, letters, packages, audio, video and e-mail communications to each other. Neither parent should interfere with this right.

- 21 Long Distance Parenting: When there is a significant geographical distance separating the two parents, parenting plans should provide for the following:
- a. Weekly telephone contact
 - b. Longer periods of parenting time during school holidays.
 - c. Extended summer residency for school age children.
 - d. The parent having residency where the child goes to school shall send school records, school calendars, school photographs, activities schedules, report cards, standardized test results, etc. on a frequent basis to the other parent.

RULE NUMBER TWENTY-SEVEN

EXPEDITED JUDICIAL PROCESS

All judges in this district will be available to preside at summary proceedings relating to the establishment, modification, or enforcement of child support, parenting time and visitation per mandate of Kansas Supreme Court Rule 172.

All judges in this district shall be available, on request of the chief judge, any clerk of the court, counsel or party pro se, to assist with, handle and expedite judicial process of petitions filed pursuant to K.S.A. 65-6705, in conformity with Kansas Supreme Court Rule 173. If such proceedings arise after hours, the attorney or party may follow the procedure set out in the probable cause rule herein provided.

RULE NUMBER TWENTY-EIGHT

COSTS AND ASSIGNMENTS IN DOMESTIC RELATIONS CASES

- 1 Costs in Prior Actions: No case for divorce, annulment or separate maintenance shall be filed where there is a record in the clerk's office of a prior case between the same parties which is undisposed of unless the court costs have been paid, or unless the court shall otherwise order for good cause shown. In any event the unpaid costs in such prior case shall be assessed as costs in the new case and the court shall make an order for the payment of costs.

- 2 Prior Divorce Actions Between Parties: If the parties have previously filed a divorce action in this judicial district, the case shall be assigned to the same judge to which the previous case was assigned.
- 3 Assignment of Divorce and Protection From Abuse Cases: When a protection from abuse action is filed, and there is a prior filing of a divorce action between the same parties, the protection from abuse action shall be assigned to the judge that the divorce action was assigned. Conversely, when a divorce action is filed subsequent to a protection from abuse action, the divorce action shall be assigned to the judge that the protection from abuse action is assigned.
- 4 Assignment of Divorce and CINC Cases: Pending divorce, protection from abuse and child in need of care cases that involve the same children should be assigned to the judge before whom the CINC case is pending or to the district judge having general jurisdiction.

RULE NUMBER TWENTY-NINE
DISMISSAL OF PROTECTION FROM ABUSE ACTIONS

If the plaintiff in a protection from abuse action fails to appear at the scheduled hearing for final orders, the case shall be dismissed without further notice to either party unless the defendant appears and consents to an order of protection.

RULE NUMBER THIRTY
NECESSARY PARTIES IN CHILD SUPPORT AND PATERNITY ACTIONS

In any action brought for the purpose of establishing or enforcing child support and/or for reimbursement of birth, medical, support, and education expenses of a child, both parents shall be joined as parties to the action if they are subject to service of process in this state. In the absence of good cause shown, custody and parenting time issues shall be addressed and resolved in the same proceeding.

CRIMINAL

RULE NUMBER THIRTY-ONE

PRETRIAL CONFERENCE AND PROPOSED JURY INSTRUCTIONS

The court may schedule a pretrial conference in any pending criminal action on application of any party or attorney or on the court's own motion.

RULE NUMBER THIRTY-TWO

CRIMINAL CONTINUANCES

Any party requesting a continuance of a criminal setting shall cause an agreed Order of Continuance which includes language addressing the issue of speedy trial status for consideration by the District Judge assigned to the case.

If the requested continuance is opposed the matter will be taken up on the next available Criminal Docket assigned to the particular Judge.

All continuances involving settings other than those on regular dockets should be accomplished prior to the setting in question.

RULE NUMBER THIRTY-THREE

PLEAS IN CRIMINAL CASES

In all criminal and certain traffic cases, if the defendant elects to enter a plea of guilty or a plea of no contest to the charge or charges filed against him, there shall be prepared and submitted to the court a written tender of pleas of guilty or no contest and an accompanying certificate of counsel on forms supplied by the clerk.

RULE NUMBER THIRTY-FOUR
PROBABLE CAUSE DURING NON-BUSINESS HOURS

Determination of probable cause for warrantless arrests when applicable, will be made by any judge within the appropriate time of the warrantless arrest, in the manner deemed appropriate by that judge.

CIVIL

RULE NUMBER THIRTY-FIVE
FILING FOR EXTENSIONS OF TIME

An extension of time may be granted pursuant to Supreme Court Rule No. 113 or by the court ex parte as the interests of justice may demand. However, no ex parte permission shall be granted to file any pleading out of time. Anyone aggrieved by such an extension shall be entitled to a hearing upon three days notice.

RULE NUMBER THIRTY-SIX
DISCOVERY

- 1 Time for Giving Notice of Depositions: “Reasonable time” within which notice must be given before taking of a deposition under K.S.A. 60-230(a) shall be ten days. For good cause shown, the court may enlarge or shorten such time. K.S.A. 60-206 shall govern the computation of time.
- 2 Motions for Order Compelling Discovery:
 - a. Except as otherwise ordered, the court will not entertain any motion under K.S.A. 60-237, unless counsel for the moving party has conferred with or has made reasonable effort to confer with opposing counsel concerning the matter in the dispute prior to the filing of the motion. The moving party shall certify as to the efforts of the parties to resolve discovery or disclosure disputes and their motion shall describe the steps taken by all counsel to resolve the issue in dispute.

- b. Motions under K.S.A. 60-226 or 60-237 directed at interrogatories, requests for production, or requests for admissions and the responses thereto, shall be accompanied by copies of the portions of the interrogatories, requests or responses in dispute.

RULE NUMBER THIRTY-SEVEN

PRETRIAL – NON-DOMESTIC CASES

1. Agreed Pretrial Order: Prior to any pretrial conference setting, counsel shall confer to determine if they can agree to submit a jointly prepared pretrial order. When an agreed pretrial order is submitted to the court prior to the pretrial conference, counsel may participate in the pretrial conference through conference call by making prior arrangements between themselves for the placing of the call. The agreed pretrial order shall cover all relevant matters outlined in Supreme Court Rule No. 140 and shall include:
 - a. The parties' factual contentions and the theories supporting their claims, defenses, and claims for relief in PIK 3rd civil 106 form.
 - b. The instructions requested by the parties including admissions, stipulations and proposed verdict forms.
 - c. Names of witnesses and the essence of their testimony. Testimony offered by deposition shall be identified and an agreed redacted copy of the transcript or video produced.
 - d. A master list of pre-marked and copies of any exhibits intended to be offered at trial identifying those whose admission is contested.
2. Pretrial Questionnaires: In the event counsel cannot agree upon a pretrial order, they shall prepare and exchange pretrial questionnaires at least 10 days prior to the scheduled pretrial conference. The questionnaires shall specify all relevant information contemplated by Supreme Court Rule No. 140.

RULE NUMBER THIRTY-EIGHT

INTERVIEWING EXPERTS

When the physician-patient privilege has been waived or does not exist under the terms of K.S.A. 60-427, lawyers may interview treating physicians outside the presence of the patient or opposing counsel, providing the physician is supplied with a written consent by the person holding the privilege or by an order of the court authorizing the interview, providing the treating physician consents to the interview. Lawyers may not

interview any expert witness who has been retained or specially employed by another party in anticipation of litigation or preparation for trial without consent of counsel or order of the court.

RULE NUMBER THIRTY- NINE
PLEADING JUDGMENT AMOUNTS AND INTEREST

When presenting an order of judgment to the court, the presenting attorney shall set out the amount of the original judgment sum itself and separately set out the amount claimed as interest on the judgment, particularly detailing the pre- and post- judgment amounts and the interest rate and time periods that are claimed to be applicable.

RULE NUMBER FORTY
SETTLEMENT CONFERENCES

Upon its own motion or upon the motion of a party to a civil action, the court may require the parties, their representatives and attorneys to appear for a settlement conference. The purpose of such a conference will be to explore the possibilities for settling the action and to propose suggestions to assist the parties in negotiation. The attorneys will initiate the scheduling of the settlement conference, which may be set in a court other than that to which a case is assigned or with a private mediator. Reasonable notice of the setting of the settlement conference shall be given to all parties at least five days in advance of the conference. Each attorney shall be prepared to discuss the current position of his or her client with respect to settlement negotiations. No party shall be prejudiced at the trial of action if settlement negotiations fail. Unless otherwise ordered the pretrial order shall be filed prior to the settlement conference.

RULE NUMBER FORTY-ONE
MEDICAL MALPRACTICE SCREENING PANELS

1. Required Information: Any party filing a request for a malpractice screening panel shall file with the request:
 - a. A short statement explaining the basic failures alleged and the nature of the alleged injury. (That defendant was negligent or deviated from care of duty generally is not sufficient. There must be some identification of the

- claimed injury and some brief statement of the suspected departures from standard practice.) This statement shall not be binding or limit the plaintiff from other allegations which become known thereafter.
- b. An order signed by counsel and ready for the court's signature authorizing the release of medical records, x-rays, etc. to counsel for all named defendants. (The names of counsel need not be specified as they will be unknown at that time.)
 - c. A list of all health care providers who have rendered treatment to the plaintiff within the preceding five (5) years, including all hospitals where plaintiff received treatment. To the extent possible, full names and addresses shall be provided.
 - d. The above list shall include the plaintiff's date of birth.
2. Additional Requirements: Along with the notice convening the screening panel, the court will provide to the parties copies of all additional documents required to be filed by these rules, including a certified copy of the order for production of medical records.
 3. Status Conference: On application of any party or of the chairperson, the court will hold a status conference requiring counsel for the parties and chairperson to appear to establish a schedule for the submission of records, contentions and the preliminary conference of the panel.
 4. Submission of Affidavits, Opinions and Depositions: Except by agreement of all parties, no affidavits from the parties, nor any "expert opinions", nor depositions taken in the case shall be submitted.
 5. Report: The chairperson shall provide a filed stamped copy of the opinion of the panel to counsel for all parties.

RULE NUMBER FORTY-TWO
NOTICE OF BANKRUPTCY STAY

Any party, or counsel for the same, to a civil case pending in the Fourteenth Judicial District who files a bankruptcy case shall file a written notice thereof with the Clerk of the District Court wherein the civil proceeding is pending within ten (10) days of the filing of the bankruptcy petition. The written notice shall be filed under the caption and number of the civil case and have attached to it a certified copy of the bankruptcy petition or other documents evidencing the filing of the bankruptcy case. Said party shall mail a copy of the notice to all other interested parties and the case's presiding judge.

If a hearing or trial is scheduled to occur within ten (10) days of the bankruptcy case filing, in addition to the written notice required above, the filing party shall immediately give oral notice to all other parties and to the presiding judge.

Upon termination of the stay, any party may move to reactivate the case.

RULE NUMBER FORTY-THREE

LOCAL FUND CREATED UNDER K.S.A. 20-369

A local fund is hereby created under the authority of K.S.A. 20-369. A fee of \$100.00 is to be imposed against any defendant for crimes involving a family or household member as provided in K.S.A. 21-3412a and amendments thereto, and deposited into the local fund. Expenditures shall be determined by the chief judge and shall be paid to local programs within Montgomery County that enhance a coordinated community justice response to the issue of domestic violence.

RULE NUMBER FORTY-FOUR

COMMERCIAL SURETY RULES AND PROCEDURES

A. Authorization to Issue Appearance Bonds:

Except as otherwise provided by law, no Compensated Surety shall be authorized to act as a Surety in this Court until having fully complied with Kansas law, including K.S.A. 22-2806 through 22-2809a, and the rules of this Court, including this Local Rule relating to the justification and approval of sureties, and the issuance of appearance bonds. Persons who are not a Compensated Surety may act as sureties in this Court on a case by case basis without complying with section C if a judge of this Court approves.

B. Definitions:

As used in this Rule, the terms shall have the following meanings:

"Applicant" means any person applying for approval or having been approved to issue appearance bonds under this Rule, or any previous version of this Rule, as a compensated surety.

"Appearance bond" means a bond certificate issued by a surety which guarantees the appearance of a defendant in the Fourteenth Judicial District at the time

specified on the bond and at all subsequent court appearances. In the event of failure to appear at any time specified by the Court, the surety guarantees payment of the amount on the bond.

"Chief Judge" means the Chief Judge of the Fourteenth Judicial District or other Judge of the District Court designated by the Chief Judge of the Fourteenth Judicial District to act on his/her behalf. The Chief Judge may also designate the Clerk of the District Court to perform clerical or administrative duties outlined in this Rule.

"Commercial Surety" means any person or entity who, as surety, issues appearance bonds for compensation, is responsible for any forfeiture, and is liable for appearance bonds written by their authorized agents.

"Bail Enforcement Agent" means a person not performing the duties of a law enforcement officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a surety or bail bond agreement, commonly referred to as a bounty hunter.

"Compensated Surety" means any person who or entity that is organized under the laws of the state of Kansas that, as surety, issues appearance bonds for compensation, is responsible for any forfeiture and is liable for appearance bonds written by such person's or entity's authorized agents. A Compensated Surety is either an insurance agent surety or a property surety.

"Insurance Department" means the Kansas Insurance Department.

"Insurance Agent Surety" means a compensated surety licensed by the insurance commissioner to issue surety bonds or appearance bonds in this state and who represents an authorized insurance company. An insurance agent surety may have other insurance agent sureties working with or for such surety.

"Property Surety" means a compensated surety who secures appearance bonds by property pledged as security. A property surety may be a person or entity, other than a corporation, and may authorize bail agents to act on behalf of the property surety in writing appearance bonds. In the 14th Judicial District, the only property that can be pledged to secure appearance bonds is a valid, current and enforceable irrevocable two-year Letter of Credit starting July 1st in the year of the application in an amount not less than one hundred thousand dollars (\$100,000) issued to the Fourteenth Judicial District, by a state or national banking institution authorized to and doing business in the State of Kansas, guaranteeing payment of any forfeited appearance bonds posted by the Property Surety or his/her Bail Agent(s) on which judgment has been granted. Any supplemental Letter of Credit shall meet all requirements of this Rule and shall not expire until the next June 30th. All such letters of credit must be reviewed by the County Attorney and approved by the Chief Judge. Letters of Credit shall be retained by the Clerk of the District Court, following approval of the application. No other property is acceptable to be pledged from a property surety.

"Bail Agent" means a person authorized by a compensated surety to execute surety bail bonds on such surety's behalf. In the 14th Judicial District, Bail Agents shall have the same continuing education requirements as Compensated Sureties.

"Insurance Company" means any company authorized by the Kansas State Insurance Commissioner to write surety bonds or appearance bonds.

"Surety" means a person or compensated surety, other than a defendant in a criminal proceeding, that guarantees the appearance of a defendant in a criminal proceeding, by executing an appearance bond.

"Unsatisfied Appearance Bond Forfeitures" shall mean appearance bonds, which after thirty (30) days from the granting of judgment on the motion for the same, have not been paid into the Court or the defendant has not been recommitted into custody by the surety or his/her bail agent.

C. Criteria for Authorization to Act as Commercial Surety in the Fourteenth Judicial District:

Every Compensated Surety shall submit an application to the Chief Judge of the 14th Judicial District, or the Chief Judge's designee, in each judicial district where such surety seeks to act as a surety. A Compensated Surety shall not act as a surety in such judicial district prior to approval of such application. The application must be filed with the Clerk of the District Court of the 14th Judicial District.

Requirements for Insurance Agents

1. The application shall include the following information for each insurance agent surety, property surety or bail agent:
 - A. A copy of the applicant's Kansas driver's license or nondriver's identification card;
 - B. A statement, made under penalty of perjury, that the applicant is a resident of this state and is not prohibited by K.S.A. 22-2809a(c), and amendments thereto, from acting as a surety;
 - C. A certificate of continuing education compliance in accordance with Kansas law.
2. The application for each insurance agent surety also shall include:
 - A. A copy of the qualifying power of attorney certificate(s) issued to such surety by any insurance company;
 - B. A current and valid certificate of license from the insurance department; and
 - C. A current and valid certificate of authority from the insurance department.

- D. A statement that the applicant has not been convicted of a felony in Kansas or any other jurisdiction, has not in the preceding ten (10) years been convicted of any misdemeanor involving violence, dishonesty, deceit or moral turpitude, is qualified to act as a surety under Kansas law, has read this Rule and the Kansas statutes dealing with appearance bonds in their entirety and agrees to comply with all provisions.
 - E. A completed application including the Authorization for Release of Records, a copy of a valid driver's license or photo identification and a statement of the maximum monetary limit authorized on any individual bond.
 - F. A signed release from the applicant allowing the Court or its designee, to conduct a criminal history records investigation on said individual.
3. The application for each property surety also shall include:
- A. A list of all bail agents authorized by such property surety to write appearance bonds on such property surety's behalf and all documentation from such bail agents demonstrating compliance with subsection of this Rule.
 - B. An affidavit describing the property by which such property surety proposes to justify its obligations and the encumbrances thereon, and all such surety's other liabilities. The description shall include a valuation of the property described therein. If the valuation is not readily evident, an appraisal of the property may be required and, if required, shall be incorporated into the affidavit.
 - C. A property surety authorized to act as a surety in the 14th Judicial District shall be allowed outstanding appearance bonds not to exceed an aggregate amount which is fifteen (15) times the valuation of the property pledged by the property surety. Such property surety shall not write any single appearance bond that exceeds 35% of the total valuation of the property pledged by the property surety.
 - D. A completed application including the Authorization for Release of Records and a statement of the maximum monetary limit authorized on any individual bond.
 - E. A signed release from the applicant and any persons authorized by the applicant to issue appearance bonds, allowing the Court or its designee to conduct a criminal history records investigation on said individual(s).
 - F. A statement that the applicant has not been convicted of a felony in Kansas or any other jurisdiction, has not in the preceding ten (10) years been convicted in Kansas or any other jurisdiction of any misdemeanor involving violence, dishonesty, deceit or moral turpitude, is qualified to act as a surety under Kansas law, has read this Rule and the Kansas statutes

dealing with appearance bonds in their entirety and agrees to comply with all provisions.

- G. Any other information as may be requested by the Chief Judge regarding the applicant concerning his/her ability or qualifications to issue appearance bonds.

D. Disqualification/Suspension:

Applicants shall not be approved to issue appearance bonds; or bonding privileges may be suspended or revoked if:

1. The applicant or any authorized agent has been convicted of any felony or within the preceding ten (10) years has been convicted of any misdemeanor involving violence, dishonesty, deceit or moral turpitude.
2. The applicant is not a citizen of the United States.
3. The applicant or any authorized agent does not have current federal or state photo identification.
4. The applicant or any authorized agent has failed to meet financial responsibilities to this or any other Court; or has any pending matters before the Court in which the applicant or any authorized agent has failed to appear as directed. This may be evidenced by a failure to pay a judgment on a bond forfeiture or by any other legal action to collect past due amounts or other commonly accepted indications.
5. The appearance bonds outstanding by a Property Surety and/or his/her Bail Agents exceed an aggregate amount which is fifteen (15) times the amount of the letter(s) of credit issued to the Court.
6. The applicant or authorized agent has provided a false statement in any information submitted to the Court for approval of his/her application or regarding a warrant/appearance bond recall.
7. The applicant or any authorized agent has outstanding warrant(s) issued for his/her arrest for any crime.
8. The applicant or any authorized agent allows an unauthorized person to write an appearance bond(s).
9. An Insurance Agent allows an appearance bond to be submitted to the Court which does not contain an individual, numbered, power of attorney properly executed.
10. The applicant or any authorized agent employs a Bail Enforcement Agent who is not qualified to act as such under the provisions of K.S.A. 22-2809a.

11. The applicant or any authorized agent failed to timely submit a periodic quarterly report as required by Section K of this Rule or to file a renewal application by June 1st.
12. The applicant or any authorized agent issues an appearance bond wherein property or services were accepted as compensation.
13. Good cause exists for the Chief Judge to determine that it is not in the best interest of the Court and/or the community to permit the applicant or Surety to write appearance bonds in the Fourteenth Judicial District.
14. Written notice of suspension or revocation of bonding privileges, except for a suspension due to a conviction for a disqualifying crime, exceeding the aggregate amount of bonds approved to be written under the letter(s) of credit or due to failure to pay a judgment within thirty (30) days of it being granted, shall be given to the surety. Such notice of suspension or revocation shall state the reason for the suspension or revocation and be mailed by regular mail to the address on file with the Court as provided in the most current application. Any suspension or revocation under this Rule shall be effective upon signature of the written notice by the Chief Judge.
15. If the suspension or revocation is for failure to pay a judgment within thirty (30) days of it being granted, the suspension shall be effective on the 31st day following judgment without any further action or notice by the Court. The surety may request a hearing before the Chief Judge within fourteen (14) days of the date of suspension, revocation or the notice of suspension or revocation. If such request is made, the suspension or revocation of bonding privileges may be stayed by the Chief Judge pending such hearing which shall be held within fourteen (14) days of the request for hearing.

E. Persons Authorized to Write Appearance Bonds

As part of the approval process, the applicant shall submit the name(s) and requested information for all proposed Bail Agents of the applicant. Only those persons so approved are authorized to act as a Property Surety or Bail Agents to write appearance bonds. If, following approval, the applicant wants to add additional Bail Agents, the applicant must complete and submit a supplemental application that meets the requirements of this Rule to the Chief Judge and file it with the Clerk of the District Court. The bail agent will not be allowed to write appearance bonds unless and until approved to do so by the Chief Judge or designee. In addition, when Bail Agents are no longer authorized to write bonds or are no longer employed by the Property Surety, the Property Surety shall notify the Chief Judge, in writing, within three (3) business days, that said person is no longer authorized by the applicant to write appearance bonds, or serve as their Bail Agent and the notice shall be filed with the Clerk of The District Court. The Property Surety will remain responsible for any appearance bonds written by the Bail Agent until the notice required is received by the Chief Judge.

The Sheriff shall provide all approved Compensated Sureties equality in exposure. The Chief Judge shall periodically furnish the Clerk of the District Court and the Sheriff a list of approved Compensated Sureties.

Nothing in this Rule shall negate K.S.A. 22-2806 which provides that an appearance bond may be approved and accepted by the Sheriff of Montgomery and/or Chautauqua Counties, according to law.

F. Failure to Appear

1. An appearance bond issued by a Compensated Surety authorized to transact business in the State of Kansas and in the Fourteenth Judicial District guarantees the appearance of such person in Court at the time specified on the appearance bond and at all subsequent court appearances unless and until the Compensated Surety is released on the appearance bond.
2. If an appearance bond is posted on a charge for which a disposition has not yet been entered, the appearance bond remains in effect until such time as the defendant answers the complaint and sentence or disposition is entered thereon. This would not include future court appearances for review of compliance with court orders. However, if the appearance bond is posted for a non-appearance on a post-conviction or post-diversion matter, the appearance bond remains in effect until final disposition of the matter for which the appearance bond was posted. Upon failure of the defendant to appear as ordered, the Judge shall declare the appearance bond forfeited. The Court may set aside the forfeiture upon such conditions as the Court may impose, if it appears that justice does not require the enforcement of the forfeiture. If the forfeiture is not set aside, the Court shall request the County Attorney to prepare a Journal Entry of Bond Forfeiture of the appearance bond and file a Motion for Judgment on said bond forfeiture to be set for hearing not less than sixty (60) days following the filing of the Motion for Judgment. It is the responsibility of the Surety to be aware of the defendant's required court appearances on the Court's calendar, and to see to it that the defendant appears as ordered. The Surety's liability on the appearance bond is not conditioned upon any notice by the Court, County Attorney or any other person or entity of the defendant's failure to appear.

G. Failure to Produce the Defendant or the Forfeited Funds

If the defendant is not surrendered or the appearance bond forfeiture paid by the end of the Court's business day on the 30th day following judgment, the Surety's bonding privileges will be suspended at that time. If the Surety is a Property Surety and he/she or one or more of his/her Bail Agents is suspended for non-payment of a judgment, the Property Surety and all of his/her Bail Agents will be suspended. Notification of the suspension of bonding privileges shall be made in writing to the Property Surety and his/her Bail Agents. The letter will be sent by regular mail to the address on file with the Court. Failure to send or receive the letter does not negate the suspension of bonding privileges under this paragraph.

H. Reinstatement of Bonding Privileges

1. *Nonpayment of a judgment.* If suspended for nonpayment of a judgment, the Surety must pay all judgments for unsatisfied appearance bond forfeitures before consideration will be given for reinstatement of bonding privileges. Once payment in full is made, the following schedule will be followed:
For the first suspension within a one (1) year period, the Surety's privileges will be suspended for a period not to exceed thirty (30) days after payment. For a second or subsequent suspension within a one (1) year period, the Surety's privileges will be suspended for ninety (90) days after payment.
2. *Exceeding Total Amount of Bonding Privileges.* If the total aggregate amount of outstanding bonds of a bondsman and his/her agents ever exceeds the total amount permitted under this Rule the Chief Judge or designee without notice may immediately suspend the bonding privileges of that surety and agents. The Property Surety and Bail Agents shall not qualify for reinstatement of bonding privileges and reinstatement shall not be considered until the total aggregate amount of outstanding bonds of that Property Surety and Bail Agents do not exceed 75% of the total bonding authority allowed under this Rule. Upon a second violation of Section H.2 within a twelve (12) month period, the bonding privileges shall not be reinstated until at least three (3) months have passed since the property surety qualifies for reinstatement. Upon a third or more violation of Section H. 2 within a twelve (12) month period, the bonding privileges shall not be reinstated until at least twelve (12) months have passed since the property surety qualifies for reinstatement.
3. In order to qualify for reinstatement the Property Surety and Bail Agents(s) while suspended shall continue to meet all obligations under this Rule.
4. Nothing in this Rule or section obligates the Chief Judge to reinstate a suspended or revoked bail agent as soon as he/she may be eligible for reinstatement, nor does it prevent or prohibit the Chief Judge from imposing any other requirements upon a property surety before privileges are reinstated. Nothing in this Rule prevents or prohibits the Chief Judge from permanently revoking a Property Surety's or Bail Agent's bonding privileges.

I. Refunds

If the judgment on the appearance bond forfeiture is paid on time, and the defendant is later surrendered by the Surety, upon request, a partial refund may be allowed as indicated below:

- 1 – 30 days after payment 75% refund
- 31 – 60 days after payment 50% refund
- 61 – 90 days after payment 25% refund

Said request for refunds must be made in writing and filed with the Clerk of the District Court with a copy served upon the County Attorney's Office. No refunds will be given for surrenders that occur in excess of ninety (90) days after payment unless specifically ordered by the Chief Judge after the filing of a proper motion. No refunds will be given unless the defendant is surrendered by the Surety or Agent of the Surety to the Montgomery County Department of Corrections. If the defendant is arrested by law enforcement personnel within ninety (90) days of forfeiture, without the assistance of the Surety or Agent of the Surety, no refunds will be provided.

J. Surrender

For purposes of consideration of a refund, a defendant is considered surrendered to the Court when he/she is surrendered to the Montgomery County Department of Corrections. A defendant is not considered surrendered to the Court if the defendant is incarcerated in another County or another State. Upon timely surrender, the Surety will be released from all further liability on the appearance bond.

The Surety, pursuant to K.S.A. 22-2807(3), may provide to the court, prior to judgment on the appearance bond forfeiture, a written statement, signed under penalty of perjury, setting forth the details of the incarceration of the defendant in some location within the United States. Upon receipt of such statement, the Court shall set aside the forfeiture and upon the defendant's return to the Court's jurisdiction, the Surety may be ordered to pay the costs of the return.

K. Periodic Report by Sureties

All Sureties shall file a quarterly report with the Clerk of the District Court setting forth all active appearance bonds that are outstanding. Said reports shall set forth the required information as of the final day of each calendar quarter and shall be filed no later than ten (10) days following the last day of each quarter.

The report shall include the defendant's name, the Court case number, the date the appearance bond was written, the amount of the appearance bond and the current status of the case. Additionally, if any appearance bond premium is paid in installments, a written copy of the installment plan, executed by all parties, must be submitted with each quarterly report.

A Property Surety shall file the letter(s) of credit used as security for appearance bonds with the Clerk and immediately report any expiration, renewal, cancellation, suspension or revocation of said letter(s) of credit to the Clerk.

The report shall also include a list of appearance bond forfeitures that have been declared on cases in this Judicial District where there are appearance bonds written by the Surety, any judgments granted in those cases and the payment due date of said judgments.

The reports required by this Rule shall be submitted to the Clerk of the District Court in the form directed by the Court.

Failure to submit said report as designated is cause for a suspension or revocation of bonding privileges.

L. Application of Rule to Compensated Sureties Already Approved to Write Appearance Bonds in the Fourteenth Judicial District; Continuation of Bonding Privileges; Time Period for Bonding Privileges

Any Compensated Surety currently approved to write appearance bonds in the Fourteenth Judicial District shall be required to comply with this Rule as of January 1, 2019. The annual bonding privileges period shall be from July 1st through June 30th of the following year. In order to retain bonding privileges, a Compensated Surety must submit an application, pursuant to this order, no later than June 1st of each year to remain in good standing for the next twelve (12) month bonding period from July 1st to June 30th. Upon approval of an application, the bonding privileges will be granted and will remain valid for the approved bonding period, at which time it will expire unless renewed.

A Compensated Surety may not submit a new application under this Rule while the Compensated Surety's bonding privileges are suspended or revoked.

A Compensated Surety may withdraw from writing bonds prior to expiration of the bonding authority granted under this Rule. Any withdrawal from writing bonds prior to the expiration of the bonding authority granted under this Rule is not effective until made in writing to the Chief Judge and filed with the Clerk of the District Court, and it shall not result in the early termination or withdrawal of any letter(s) of credit submitted in support of the application(s) submitted under this Rule.

A Compensated Surety's obligations under this Rule shall continue even though the Compensated Surety's privileges have been suspended, revoked or withdrawn.

M. Ability to Sue

Nothing contained herein shall in any way limit the Court's ability to proceed with any and all proper civil remedies against any Surety, insurance company or banking institution to collect on an appearance bond if payment is not forthcoming upon demand and for the Court to authorize all needed actions to engage in collection efforts, including the engagement of counsel and others to enforce and collect bond judgments.

RULE NUMBER FORTY-FIVE

CRIMINAL FILINGS

All criminal actions shall be filed in Independence, Kansas. All criminal actions, when commenced, shall designate on the complaint the contributing agency. For cases filed on behalf of the Montgomery County Sheriff's Office, the contributing agency designation shall include a designation of whether the case is Montgomery County Sheriff's Office North or Montgomery County Sheriff's Office South.

For Montgomery County Sheriff's Office North half cases, the contributing agency designation shall read Montgomery County Sheriff's Office North or MGSON. For Montgomery County Sheriff's Office South half cases, the contributing agency designation shall read Montgomery County Sheriff's Office South or MGSOS.

Approved this 28th day of March, 2022.

/s/ Jeffrey W. Gettler

Jeffrey W. Gettler, Chief Judge 14th Judicial District

/s/ F. William Cullins

F. William Cullins, District Judge

/s/ Jeffrey D. Gossard

Jeffrey D. Gossard, District Judge

/s/ Rebecca R. Stewart

Rebecca R. Stewart, District Magistrate Judge