

## **Division 5 Court Rules** **Erica Schoenig District Court Judge**

### I. Communication with the Court.

All communication with the Court is to be through the Administrative Assistant, who will provide any instructions, and who schedules all hearings. The preferred method of scheduling hearings is to email the Administrative Assistant. Parties and attorneys must include all attorneys or self-represented parties on any email sent to the Administrative Assistant. Do not send emails directly to the Judge, as all emails go through the Administrative Assistant, unless the Judge initiates the email, or requests that you email the Judge directly.

### II. Assistance That the Administrative Assistant Can Provide.

The Administrative Assistant can provide information that can be helpful to parties who do not have an attorney, but cannot provide legal advice. Kansas Supreme Court Administrative Order 232 established the guidelines that the Administrative Assistant follows when a self-represented party or attorney has questions about their case.

#### **Court Staff May:**

- Encourage self-represented litigants to be informed about their legal rights to consult with an attorney for legal advice.
- Encourage self-represented litigants to consult with an attorney for legal advice.
- Provide information about: *pro bono* legal services; low-cost legal services; lawyer referral services; and a list of local attorneys provided by the local bar association.
- Provide locations for all appropriate court-approved forms and written instructions.
- Provide the date and time for any scheduled hearings.
- Provide reasonable accommodations required by the Americans with Disabilities Act.
- Provide locations for court-approved, written definitions of commonly used terms.
- Provide general information about courtroom location, other agencies' locations, and in-house facilities.

#### **Court Staff May Not:**

- Provide legal advice, including but not limited to:
  1. recommending a specific course of action;
  2. performing legal research for parties;
  3. interpreting how the law would apply to a specific situation;
  4. predicting the outcome of a particular strategy or action; and
  5. computing deadlines specified by statute or court rules.

- Recommend any specific course of action, including but not limited to:
  1. whether to file a pleading;
  2. the specific content or phrasing for a pleading;
  3. the types of claims or arguments to assert in pleadings or objections to pleadings; and
  4. whether to settle or appeal.
- Assist in completing any forms or advise on how a particular term or definition applies to a specific situation.
- Interpret statutes or rules or advise whether a particular statute or rule applies in a specific situation.
- Provide information kept confidential by statute or court rule.
- Recommend or advise concerning rules of evidence, witnesses, objections, or rulings.

### III. Conduct in the Courtroom and During Hearings.

Parties and attorneys are expected to follow the Rules of Decorum found in the Local Court Rules. The Local Court Rules are on the District Court website found at <http://courts.jocogov.org/dc.aspx>. Division 5 expects all participants in a case to appear in court dressed appropriately and to act with appropriate conduct. When appearing in court all attorneys shall be suitably attired. Parties should also be appropriately dressed. Parties who appear wearing torn jeans, shorts, tank tops, and hats, or are chewing gum, show a lack of respect for the Court and for other parties. Counsel and self-represented parties shall stand at counsel table or the speaker's podium to address the Court or witnesses, unless allowed to do otherwise by permission of the Court. When questioning a witness, including a party, or speaking of a witness, counsel and self-represented parties shall not use first names, but shall always use surnames. Counsel and self-represented parties shall have exhibits marked prior to trial or hearing.

Young children should not be brought into the courtroom. Additionally, Local Court Civil Rule 19 prohibits children who are part of a divorce, paternity, protection from abuse, or protection from stalking case from testifying or being present for a court hearing without prior permission from the Judge. This permission will only be granted by court order. Failure to comply with Local Court Rule 19 may result in sanctions for any attorney or party who brings a minor child who is part of a case to court, unless a court order has been filed which allows it.

### IV. Electronic Devices.

All electronic devices should be turned off prior to entering the courtroom. Attorneys are responsible for monitoring their clients and witnesses. Attorneys are allowed to have their cell phones on during court proceedings for calendaring purposes, but the device must be on silent mode. Court permission must be obtained for all other electronic device use during court proceedings. If a party is required to access their cell phone for calendaring purposes, they must

first obtain Court permission to turn on their device. Recording of any court proceeding is prohibited. Official transcripts of any court proceeding may be obtained by contacting the Official Court Reporter.

V. Ex Parte Temporary Orders.

Local Court Civil Rule 25 governs what issues the Court will consider when a divorce case is filed, and *ex parte* temporary orders are requested by the party who filed the case. If only *ex parte* financial and property temporary orders are being requested, use Court-Approved Form 1. If *ex parte* temporary orders are being requested for legal custody, parenting time, child support, or spousal maintenance, use Court-Approved Form 2. All *ex parte* temporary orders must be submitted electronically via the court e-filing system, and must be in Word format. A verified motion requesting the *ex parte* temporary orders should also be filed. If child support or spousal maintenance are being requested, a domestic relations affidavit and proposed child support worksheet must be filed. A request for immediate and exclusive possession of the marital residence will not be granted absent evidence of a risk of violence or other extraordinary circumstances.

Limited *ex parte* temporary orders may be issued in paternity cases pursuant to K.S.A. 23-2224. These *ex parte* temporary orders shall be limited to orders restraining both parties from harassing or interfering with the privacy rights of each other, and an order confirming the existing *de facto* custody of a child.

VI. Emergency Motions.

Hearings pursuant to K.S.A. 23-3219 will not be conducted via telephone, as sworn testimony of the moving party is required. A verified motion must be filed prior to the Court conducting any *ex parte* emergency hearing. Counsel or self-represented parties who are requesting *ex parte* emergency relief must make a good faith effort to notify the attorney representing the opposing party prior to contacting the Court for a hearing. Sending an email with a copy of the emergency motion a few minutes prior to the hearing is not a good faith effort.

VII. E-Filing Submission of Journal Entries.

All proposed orders or journal entries submitted to the Court for approval and signature must be in Word format. Documents submitted in pdf format cannot be modified by the Court, and will be rejected if changes are needed.

#### VIII. Court Policy for Settled Cases.

For cases that are settled, which means that the parties have reached agreement on pending issues, Orders may be submitted for the Court's approval without a hearing or appearance by the parties when:

- Both parties are represented by attorneys;
- The Journal Entry or Order is signed by both attorneys of record;
- Applicable written agreement(s) have been filed;
- A current Domestic Relations Affidavit has been filed (if applicable);
- The Child Support Worksheet has been submitted for the Court's signature;
- Both parents have completed Parents Forever (if applicable).

**\*\*\*If one party or both parties are not represented by counsel, the Court requires a hearing on the record, which means in the courtroom, with the parties present in order to finalize the matter. The party or attorney scheduling the hearing must file a Notice of Hearing, and properly serve the other party.**

#### IX. Family Court Policy for Approval of Settled Divorce Cases.

For divorce cases that are settled, the Decree of Divorce may be submitted for the Court's approval without a hearing or appearance by the parties when:

- Both parties are represented by attorneys;
- The Decree of Divorce is signed by both attorneys of record;
- A Property Settlement Agreement is filed;
- An Agreed Parenting Plan is filed;
- A Child Support Worksheet is submitted for the Court's signature;
- A current Domestic Relations Affidavit is filed;
- A Spreadsheet of Assets and Liabilities (Division of Net Worth) is submitted;
- Both parents have completed Parents Forever;
- Counsel has completed the Vital Statistics report form and completed the Kansas Payment Center Child Support Order Information Sheet.

#### X. Pretrial Conferences.

Parties must appear with counsel at the pretrial conference, unless a party is granted permission by the Court to not appear. One (1) joint Pretrial Order is required to be submitted in all cases tried to the Court, unless the Court orders otherwise. Counsel must submit the proposed Pretrial Order into the electronic queue two (2) days in advance of the scheduled pretrial conference. The proposed Pretrial Order must be submitted in Word format. Failure to submit the Pretrial Order by the deadline will result in the Pretrial Conference being converted to a status conference. Self-represented parties must cooperate with opposing counsel to complete

the Pretrial Order. If asset and debt division is an issue for trial, counsel must attach one joint spreadsheet of assets and liabilities to the Pretrial Order.

XI. Motions to Compel.

If a Motion to Compel is filed pursuant to K.S.A. 60-237, counsel must schedule a conference call with the Court to discuss the motion before it will be scheduled for a hearing. Parties are reminded that K.S.A. 60-237 will be strictly applied. Motions to compel require the moving party to certify that they have made a good faith effort to resolve the dispute by conferring or attempting to confer with the party who has not provided the discovery items. Sending one letter or email, or making one phone call, does not constitute the required effort.

XII. Bench Copies of Pleadings.

Local Court Civil Rule 8 addresses bench copies of motions, briefs in support, and briefs in opposition. Counsel should provide bench copies of all pleadings if there is an expectation that the Judge will review them prior to the hearing, or without a hearing pursuant to Kansas Supreme Court Rule 133. For documents longer than five (5) pages, hand-delivery to the Court's chambers is required. For documents five (5) pages or less in length, email delivery to the Administrative Assistant is preferred. Counsel should be advised that clicking on the "bench copy" tab in the electronic filing system does not constitute proper delivery to the Court of bench copies of documents.