



**DISTRICT COURT OF KANSAS**  
TENTH JUDICIAL DISTRICT  
**CHAMBERS OF: District Court Judge DAVID W. HAUBER**

**DENISE LAKE Administrative Assistant/ Bailiff**

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**Division 7 Rules**

**PLEASE PROVIDE THESE RULES TO YOUR STAFF**

- 1. Communications with the Court.** All communications with the Court should be through the Administrative Assistant who will provide any instructions for parties, represented by counsel or otherwise, that are not provided in these guidelines. **Any documents that are submitted to Div. 7 for signature should be placed in the "IN" basket on the Administrative Assistant's desk. Only Protection from Abuse or Stalking Orders will await immediate signature from the Court. All other documents, unless the Court has indicated otherwise, are to be dropped off. On TRO or any Order that need immediate attention. Do not have another Judge sign any of Div. 7 documents, unless Judge Hauber is on vacation. If he is on the bench, counsel will need to wait or return later when he becomes available.**
- 2. If You Are Late.** The Court reserves the right to rule on a matter if counsel or a party fails to show up for a hearing on time. However, the Court understands that in some instances counsel or a party may be held up or unable to attend a scheduled hearing. If you cannot attend or are running late please immediately call the Administrative Assistant in Division 7, (913) 715-3810, to let the Court know you will be late or cannot attend, and the reason for the same.
- 3. Local Court Rules.** Please check the local court civil rules as to more specific questions on briefing guidelines, withdrawals from representation, reasonable times for deposition notices (five days), case assignments, etc. The link is as follows: [http://courts.jocogov.org/local\\_index.htm#civil](http://courts.jocogov.org/local_index.htm#civil)

#### 4. Conduct in Court Proceedings.

Our local general rule on decorum provides:

- When appearing in court all attorneys shall be suitably attired.
- Counsel shall stand at counsel table or the speaker's podium to address the court, witnesses or jurors, unless allowed to do otherwise by permission of the court.
- All attorneys and parties appearing in any hearing shall use an entrance door to the courtroom as directed by the judge of that division.
- When interrogating a witness, including a party, or speaking of a witness, counsel shall not use first names, but shall always use surnames.
- Counsel shall have exhibits marked prior to trial or hearing.
- The same attorney shall conduct the examination of and any objections pertaining to a witness.

**Assist the Court Reporter** You are not in a rush. Speak clearly and make sure that your witness is not interrupted or does not interrupt the question so that the court reporter can record one person only speaking at a time. Remember - it's your record.

#### 5. Electronic Devices. Please turn off all cell phones, pagers and audible devices.

Counsel is responsible for monitoring their clients and witnesses as to this rule. Cell phones or pagers will be collected by the Court if they go off in the courtroom. If laptops are being used at trial, turn off any sound chimes etc.

6. **Motions.** **ALL motions** that require a hearing should obtain a hearing date from the Administrative Assistant **before filing the motion.** **Place the hearing date, time and division number in the caption of your motion, (as well as response, opposition and reply briefs) right under the case number.** Please submit a filed stamp **chamber copy** of all briefs directly to the Administrative Assistant.

7. **Motions to Compel.** Please refer to K.S.A. 60-237(a)(2),(4). Motions should include a certification that the movant has in good faith conferred or attempted to confer with the party not providing the discovery in an effort to secure the disclosure without court action and shall describe the steps taken by all counsel or unrepresented parties to resolve the issues in dispute. The Court requires a real attempt to confer, not one summary golden rule letter, email or phone call. As to substantive issues on discovery motions, *see Copp v. Sparks*, Case No. 06CV2956 in JIMS.

**8. Deposition Disputes.** The Court recognizes that significant disputes may arise during a deposition and that reconvening a deposition may be expensive and problematic. Therefore, in order to avoid the termination of depositions and rescheduling, which may cause delays in the Court's case scheduling, the Court is willing to handle phone conferences over *significant* deposition disputes that involve problems of witnesses refusing to answer, counsel improperly instructing witnesses not to answer questions or the need to prevent abusive deposition conduct. The Court cautions that while it is willing to entertain phone hearings, it will be up to counsel desiring the Court's intervention to contact the Administrative Assistant with necessary contact information or phone numbers. The Court will expect that such phone contact will include all persons who necessarily will be impacted by the Court's ruling, including the witness. The court reporter at the deposition shall record the hearing.

**9. "Agreed" or Other Orders Submitted for Signature.** If you have any "agreed" orders, they truly should reflect the agreement of all impacted parties to avoid having such orders set aside if some affected party later claims he did not consent to such an order. The Court expects counsel, as officers of the court, to police themselves and not submit orders without consulting all impacted parties. Ordinarily, when documents are signed, they will be filed with the Clerk's Office. **The only orders which will be signed while a party waits are *ex parte* Protection From Abuse or Stalking Orders.** All other Orders are to be dropped off in Administrative Assistant "IN" box. Do not go to another Judge for signature, for a Div. 7 case, unless Judge Hauber is on vacation. If any party refuses to sign order, contact the Court for a hearing.

**10. Chamber's Copies, Faxes and Email Documents.** The Court prefers chambers copies on all significant matters that will require a hearing or decision. If attachments to briefs are extensive, tabs are preferred *on chambers copies only* because the clerk's office will otherwise scan such matters and does not want tabbed attachments. **Due to budget constraints, we cannot accept or print off either faxed or emailed documents.** Therefore, we request that you file all such documents but provide hard copies of all chambers copies. If a division email document is required, please email [Denise.Lake@jocogov.org](mailto:Denise.Lake@jocogov.org) and provide any attachments (*e.g.* briefs) in a format that the Court will be able to use in order to cut and paste from. The Court prefers Word Perfect or Word formats. **Do not send e-mails directly to the Judge, all e-mail go through Denise lake, unless Court requests you to e-mail directly.**

**11. Pretrial Conferences.** There is ordinarily only one pretrial conference from which a pretrial order should issue. This is to be distinguished from the final trial conference (which is also pre-trial). The pretrial conference referenced here is the one specifically noted in the Case Management Order and it supersedes all the pleadings. The Court expects the parties to use a pretrial questionnaire comparable to the pretrial form used at it's website which can be located at the following link: [http://courts.jocogov.org/local\\_app\\_c.htm](http://courts.jocogov.org/local_app_c.htm). In certain kinds of cases, such as medical malpractice, the Court may require more detail. If the parties can agree on a pretrial order, a pretrial conference may not

be necessary unless the Court otherwise requires it because of the nature of the action or parties. Domestic cases will be expected to submit the pretrial questionnaire at the following link: [http://courts.jocogov.org/local\\_app\\_d.htm](http://courts.jocogov.org/local_app_d.htm).

**12. Final Trial Conferences/Motions in Limine.** Prior to the Monday of trial, the Court will hold a final trial conference. This may either be the prior Friday or the next previous Friday, depending on what is needed. In complex or more involved cases, the Court may require more lead time to rule on motions in limine, deposition objections (particularly so that videotaped depositions may be edited after rulings). Accordingly, the Court will have to depend on counsel or the parties to inform the Court prior to this conference as to how much time will be needed. This also will require counsel and/or the parties to **number your limine topics** in one pleading. **Please submit a chambers copy at least 2 weeks** prior to your **Final Trial Conference date**. At least a week before the Final Trial Conference, submit highlighted deposition condensed transcripts with objections, etc., that require rulings. This will expedite presentation of deposition testimony so that there are no delays during trial.

**Deliver the Following to Administrative Assistant Office  
by the Wednesday Before the Final Trial Conference:**

**Joint Exhibit List.** This should begin with #1 and allow for a gap between plaintiff's exhibits and defendant's exhibits. The parties should agree on what series will constitute each party's series of exhibits. *E.g.*, if plaintiff exhibits are to be less than 100, then defendant can begin numbering at 200.

**Witness List.** This should be a narrowed down version of the witnesses who most likely will be called, as opposed to the universe of witnesses listed on prior lists. This allows both sides to prepare accordingly and saves valuable court time. Counsel should cooperate by consulting with each other on witnesses they intend to call each day before trial.

**Set of Jury Instructions and Verdict Form.** The Court needs both a clean copy and one with PIK reference numbers. **Email these to the Administrative Assistant 3 days prior to the Final Trial Conference.** On the clean set, there should be a face sheet with the caption of the case. Do not combine instructions. Double-space each instruction. ***Do not put page numbers on the individual instructions.*** Submit all instructions electronically so they can be changed at the instruction conference if necessary without delaying the jury trial. **The verdict form should have a caption. Submit hard copies of the clean and dirty (PIK) instructions at the Final Trial Conference.**

**Trial Exhibit Notebooks.** Exhibits are to be placed in 3-ring binders and tabbed. **Originals will be in a witness binder. Additional binders** will be required for **opposing counsel** and the **Court**. If there are numerous volumes (binders), break up the exhibits so that they are not difficult to turn during testimony. Each separate volume should be clearly marked on the outside. Example: Volume 1, Exhibits 100 - 150. Multiple page exhibits should have a bates number or some reference number if not already included on the exhibit. This is particularly true in voluminous exhibits such as medical records. Do not put multiple photo marked as one exhibit number. **Each photo should have its own exhibits number.**

### 13. Jury Trials.

**Case Status for Trial.** Unless advised by the Court, be prepared to go forward on the date you are scheduled. **Do not call the administrative assistant to check if your case is going forward.** In some instances, the Court will advise counsel if another civil division will try the case, usually the week before trial. Accordingly, it is incumbent upon counsel to immediately inform the Court if a case has settled so the Court may inform other cases of any need for rescheduling.

**Jury Equipment Assistance.** **Notify the Administrative Assistant/Baliff prior** to bringing audio/video equipment into the courtroom. Equipment to be set up on the Friday prior to the Jury Trial date and after the Final Trial Conference Hearing. (approx. 11:00 a.m.)

**Deposition Transcripts.** **Bring a copy of each deposition to be used by providing one to the witness, the Court, and opposing counsel (if necessary).** Depositions read or shown at trial should have an edited version reflecting what the jury heard or saw to eliminate unnecessary court reporter transcription. **Do not place the depositions on your Joint Exhibit List or in the exhibit binders. This delays submitting the exhibits to the jury.**

**Jury Selection.** The Court will seat 14 jurors in the jury box and 7 jurors outside of the jury box for *voir dire* in most cases. During this process and during any necessary breaks from the same, counsel shall instruct their clients and witnesses to stay away from potential jurors and avoid contact with the same.

**Invoking the Rule, Policing Witnesses, Etc.** On motion of any counsel, all witnesses will be excluded, unless an agreement to the contrary is approved by the Court. Counsel are responsible for monitoring the courtroom and their witnesses to meet the spirit of the rule against allowing witnesses to preview the testimony of another witness. This invocation shall occur prior to jury selection so no witness appears in the *voir dire* process. Please notify the Administrative Assistant/Bailiff if any witness or party has any special or physical needs.

**Witness Scheduling.** Be ready to go with your witnesses so that there are **no gaps or delays** in trial unless you already have notified the Court of some particular scheduling problem.

**Exhibits Admitted Before Being Shown to the Jury.** Exhibits are not to be published to the jury during testimony without prior permission by the Court or by agreement with opposing counsel. All exhibits must be shown to opposing counsel (except for impeachment evidence) before jury selection.

**Objections to State Only the Legal Grounds.** Speaking objections or editorial comments on witnesses, counsel, etc. are improper. Make objections without coaching the witness or posturing in

front of the jury. If an objection in open court will not suffice, approach the bench for a sidebar conference. The Court may address the matter outside of the hearing of the jury or, in certain cases, the witness.

**Approaching the Witness Etc.** You may approach a witness with permission from the Court. You need not repeat the request thereafter. Stay only as long as necessary to accomplish your purpose but the Court will not allow counsel to stand at the shoulder of the witness when both counsel and the witness have a copy of the same document and questioning of the same can be accomplished from the lectern or through use of a demonstrative exhibit. The Court will be sensitive to counsel attempting to intimidate a witness by physical proximity. You may operate in the well so long as it is physically possible but be conscious of the jurors and their need to view the witness. Be conscious of the limited space and wiring around the court reporter who must hear you and the witness as well which is difficult if you are walking around and away from the microphone.

**14. Bench Trials.** In **non-domestic** bench trials, the Court will **require proposed findings of fact and conclusions of law** following the conclusion of trial. **Counsel to submit proposed findings of fact and conclusion of law a week in advance of trial,** trial briefs will be important to educate the Court on your case. The Court recommends that the parties obtain a transcript of trial in lengthier or more complicated trials so that specific references to the record may be made on proposed findings of fact. In such instances, the parties shall share the cost of the original transcript.

**In domestic trials,** the Court will expect the **parties to submit a spreadsheet with all necessary data to decide disputed issues as to a division of property or assets.** A trial brief would be recommended. Domestic Relations Affidavits shall be filed by both parties prior to trial.

**15. Approvals of Divorces** The Court will sign off on divorce decrees in which **both parties** are represented by counsel. **However, even if a *pro se* party signs off, a hearing will be required.**