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Division 22 Court Rules

Jason B Billam – District Court Judge

I. Pillars of Professionalism

Division 22 expects all counsel to be aware of and strive to effectuate and comport their work with the Pillars of Professionalism by the late Kansas Supreme Court Justice, Robert E. Davis. See Division 22's site.

II. Communication with the Court

All communication with the Court is to be through the Administrative Assistant, who will provide any instructions for parties, represented by counsel or otherwise, 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, Dawn Albers, unless the Judge initiates the email, or requests that you email the Judge directly.

III. 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:
 - recommending a specific course of action;
 - performing legal research for parties;
 - interpreting how the law would apply to a specific situation;
 - predicting the outcome of a specific strategy or action; and
 - computing deadlines specified by statute or court rules.
- Recommend any specific course of action, including but not limited to:
 - whether to file a pleading;
 - the specific content or phrasing for a pleading;
 - the types of claims or arguments to assert in pleadings or objections to pleadings; and
 - 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.

IV. Requesting a hearing date

When requesting hearing dates please email the administrative assistant with the case number in the subject line, CC all parties, provide the Court of type of hearing, provide the Court with how much time is anticipated for each hearing, and how far out you would like to schedule. Parties will be held to the time requested or allowed by the Court.

All motions requiring a hearing should list the hearing date, time and division for the motion in bold letters below the case number in the caption of the case, after first consulting with opposing counsel and the administrative assistant. The notice should also include the document number(s) from the case history of the motion to be heard. When requesting a hearing date remember to allow appropriate time for opposing parties to file their response/answer.

If new motions are filed, after a hearing date is provided, do not assume they will be heard at the same date and time as the previously scheduled. Specific time has been allotted for prior motions. **You must contact the administrative assistant to add another motion to the hearing date or to reschedule all motions to one date.**

If a hearing is no longer needed, please contact the Court to cancel the hearing as soon as possible.

V. Zoom Video Conference Hearings due to Covid-19

The worldwide COVID-19 pandemic has forced the Court to make many changes to keep the public safe. We have drastically reduced the number of in person hearings. Many hearings will now be held by video conference. Please review this information before your video hearing. Some courts may do things a little differently but most of these comments and suggestions will apply.

This form was created for persons in court without lawyers. You can see the suggestions for lawyers at <http://courts.jocogov.org>.

Before the Video-hearing

1. All video conferences will use the **Zoom video conferencing app**. The app is available at the Apple or Android app stores
 - a. Zoom works on most laptops, tablets and smartphones. It can work on a desktop if it has video and audio capability. **You need a camera, speakers and a microphone.**
2. You will receive an **invitation** by email that includes instructions and a link. Please **accept the invitation**. If you don't, the hearing might not happen. After you accept the invitation, it will disappear from your inbox and an entry will appear on your calendar. A few minutes before the hearing is to start, double-click the calendar entry and follow the directions to enter the hearing.
3. **DO NOT WAIT UNTIL JUST BEFORE THE HEARING TO DOWNLOAD THE APP AND TO TEST YOUR EQUIPMENT.** You should click on the link in the invitation to test your connection.

During the Video Hearing

1. **Find a good place to be for your video hearing.** Try to find a place free from distractions and interruptions. Do not move around during the hearing. Do not participate in the conference while driving.
2. Remember, this is a formal hearing, **just as if you were present in the courtroom.**
3. The hearing will usually be **recorded**. Please don't talk at the same time or interrupt.

4. All other **recording of the video conference is prohibited**. No one, including lawyers, parties, witnesses, media or anyone else may record the video hearing.
5. If you are able, properly identify yourself on screen. Do not identify yourself as "Guest" or by phone or room number.
6. **You may forward the invitation** to your witnesses or others so long as you tell the judge's assistant. That way they can participate without being in the same space as you. If other people you are in a room with you, please maintain proper social hygiene and social distancing.
7. DO NOT have two Zoom **applications running in the same room** at the same time. If two or more apps are running at the same time, there will be feedback that distorts the audio and the hearing will be delayed.
8. Do not put **papers, folders** or anything else that creates noise near your microphone. Shuffling papers and files creates noise that might make it impossible to hear others.
9. **Dress** in a soft solid color (like a black robe for judges). Try to avoid busy patterns or narrow stripes. Dress like you are going to a regular court hearing.
10. When speaking, remember to **look directly at the camera**, not at the screen.
11. **Position the camera** at your eye level or slightly above eye level.
12. If **more than one person is in the room with you**, position the camera so that everyone can be seen. At the start of the hearing, you will be asked to identify everyone in the room. This includes family, friends, witnesses and spectators.
13. No one under the age of 18 may be in the room with you during a hearing, unless the judge allows it. Tell the judge at the start of the hearing if a child is present.
14. Be aware of **what is behind you**, choose a solid neutral wall if possible.
15. **Check the lighting**. Light from a window behind you might blind the camera, making you look dark. Light above you in the center of a room might also cast shadows. Put a lamp, or sit facing a window, where light is directly on your face.
16. Remember everyone must **speak one at a time**.
17. **Pause before speaking** in case there is any audio/video lag.
18. **Exhibits** must be provided **to the court at least 7 days** before the hearing. Exhibits can be papers, documents, photos, videos, audio recordings; anything you want the judge to see or hear. Try to identify your exhibits somehow ("Exhibit 1 photo of car" or "Exhibit A, text messages dated April 14, 2020" etc.).
19. **Send your exhibits to the judge's assistant**. Do not send too many all at once or make

the file too big. Name the file by exhibit number. For example, you might send a file named "Smith 20CV1234 Exhibits 1-3." When emailing exhibits to the Court you must send copies to the other side.

20. If exhibits are not sent to the court and **exchanged with the other side**, the court might not consider them.
21. If you are unable to contact the other side because of a **no contact order**, send an email to the judge's assistant explaining the problem.
22. A witness (including you) may not have anything in their hand and **may not refer to notes**, papers, phones, computers or anything else without permission from the court. **Testimony must be from memory**. If you need to look at something to help your memory, ask the judge before you look.
23. During the hearing, **turn off all electronic devices other than the device running the video hearing app**. If you need another device during the hearing, ask the judge for permission at the start of the hearing.
24. **No program or window other than Zoom will be open** on any computer or electronic device in a witness' possession during testimony unless the judge allows it. No one is allowed to pass the notes by any means to or from the witness during the time he or she is testifying.
25. Because audio tends to lag behind video, if an **evidentiary objection** is made the objecting party should not only clearly state the objection but should also make a visible signal such as waving or raising a hand to draw the court's attention.
26. **Interpreters**. If you or witness needs an interpreter, please contact the court at least **seven days in advance**.
27. Please **tell the court**, before the hearing, if any of these issues apply to you:
 - a. You do not have reliable or unlimited **internet access**.
 - b. You do not have an **email address**. You should check email at least daily because that is how the court will communicate with you. Ignoring emails might cause you to miss a hearing. You might not have the most recent order.
 - c. You are unable to have **privacy** during the hearing.
 - d. You have small **children or animals** that cannot be away from you during the hearing.
 - e. If you have trouble communicating in **English**.
 - f. If you have **questions** about how the hearing will be held.

IV. 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 email Administrative Assistant, Dawn Albers, at Dawn.Albers@jocogov.org, to let the Court know you will be late or cannot attend and the reason for the same, otherwise any rulings by the Court will be deemed final, absent further Orders.

V. Exhibits: Use and submission for trial.

- All exhibits should be marked and on Exhibit List prepared well in advance of the trial. If a Protective Order was entered, exhibits that were intended to be treated as “confidential” should be noted as such on the Parties Exhibit List.
- Copies of the exhibits for use by the Court should be provided *electronically* to Court Administrative Assistant, Dawn Albers, no later than 24 hours before the scheduled hearing.
- All marked exhibits for use in the trial during a party’s case in chief shall be exchanged at least 7 days prior to the Trial. Objections to the exhibits, if any, will be addressed at the beginning of Trial to minimize delays during the trial.

VI. Exhibits: Use and submission for other hearing.

- All exhibits for any hearing other than final trials should be marked, on an Exhibit List, and provided *electronically* to the opposing side and to the Court Administrative Assistant, Dawn Albers, no later than 48 hours before the scheduled hearing.

VII. Local 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 Local Court Rules are on the District Court website found at <http://courts.jocogov.org/dc.aspx>.

VIII. Conduct in Court Proceedings

Division 12 expects all parties, including attorney’s and unrepresented parties to be dressed in Court-appropriate attire. This means no tank tops, shorts, torn jeans, no chewing gum or drinks. Please address the Court in appropriate tones while speaking. **Local rules regarding appropriate attire and decorum are also mandated for video hearings.**

Young children should not be brought into the courtroom or present at Zoom hearings. Children shall not be in a location that allows the child to hear or watch the video hearing, particularly in domestic proceedings. 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/video hearing, unless a court order has been filed which allows it.

IX. Electronic Devices – In person hearings.

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.

See also, Division 12 Supplement Rules for Non-Media use of Electronic Devices in the Court room.

X. Ex Parte Temporary Orders.

See Local Rule 15 and Division 22 policies on the Division site

XI. 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, in the Court's opinion.

XII. 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.

XIII. Policy for Approval of Settled Domestic Cases.

See Family Court Policy for Approval of settled or uncontested divorce and/or Parentage matters on the Division 22 site.

XIV. Pretrial Conferences.

The parties must appear with counsel at the final 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 file and submit the proposed Pretrial Order into the Division 22 via email to the Division 22 Administrative Assistant in advance of the scheduled pretrial conference no later than noon on the Friday prior to the conference.*** The proposed Pretrial Order must be submitted by Petitioner/Plaintiff in Word format.

Failure to submit the Pretrial Order by the deadline may result in the Pretrial Conference being converted to a status conference and the imposition of sanctions on a party, his/her counsel, or both. All parties and counsel must cooperate with opposing counsel to complete the Pretrial Order. If asset and debt division is an issue for trial, counsel must also submit one joint spreadsheet of assets and liabilities to the Pretrial Order.

XV. 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 the motion hearing. Parties are required to forward a summary of the dispute of less than one page by email to the Division 22 Administrative Assistant at least 24 hours prior to the scheduled preliminary informal call. The Court will review the parties' good faith efforts to meet and confer under 60-237 and will discuss the substantive issues with the parties—in advance of a formal hearing on the pending motion.

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, in the Court's view. The Court expects that the parties and/or Counsel will have spoken/met and conferred on the substance of the matter before the filing.

XVI. 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. 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.