

Family Law Court Rules

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RULE 400

SCOPE OF FAMILY LAW DEPARTMENT & AUTHORITY OF PRESIDING JUDGE

1. Family Law cases shall be assigned to the Family Law Department. These shall include divorce, annulment, separate maintenance, paternity, grandparent visitation, interstate enforcement, writs of habeas corpus involving children, and actions filed under the Uniform Child Custody Jurisdiction and Enforcement Act.

2. The Presiding Judge of the Family Law Department shall supervise the scheduling of all Family Law matters, and shall assign motions, evidentiary hearings and trials to other judges and the Hearing Officer. The Presiding Judge may temporarily assign the duties of the Presiding Judge to another judge of the Family Law Department.
 3. All requests for continuances of motions, evidentiary hearings and trials shall be heard only by the Presiding Judge, unless another judge has been assigned this duty by the Presiding Judge.
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RULE 401
TEMPORARY ORDERS FILED WITH PETITION

1. Temporary orders in Family Law cases issued pursuant to K.S.A. 60-1607(b) shall be presented to a judge in the Family Law Department, or to any other judge when such judges are not available, before the action is filed. Judges will be available to sign such orders each day that the Court is in session.
2. If there are deviations in temporary orders from the standard temporary order set out in Rule 402, such deviations must be brought to the attention of the Court for the Court to initial and approve. Runners may obtain a judge's signature on standard temporary orders, or temporary orders that deviate from the standard, as long as the deviation is disclosed prior to signing.
3. Any temporary order sought under this rule which requires either party to leave the marital residence must be accompanied by an affidavit stating the following:
 - a. whether either party has left the marital residence;
 - b. whether alternative housing is available for both parties;
 - c. the financial ability of the parties to obtain alternative housing;
 - d. the health conditions of both parties.
4. Any temporary order sought under this rule which provides for the temporary custody of any minor child, must be accompanied by an affidavit, in addition to the requirements provided by law and Rule 403, stating the following:
 - a. any special circumstance, stated with specificity, which would make temporary sole custody rather than temporary joint custody appropriate;
 - b. which parent presently has custody of the child;

NOW on this _____ day of _____, 200____, comes the Petitioner, _____, (who is hereinafter designated as "Husband/Wife" or "Petitioner")and hereby requests that the Court issue proper orders so that Petitioner and Respondent, _____, (who is hereinafter designated as "Husband/Wife" or "Respondent"), may temporarily live separate and apart from each other and make orderly provisions for the period of time until dismissal of this action, further order of this Court, or trial of this case. After reviewing the Court file and hearing statements of counsel, the Court ORDERS, ADJUDGES and DECREES:

I. RESIDENCY/SUPPORT OF CHILDREN

The parties are granted the joint legal custody of the minor child(ren) with Husband/Wife to have primary residency and Husband/Wife shall have reasonable parenting time with them as set forth in the Temporary Parenting Plan filed herewith, which is incorporated into this Order as though set forth in full.

Husband/Wife is ordered to pay _____ per month commencing _____ as and for support for the minor child(ren) of the parties. Said support shall be paid through the Kansas Payment Center at the address, which is set out below in Article III.

The parties shall share all medical and dental expenses of the minor child(ren) which are not reimbursed or otherwise paid by health or dental insurance policies covering said child(ren) based on the relative percentage of the parties as stated on line D 2 of the Child Support Worksheet. This percentage payment is in addition to the child support obligation of both parties and the Court shall have jurisdiction to enter appropriate orders on this matter but payments made for these obligations need not be made through the Kansas Payment Center. However, the responsibility of proper record keeping of expenses and payments shall be upon the party making claims of either expense or payment.

Removal of the child(ren) from this State without permission of the Court is prohibited unless otherwise agreed in writing between the parties.

II. SUPPORT OF SPOUSE

Husband/Wife is ordered to pay _____ per month as and for the support of Husband/Wife beginning _____. Said obligation shall terminate upon the death of either Husband or Wife.

Said support shall be paid through the Kansas Payment Center at the address set out below in Article III.

III. ADDRESS FOR PAYMENTS AND ROLE OF COURT TRUSTEE

The address for support payments is as follows:

Kansas Payment Center
Box 758599
Topeka, KS 66675 8599

The case number shown on the first page of this order shall be placed on all checks or money orders and said checks or money orders shall be made payable to the Kansas Payment Center and include the county designation (SG).

The Kansas Payment Center shall forward said payments to Husband/Wife at _____ and it shall be the responsibility of Husband/Wife to inform the Clerk of any change in address.

No commission shall be credited to the Court Trustee for payments under this order.

IV. COLLECTION OF UNPAID SUPPORT

Should either party fail to be current with the support obligations as set out herein so that there is an arrearage in an amount equal to or greater than the amount of support payable for one month or two months if only spousal support is ordered, an income withholding order shall be issued by the Court upon proper application. The income withholding order shall require any payor of income to the party in arrears to withhold income from each pay period in the necessary and lawful amounts to pay the current support obligation and to reduce the accrued arrearage.

The above orders for support may be enforced by garnishment unless the Husband/Wife requests a hearing to contest the issuance of an Order of Garnishment within five (5) days after the service of the within order of support upon Husband/Wife.

V. RESIDENCE

Husband/Wife shall have the temporary possession of the residence located at _____ and Husband/Wife shall have vacated the said residence within twenty four (24) hours after the service of this Order.

The Husband/Wife is granted exclusive possession of the dwelling located at _____. The Husband/Wife, _____, is granted the right to remove from the dwelling personal effects necessary for personal hygiene and personal clothing for the Husband/Wife and for any child(ren), listed below, in the Husband's/Wife's primary residency.

_____ (Name of Child)	_____ (Current Age)	_____ (Year of Birth)
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_____ (Name of Child)	_____ (Current Age)	_____ (Year of Birth)
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Husband/Wife is hereby given notice that their return to said residence without the permission or upon the invitation of Husband/Wife could be considered a Criminal Trespass under K.S.A. 21 3721 and appropriate municipal ordinance, for which he or she could be prosecuted.

If Husband/Wife has not voluntarily vacated this dwelling after twenty four (24) hours of being served with the Temporary Orders, then any duly authorized law enforcement office of the State of Kansas is requested to use reasonable and necessary means to evict

Husband/Wife from this dwelling.

VI. PERSONAL PROPERTY

Husband shall remain in temporary possession of the following items of property:

Wife shall remain in temporary possession of the following items of property:

Any duly authorized law enforcement office of the State of Kansas is requested to use reasonable and necessary means to prevent Husband/Wife from interfering with the Wife/Husband's removal of his/her personal clothing and such personal effects as set forth herein.

VII. DEBTS

Husband shall be temporarily responsible for the periodic payment of the following debts:

Wife shall be temporarily responsible for the periodic payment of the following debts:

Each party shall be responsible for individual debts and obligations incurred after the date the Petition herein is filed.

VIII. RESTRAINT

The parties are jointly restrained and enjoined from molesting or interfering with the privacy or rights of each other in any manner. Furthermore, they are restrained from disposing, encumbering or changing the nature of any property of the parties or of each of them without prior Court approval other than for reasonable living expenses or attorney fees.

In addition, the parties are restrained and enjoined from canceling any utility services and/or deposits or canceling or modifying (including changing beneficiaries) of any existing pension benefits, medical, health, automobile, homeowner's or renter's, life, or disability insurance coverage's involving any family members or their property.

IX. PARENT EDUCATION CLASSES

Both parties shall attend and participate in a parent education class as designated by order pursuant to K.S.A. 60 1626(b). Each party shall pay their own fee for such class.

This registration shall occur within ten (10) days after either filing this action or receiving notice of this action unless explicitly ordered otherwise by the Court. Information on such classes shall be provided to petitioner by petitioner's counsel and shall be attached to this temporary order for Respondent's benefit.

X. RECONCILIATION

In event of a reconciliation of the parties before trial, the filing party shall promptly notify his or her attorney or if petitioner does not have an attorney who shall promptly prepare and present to this Court a Journal Entry of Dismissal of this action in which

event the attorney shall be entitled to be paid for his/her services.

XI. ENFORCEMENT

Nothing in this Temporary Order shall be construed as a final decision concerning the property, or rights, of either party. The ultimate decision relating to all such matters will be made at the time of trial. This Temporary Order shall remain in effect until the trial of this case unless modified by the Court upon the motion of either party. **DISOBEDIENCE OF THIS ORDER OF THE COURT IS PUNISHABLE AS INDIRECT CONTEMPT OF COURT AND MAY BE PUNISHED BY CONFINEMENT IN JAIL.** Any duly authorized law enforcement officer of the State of Kansas is directed to use reasonable and necessary means to enforce the provisions of this Temporary Order.

XII. HEARING

Husband/Wife may appear before this Court at 1:30 pm on any Monday, or at 9:30 a.m. or 1:30 p.m. on Tuesday, on the fourth floor of the Sedgwick County Courthouse, 525 North Main, Wichita, Kansas, for the purpose of modifying any of the orders contained herein.

If Husband/Wife intends to appear, Husband's/Wife's counsel, or if not represented the other party, must be notified by Husband/Wife completing and filing one of the attached form(s) with the Clerk of the Court and by serving the other copy of the form to Husband's/Wife's counsel, or if not represented the other party, not later than five business days before the time specified for the hearing.

JUDGE OF THE DISTRICT COURT
FAMILY LAW DEPARTMENT
APPROVED:

Attorney for Petitioner

IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
FAMILY LAW DEPARTMENT

IN THE MATTER OF THE MARRIAGE OF)
)
and)
)
)
_____)

Case No.:

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, _____, I mailed a copy of the above Notice of Intent to Appear to the attorney named above at the address given above.

Signature

Note: if temporary support and/or custody, residency or parenting time have been ordered in the temporary order, the Clerk shall not accept a request for modification of same without the accompanying documents required by Rules 406 & 407.

**RULE 403
SUPPORT ORDERS: AFFIDAVITS & WORKSHEETS**

Any temporary support order shall be accompanied by a completed Domestic Relations Affidavit (DRA) as required by Kansas Supreme Court Rule 139. If there are minor children of the marriage, the order must also be accompanied by the affidavit required in the UCCJEA, K.S.A. 38 1356, a completed child support worksheet, and a temporary parenting plan.

Per Supreme Court Rule 123, and Local Rule 425, the DRA required by this rule should not include the parties' social security numbers, dates of birth and financial account numbers.

**RULE 404
SUPPORT ORDERS: KANSAS PAYMENT CENTER**

Any new or modified final order for support shall comply with K.S.A. 23 4,107(b), shall have submitted with the order a child support worksheet where applicable, and the following language shall be placed in all such orders: *"All payments for support shall be delivered to: Kansas Payment Center, P.O. Box 758599, Topeka, KS, 66675 8599. It shall be the responsibility of the payor and payee to so inform the Kansas Payment Center of their current address at all times."*

RULE 405
ISSUANCE OF SUMMONS

No summons shall be issued in a divorce, annulment or separate maintenance case unless an order is filed with the Clerk providing for the support of any minor child(ren) of the parties, unless approval to the contrary has been obtained from a judge of the Family Law Department, said approval being noted by the judge on the first page of the petition.

RULE 406
MOTIONS GENERALLY

1. **Hearing Officer:** Motions involving child support, past due or unreimbursed medical expenses, parenting time or paternity shall be heard by the Hearing Officer on Monday or Tuesday mornings at 9:00 am.
2. **Court Trustee:** Motions to stay income withholding orders issued by the Court Trustee shall be heard by the Hearing Officer on the docket attended by the Court Trustee assigned to the particular case.
3. **Self-Represented Litigants:** All motions filed in cases where both parties are self-represented shall be heard on Mondays at 9:30 am by a district judge, except as provided above in Section 1.
4. **District Judges:** All other motions in Family Law cases shall be heard on Mondays at 1:30 pm, or Tuesdays at 9:30 am or 1:30 pm, by a district judge.
5. **Notice requirements:** All motions shall be noticed for hearing in the Family Law Department, 4th Floor, Sedgwick County Courthouse, 525 N. Main, Wichita, Kansas. The moving party shall be responsible for providing notice of the time and date of the hearing to the non-moving party, and the motion shall include a certificate of service. The Court Trustee or SRS shall be given notice of all motions to modify child support in cases which they have entered appearances. All motions shall be served according to the time requirements of K.S.A. 60 206, unless the Presiding Judge approves an expedited hearing.
6. **Motions to modify temporary orders; documents required:** A party can file a motion to modify a temporary order, or can file a "notice of intent to appear" to seek such a modification. If the motion or notice seeks to modify a temporary

spousal maintenance order, or a temporary order for division of debts, it must be accompanied by a completed domestic relations affidavit. If the motion or notice seeks to modify a temporary child support order, it must be accompanied by both a completed domestic relations affidavit and a child support worksheet.

If the motion or notice seeks to modify a temporary custody, residency or parenting time order, and the motion is filed within sixty (60) days of the temporary order being served, it must be accompanied by a proposed parenting plan. If the motion is filed more than sixty (60) days after the temporary order was served, the matter must first be mediated pursuant to Rule 424, and the motion must comply with Rule 407.

7. **Duty to confer and exchange documents**: Any party who files a motion has a duty to attempt to confer with the other party prior to any hearing by the Court. Any documents that are going to be shown to the Court must be exchanged at least the day before the hearing; documents not so exchanged may not be presented to the Court at the hearing if the other party objects to their use.

RULE 407
MOTIONS TO CHANGE CUSTODY / RESIDENCY

1. **"Material change of circumstances" standard will govern.** In a case in which the Court has previously taken evidence and rendered a decision as to custody, residency or parenting time, a "material change of circumstances" must be shown to exist before the Court will consider the requested change.
2. **Sworn testimony and specificity required.** A motion to change custody, residency or parenting time, including any proposed change either to or from shared residency, must be accompanied by a proposed parenting plan as required by K.S.A. 60-1607(d). In addition to complying with the provisions of K.S.A. 60-1628(a), any affidavit or verified motion must be specific as to all of the reasons which support the requested change. Failure to provide sworn testimony and the requisite specificity will result in the motion being denied.
3. **Allegations in motion will be taken as true.** The factual allegations contained in the affidavit or verified motion will be taken as true when the Court is considering whether to grant an evidentiary hearing. The Court will decide whether those allegations, if true, constitute a prima facie showing that a material change of circumstances has occurred, thus entitling the movant to an evidentiary hearing. The Court shall base its decision solely on the basis of what is contained in the affidavit or verified motion. If an evidentiary hearing takes place, and the trial judge finds that the facts contained in the affidavit or verified motion were untrue or willfully misleading, the trial judge may impose such sanctions as may be appropriate.

4. **Procedure if evidentiary hearing is granted.** Once a prima facie showing has been made, and the evidentiary hearing has been granted, the movant cannot amend the affidavit or verified motion without leave of the Court. In no instance can an affidavit or verified motion be amended later than fourteen (14) calendar days prior to the first scheduled pre-hearing conference date, whether or not that conference actually takes place. If movant is granted leave to modify, the non-moving party is entitled to a continuance of the pre-hearing conference, and if necessary, a continuance of the settlement conference and the evidentiary hearing. The parties should obtain the new dates as soon as practical after the modification. By this procedure, it is anticipated that the movant's allegations will be finalized at least two weeks before the non-moving party's allegations are finalized.
5. **Scope of the evidentiary hearing on custody / residency.** At the evidentiary hearing, the movant is limited to presenting evidence on the allegations contained in the movant's final affidavit or verified motion. The non-moving party is limited to presenting evidence on any allegations contained in the pre-hearing order. At the evidentiary hearing, the trial judge can be advised of all relevant facts, but the parties will not be allowed to relitigate facts that were formerly adjudicated, or could have been.
6. **No previous custody / residency hearing.** If no Court has ever taken evidence and rendered a decision as to custody, residency or parenting time, any party is entitled to an evidentiary hearing, as a matter of right, on those issues. Being entitled to an evidentiary hearing as a matter of right does not relieve the movant of the obligation to file an affidavit or verified motion as required by K.S.A. 60-1628(a) and Paragraph 2 of this rule, and the procedural requirements described in Paragraphs 4 and 5 of this rule. If no previous ruling on the merits has ever been made, the "best interests of the child" standard, rather than a "material change of circumstances" standard, will govern.
7. **Emergency (ex parte) motions to change custody / residency.** In addition to complying with the requirements of Paragraph 2 of this rule, an emergency or ex parte motion to change custody must also comply with the provisions of K.S.A. 60 1628(b). The movant shall notify the other party, and that party's attorney of record, of the date and time when ex parte contact with the Court is scheduled, and afford the other party a reasonable opportunity to meet with the Court at the scheduled time. The movant shall prepare a motion to review said ex parte order, which shall be set for hearing at the next regular docket after service of the order on the other parent is obtained. Said motion shall be filed with the Clerk simultaneously with the ex parte order. Both the motion and order shall be mailed to the non moving party and any attorney of record at their last known address. At the hearing on the motion to review, the Court shall consider the matter de novo, and the movant shall have the burden of proof. If the Court finds that factual allegations that were presented to the Court, and which resulted in the ex parte order being entered, were untrue or willfully misleading, the Court may impose such sanctions as it deems appropriate.

RULE 408
PROTECTION FROM ABUSE / STALKING ORDERS

1. Parties filing a Protection from Abuse or a Protection from Stalking petition are required to disclose the existence of any existing Family Law order, pertaining to the parties, which is already in effect. Parties filing a Family Law case are required to disclose the existence of any existing PFA or PFS order, pertaining to the parties, which is already in effect.
2. If a temporary order is filed in a PFA or PFS case which changes an existing Family Law order, the Family Law Presiding Judge can administratively consolidate the Family Law case and the PFA or PFS case, and can assign the matter to a judge in the Family Law Department.

RULE 409
DISCOVERY CONFERENCES

1. Discovery conference orders are no longer required for each case. Instead, the Court will simply mail to both parties a notice of their pre-trial conference date. The pre-trial conference will be held approximately sixty (60) days from the date of the notice.
2. Notwithstanding the above, if the parties wish to hold a discovery conference, they may schedule it with the Court for any Monday the Court is in session, at 9:30 am.
3. If the parties wish to set interim dates, such as discovery deadlines or expert disclosure deadlines, they may do so in an agreed order without the filing of a motion. If one or both of the parties wish to set interim dates, but the parties cannot agree on what those dates should be, either party may file a motion on the regular motion docket and ask the Court to set such dates.
4. Any order, agreed to or otherwise, which sets deadlines must be hand-delivered to the judge's aide.

RULE 410
VALUATION DATES

At any time during the pendency of a case, the parties can agree to any valuation date for marital property. If one or both parties wish to have the Court set the valuation date, either party may file a motion on the regular motion docket, and the Court will set a date consistent with K.S.A. 60-1610(b).

RULE 411
PRE-TRIAL (PRE-HEARING) CONFERENCES

1. No case shall proceed to trial without a pre-trial conference being held, and a pre-trial conference order being filed. No matter shall proceed to evidentiary hearing without a pre-hearing conference being held, and a pre-hearing conference order being filed. These conferences shall be held Monday at 9:30 am.
2. Attorneys / parties shall not be required to attend the conference if they approve a pre-trial or pre-hearing conference order on or before the date of the conference.
3. Unless otherwise ordered by the Court, or agreed to by the parties, the pre-trial or pre-hearing conference order shall be prepared by the petitioner or the movant in a post-divorce matter. The petitioner or the movant shall send a draft pre-trial or pre-hearing conference order to the respondent at least two weeks prior to the pre-trial or pre-hearing conference. The respondent shall reply with a draft of the pre-trial or pre-conference order a week later.
4. Any pre-trial or pre-hearing conference order must include a) all information required by law and local rules; b) the date of the settlement conference, and c) the date of the trial or evidentiary hearing.
5. If no agreed conference order has been filed by the date of the conference, failing to attend or being late to the scheduled conference, without good cause, will likely result in the award of attorney fees. If only one party appears on the date of the conference and that party has prepared its version of the pre-trial or pre-hearing conference order, that version shall become the order of the Court, until further order of the Court.
6. Any attorney who fails to file a required pre-trial or pre-hearing order by the date of the scheduled settlement conference may be assessed attorney fees.
7. All completed pre-trial and pre-hearing conference orders must be hand-delivered to the judge's aide.
8. No pre-trial conference shall be held sooner than 60 days after the filing of the petition in the case, except by agreement of the parties or for good cause shown.

9. No pre-hearing conference shall be held sooner than 60 days after the filing of the motion at issue, except by agreement of the parties or for good cause shown.
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RULE 412
STANDARD FORMS AVAILABLE FOR CONFERENCE ORDERS

Forms for discovery conference orders, pre-trial conference orders, and pre-hearing conference orders are available from the judge's aide.

RULE 413
SETTLEMENT CONFERENCES

1. No case can proceed to trial or evidentiary hearing without a settlement conference being held.
 2. Settlement conferences for trials and evidentiary hearings must be held in the courthouse, preferably on the 4th floor, and must be attended by all attorneys and parties, unless otherwise agreed to by the parties. Written notice to the court must be provided if any settlement conference is conducted outside the courthouse or at a time other than that scheduled by the court, certifying that such settlement conference took place.
 3. Failing to attend or being late to a scheduled settlement conference, without good cause, will likely result in the award of attorney fees.
 4. For trials: Trial settlement conferences will be held approximately three weeks before the trial, on Monday at 9:30 am. The exact date and time of the trial settlement conference will be set in the pre-trial conference order.
 5. For evidentiary hearings: Evidentiary hearing settlement conferences will be held approximately one week before the hearing, on Monday at 9:30 am. The exact date and time of the evidentiary hearing settlement conference, even though it will be noted on the "motion minute sheet" (see Rule 414), will also need to be included in the pre-hearing conference order.
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RULE 414
EVIDENTIARY HEARINGS

1. The Presiding Judge shall maintain a calendar for evidentiary hearings, which will be scheduled on Wednesday, Thursday or Friday at 9:00 am.
 2. Unless otherwise ordered, an evidentiary hearing can occur only if granted by the Court following a motion heard on the regular motion docket.
 3. Unless otherwise ordered, an evidentiary hearing can be scheduled only upon the filing of a pre-hearing conference order. The pre-hearing conference order will set both the evidentiary hearing date and the date of the settlement conference.
 4. Failing to attend or being late to a scheduled evidentiary hearing, without good cause, will likely result in judgment being entered in favor of the aggrieved party or, in the alternative, the award of attorney fees.
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RULE 415 TRIALS

1. The Presiding Judge shall maintain a calendar for trials, which will be scheduled on Wednesday, Thursday or Friday at 9:00 am.
 2. Unless otherwise ordered, a trial can be scheduled only upon the filing of a pre-trial conference order. The pre-trial conference order will set both the trial date and the date of the settlement conference.
 3. Failing to attend or being late to a scheduled trial, without good cause, will likely result in judgment being entered in favor of the aggrieved party or, in the alternative, the award of attorney fees.
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RULE 416 SCHEDULING OF TRIALS & EVIDENTIARY HEARINGS

To schedule a trial or evidentiary hearing, and assuming that all other rules have been complied with in regard to whether a trial or evidentiary hearing has been granted, contact the judge's aide. Dates for trials and evidentiary hearings can be reserved for two business days, but if the pre-trial or pre-hearing conference order has not been hand-delivered to the judge's aide within those two days, the date is forfeited, and a new date will need to be obtained.

RULE 417
CONTINUANCES

1. Whether agreed to by the parties or not, a scheduled conference, hearing or trial shall not be continued unless the Presiding Judge grants the continuance.
 2. If the parties cannot agree on whether there should be a continuance, or cannot agree on a new date, the parties shall immediately confer together in person or by telephone with the Presiding Judge, who shall make a decision regarding those issues.
 3. Once a continuance has been approved by the Presiding Judge, any new date shall be obtained either from the Court or from the judge's aide on the fourth floor of the Sedgwick County Courthouse.
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RULE 418
ATTORNEY FEES

1. The Presiding Judge reserves the right to invoke the inherent powers of the office of district judge to assess compensatory attorney fees whenever appropriate.
 2. No showing of bad faith on the part of the offending party need be made under such circumstances, only that the party caused the other party to incur attorney fees needlessly.
 3. Failing to attend or being late to a scheduled trial or evidentiary hearing, without good cause, will likely result in judgment being entered in favor of the party who did appear or, in the alternative, the award of attorney fees.
 4. Failing to attend or being late to a scheduled discovery conference, pre-trial conference, pre-hearing conference or settlement conference, without good cause, will likely result in the award of attorney fees.
 5. It may be considered an act of bad faith if an attorney fails to file a required pre-trial or pre-hearing order by the date of the scheduled settlement conference; as such, at the Presiding Judge's discretion, attorney fees may be assessed against that attorney personally.
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RULE 419
RECONCILIATION OF PARTIES

Reconciliation of the parties in a divorce, annulment or separate maintenance case shall cause that case to be dismissed. In the event of reconciliation, it shall be the duty of

counsel for petitioner, or the petitioner's duty if he or she is not represented by counsel, to promptly submit a Journal Entry of Dismissal.

RULE 420
DEFAULT OR UNCONTESTED HEARINGS

If the Presiding Judge finds that a final hearing for either an uncontested or default case is necessary, such hearing shall be conducted at a time and place as directed by the Court. If such a hearing is ordered, the testimony of one of the parties, either directly before the Court under oath or through written interrogatories, shall be submitted to the Court at the hearing.

RULE 421
ADMINISTRATIVE DISMISSAL OF CASES

1. All Family Law cases pending for 120 days or more where no trial or other setting has been obtained will be dismissed, except for good cause shown. The Clerk shall prepare a notice of intent to dismiss (NID), and a journal entry of dismissal, and mail a copy thereof to all parties at least eighteen (18) days prior to the dismissal date shown thereon. Family Law cases dismissed under this rule will be reinstated if, within three months after dismissal, a journal entry of judgment which resolves all issues is filed simultaneously with the order to reinstate.

 2. Once an NID has been prepared and mailed, a request for an extension of time must be made through the NID coordinator of the 18th Judicial District, whose name and telephone number will appear on the notice. A second request for additional time can be granted only by the chief judge.

 3. Once a month, in addition to the notice of intent to dismiss prepared by the Clerk, a status conference will be held in the twenty-five (25) oldest Family Law cases. Separate notices to that effect will be mailed by the Presiding Judge. At that status conference, the cases may be dismissed for lack of prosecution, and if not dismissed outright, shall be bifurcated.
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RULE 422
HEARING OFFICER & APPEAL OF HEARING OFFICER DECISIONS

1. The Hearing Officer's jurisdiction is set forth in Supreme Court Rule 172. The Hearing Officer will hear matters related to the establishment, modification or enforcement of support and enforcement of parenting time.
2. The Hearing Officer will maintain a separate calendar for all matters assigned for hearing. These matters will be scheduled for Mondays and Tuesdays at 1:30 pm.
3. An evidentiary hearing scheduled with the Hearing Officer will have a higher priority than a motion set with the District Court, and the Hearing Officer can direct that said motion be re-scheduled.
4. Decisions of the Hearing Officer shall be subject to review for abuse of discretion or errors at law by a district judge. A transcript of the proceedings before the Hearing Officer shall be made available to the district judge at the time of the hearing.

RULE 423
COURT TRUSTEE

1. The Office of the Court Trustee, as provided for in K.S.A. 23 494 and amendments thereto, is hereby established for the Eighteenth Judicial District effective July 1, 1985.
2. Effective February 1, 1996, all new and modified child support orders in the Eighteenth Judicial District, except temporary orders, shall be assigned to the Office of the District Court Trustee for monitoring and enforcement unless, pursuant to K.S.A. 23 4,100, a "good cause exception" is granted by the Court relieving the Office of the Court Trustee of the duty of enforcement of the order.
3. Requests pursuant to K.S.A. 23 4,100 for an exemption from the Office of the Court Trustee's responsibility for collection of support shall be granted only after a motion is filed and hearing is held before the Presiding Judge of the Family Law Department. The Office of the Court Trustee shall be given notice of the hearing.
4. The Court Trustee shall have the additional powers and duties set out in K.S.A. 23 496(c).
5. The Court Trustee shall have the power to enter into child support enforcement contracts with the secretary of social and rehabilitation services pursuant to K.S.A. 75 5365.
6. The Court Trustee is appointed as a hearing officer to preside at summary administrative hearings in accordance with the provisions of Supreme Court Rule No 172.

7. When the Court directs that an income withholding order shall immediately issue and the duty to enforce the support order is assigned to the District Court Trustee, the Trustee shall prepare the income withholding order for filing with the Court and issuance to the employer or income payer.
8. If a new or modified final child support order is issued by the Court and the journal entry memorializing the proceeding is silent as to the assignment or non assignment of the enforcement duty to the Court Trustee, the support order shall be by this rule deemed assigned to the Office of the District Court Trustee for enforcement. No motions for Nunc Pro Tunc orders to amend the language of child support orders with respect to assignment or non assignment of enforcement duties to the Office of the Court Trustee shall be considered by the Court unless the Office of the Court Trustee is formally notified by movant of the date and time the motion is scheduled to be heard by the Court.
9. Except as otherwise provided in K.S.A. 23 4,107(j), (k) or (l), and pursuant to other provisions of K.S.A. 23 4,105 et seq., each final order containing orders of child support or child support and spousal support which is entered in the Eighteenth Judicial District and assigned to the Office of the Court Trustee for enforcement shall include the following provisions:
 - a. IT IS FURTHER ORDERED that an income withholding order shall be issued immediately as required by K.S.A. 23 4,105 et seq. The Office of the District Court Trustee shall immediately prepare the income withholding order, notice and answer forms for filing and service to the obligor's payer of income. Each party shall inform the Clerk of the District Court, in writing, of any change of name, residence and employer (with business address) within seven (7) days of a change.
 - b. IT IS FURTHER ORDERED that, until the commencement of withholding by a payer/employer, the obligor shall pay all child support payments required by the support order. Payments shall be remitted by the obligor to the Kansas Payment Center on or before the due date specified in the order.
 - c. IT IS FURTHER ORDERED that all support payments shall be paid to the Kansas Payment Center, P.O. Box 758599, Topeka, KS 66675 8599, and a fee shall be deducted there from by the Kansas Payment Center to defray the expense of the operation of the Office of the District Court Trustee. All support payments shall be payable to the order of the Kansas Payment Center.

The following provision and subparagraph (c.) above shall be included in all final orders where only spousal support is ordered:

- a. IT IS FURTHER ORDERED that, unless the parties have agreed in writing to the earlier issuance of an income withholding order, all maintenance payments shall be subject to income withholding, but only if (a) there is an arrearage in payment of maintenance in an amount equal to or greater than the amount of

- maintenance payable for two months, (b) the obliged spouse or ex spouse is not living with a child of the obligor for whom an order of support is also being enforced, and (c) there has been compliance with K.S.A. 23 4, 107(h) and amendments thereto.
10. Effective February 1, 1996, any final support order providing for the support of a child, issued by a judge presiding in a Court of the Eighteenth Judicial District, which is silent as to whether an income withholding order shall issue immediately and silent as to the existence of a written agreement among all interested parties providing for an alternative payment arrangement, shall be by this rule deemed to require immediate issuance of an income withholding order.
 11. Pursuant to K.S.A. 23 4,118 and Administrative Order No 154 of the Supreme Court of the State of Kansas, the Kansas Payment Center shall receive and disburse payments for support and maintenance made after September 29, 2000. The official payment history for support payments made prior to that time shall continue to be maintained by the Clerk of the District Court. For payments made following September 29, 2000, the official payment history is that maintained by the Kansas Payment Center.
 12. Pursuant to K.S.A. 60 1610(a)(1), except for good cause shown, every order requiring payment of child support or maintenance shall require that the support be paid through the Kansas Payment Center, P.O. Box 758599, Topeka, KS 66675 8599. Requests pursuant to this statute for a good cause exemption from this rule shall be granted only after a motion is filed and a hearing is held before the Presiding Judge of the Family Law Department. If the case has been assigned to the Court Trustee, the Office of the Court Trustee shall be given notice of the hearing.
 13. The Clerk of the District Court, Family Law Department, shall cooperate and coordinate her functions with the Office of the District Court Trustee to such an extent as is necessary to accomplish the improvement of the enforcement of duties of support, and to promote judicial efficiency and the effective administration of justice. A party or attorney filing a "final" child support order with the Clerk shall also file a support information worksheet which will provide the Office of the Court Trustee with the current information necessary to perform its duties pursuant to this rule.
 14. All amounts charged and collected to defray the expenses of the Office of the District Court Trustee shall be withheld from support payments made to the Kansas Payment Center and shall be paid to the Court Trustee Operations Fund of the Eighteenth Judicial District of Kansas.
 15. Any action taken by the District Court Trustee to establish, enforce or modify a support order is undertaken on behalf of the Court and in the interest of the public to ensure that obligors meet their duty to their dependents and the public. There is

no attorney client relationship created between an obligee or obligor and the Office of the District Court Trustee or its staff.

16. Nothing in this rule shall be construed as a prohibition of the right of any party to employ private counsel, at their own expense, to enforce or modify orders of support. However, in every case which is monitored and enforced by the Office of the District Court Trustee, counsel shall furnish the Office of the District Court Trustee notice of all proceedings affecting support and copies of all motions, pleadings and orders affecting support.

RULE 424
ALTERNATIVE DISPUTE RESOLUTION

Overview: Alternative dispute resolution (ADR) is available to all parties. ADR includes mediation, case management, limited case management, arbitration and collaborative family law. Mediation, case management, or limited case management can be ordered upon motion of a party, or upon the Court's own motion, contingent on the Court finding that the parties can afford to participate. Arbitration or collaborative family law can be entered into only with the approval of all parties.

The Hearing Officer may enter an order for ADR in any contested issue over which the Hearing Officer has jurisdiction.

The ADR program will be administered through the Mediation Coordinator, according to written procedures available in the Family Law Department on the 4th floor of the courthouse, and a copy of those procedures will be available to anyone who so requests. No case can be placed in any type of ADR without the Mediation Coordinator being notified.

Unless otherwise ordered by the Court, or contractually agreed to by the parties, once a case or issue has been fully submitted, the case manager, limited case manager or arbitrator has thirty (30) days to file a decision or recommendation. If said decision or recommendation is not filed within thirty (30) days, or within the time contractually agreed to by the parties, either party can file a motion for a new case manager, limited case manager or arbitrator, and the Court shall grant said motion.

A case manager, limited case manager or arbitrator can require payment of fees in advance of services rendered. If he or she chooses to not require payment in advance, written decisions or recommendations cannot then be withheld for failure of one of the parties to pay fees.

In the event that the Court finds that a party has willfully failed to pay a case manager, limited case manager or arbitrator, the Court may impose as a sanction on that party a prohibition on filing any motion until the outstanding balance has been paid. This rule is

intended to prevent a party from withholding fees for the purpose of causing the case manager, limited case manager or arbitrator to resign.

1. **Mediation:** Pursuant to K.S.A. 23-602, the Court may order mediation of any contested issue of child custody, residency, parenting time, division of property or any other issues, at any time, upon motion of a party, or on the Court's own motion.

Except in regard to a motion to modify a temporary order if said motion is filed within sixty (60) days of the temporary order being served, there shall be a presumption that disputes pertaining to child custody, residency or parenting time, and any post-judgment disputes, shall be mediated unless leave of the Court has been obtained. The Court shall not hear any such disputes until the Court has been notified that the mediation has been conducted without success, or that the mediation has been specifically terminated or excluded by order of the Court.

Consistent with the provisions of K.S.A. 23-606, including the exceptions described therein, a party ordered to participate in mediation has a privilege to refuse to disclose, and to prevent a witness from disclosing, any communication made in the course of mediation. Mediators are not subject to process.

Mediation ends when a written agreement has been approved by the parties, or when the mediation reaches an impasse. The Court at any time, upon motion of a party, or on the Court's own motion, may terminate the mediation, or may terminate or exclude mediation as to a particular issue.

2. **Case Management:** The Court can order the parties into case management on any issue related to custody, residency or parenting time, as well as any other issues the parties agree to submit to the case manager.

Case management is the process by which a case manager assists highly conflicted parties by providing a procedure, other than mediation, which facilitates negotiation regarding contested issues. As such, case management is not mediation, and the rules of confidentiality found in K.S.A. 23-606 do not apply. During the case management process, communications between parties, or between a party and the case manager, are not privileged. The case manager is subject to process.

A case is assigned to case management following a motion of a party, or on the Court's own motion. Typically, a case will not be assigned to case management until other dispute resolution services have been attempted without success, and there is repetitive conflict between the parties. Once assigned, and until further order of the Court, all issues related to custody, residency or parenting time, as well as any other issues the parties agree to submit, will be handled by the case manager.

If the negotiation process fails to achieve an agreement, the case manager is

required to make written recommendations as to the remaining issues. Those recommendations become the order of the Court unless one of the parties objects to some or all of the recommendations within fourteen (14) days of when the recommendations are mailed or delivered. If only some of the recommendations are objected to, only the recommendations that are explicitly objected to will be the subject of any motion before the Court, and all other recommendations will take effect after fourteen (14) days.

Case management ends for a particular case when the case manager has terminated the assignment or when, upon motion of a party, or on the Court's own motion, the Court terminates the assignment.

3. **Limited Case Management:** Limited case management, formerly known as Dispute Resolution Counseling (DRC), operates identically to case management except for the following:
 - a. In limited case management, the Court only assigns certain specified issues to the case manager.
 - b. In limited case management, the recommendations of the case manager do not become the order of the Court until one of the parties files and prevails on a motion to adopt the recommendations.
 - c. In limited case management, the assignment to limited case management ends when a written agreement has been approved by the parties, or when the case manager files recommendations as to the issues specified by the Court. The Court at any time, upon motion of a party, or on the Court's own motion, may terminate all or part of the assignment.
4. **Arbitration:** The parties may enter into an agreement to arbitrate any contested issues, and the arbitration should be conducted in a manner agreed to by the parties in their written agreement, and with the provisions of K.S.A. 5-201, et seq. Inasmuch as arbitration can be entered into only with the approval of all parties, no motion for arbitration need be filed with the Court. However, an agreement to arbitrate does not stay any other deadlines, and any continuance of a Court-ordered appearance or deadline must be approved by the Court.

Upon completion of arbitration, the parties have an obligation to journalize and file with the Court any orders necessary to implement the arbitrator's decision. Notwithstanding the requirement that the arbitrator's decision be journalized, the decision of the arbitrator takes effect as soon as it is disclosed to the parties. Arbitration ends when an arbitrator's decision has been journalized. Arbitration can be stayed, or an arbitrator's decision vacated or modified, only in a manner consistent with K.S.A. 5-201, et seq.

5. **Collaborative Family Law:** Parties may agree to handle their case in a Collaborative Family Law (CFL) format. CFL is a process by which parties

JUDGE OF THE DISTRICT COURT
FAMILY LAW DEPARTMENT

Approved:

Attorney for Petitioner

RULE 425
USE OF PERSONAL IDENTIFIERS IN DOCUMENTS FILED WITH THE COURT

Per Supreme Court Rule 123, parties and attorneys are directed to refrain from including social security numbers, dates of birth and financial account numbers in any pleadings or exhibits filed in Family Law cases.

Documents that are covered by this rule include, but are not limited to, any domestic relations affidavit (DRA), qualified domestic relations order (QDRO), or income withholding order (IWO). In regard to IWO's, the original that is sent to the employer should still include personal identifiers, but that information should be redacted from any copies filed with the Court.

RULE 426
CHILD IN NEED OF CARE PRECEDENCE

Any orders pertaining to child custody, parenting time, and child support entered as a result of a child in need of care proceeding, including custody resulting from police protective custody, shall take precedence over any other child custody, parenting time, and child support order entered in any other case and shall continue to take precedence as long as the child in need of care case shall remain open. Upon closure of the child in need of care case, the last order of custody, parenting time and child support entered in the child in need of care case shall remain binding as to all the parties in that case in regard to all other proceedings in all other departments of the court pertaining to the same parties. Said orders shall remain in effect until such time the parties appear before the court and such orders are amended by the court. In regard to any family law or probate case pertaining to the same parties in the child in need of care case, the order of final custody

parenting time, and child support in the child of need of care case shall also be filed in the family law or probate case and all records pertaining to the child in need of care case, including the social file, shall be made available to the family law or probate department judge.