

CIVIL
Rule No. 4.200

CIVIL CASE MANAGEMENT

The following rules, 4.200 through 4.299, apply to all Chapter 60 civil actions except by order of the Court upon motion. These rules do not apply to domestic actions. The Court upon motion may order that these rules may be supplemented by adding discovery in complex civil cases, cases involving a large number of legal issues or parties, cases in which geographic considerations may delay the discovery process or any other case which the Court finds in its discretion would not be susceptible to proper management under these rules. Throughout these rules, the term “counsel” shall also apply to pro se litigants.

CIVIL
Rule No. 4.201

CASE MANAGEMENT ORDER

In order to eliminate the need for case management conferences in each case, the following provisions shall apply:

(1). **CASE MANAGEMENT ORDER** - Counsel for all parties shall confer within thirty (30) days of the date of service of the answer or the last answer if the case has multiple defendants to prepare an agreed case management order. The case management order should contain discovery deadlines, depositions deadlines, witness and exhibit list, exchange dates, pretrial conference date and trial date. The order shall schedule all discovery for completion within four months and designate a specific completion date. If more time is requested the reason therefor shall be stated in the proposed order. The order shall then be filed within (10) days of the conference and approved by the Court in the format prescribed by the Court. A suggested form for the case management order is attached to this rule. Its use is recommended to the bar.

(2). **SCHEDULING DATES** - Counsel shall E-mail the Administrative Assistant of the District Court Judge before which the case is pending to obtain dates for a pretrial conference and potential trial dates which are to be included in the order. Whether the type of trial is a bench or jury needs to be designated in the Case Management Order.

(3). **FAILURE TO FILE** - Counsel shall exercise reasonable efforts in attempting to agree upon a Case Management Order. In the event counsel are unable to agree upon an order despite reasonable efforts, the Court will set the case for a Case Management Conference to resolve the dispute and will enter a scheduling order. Failure to confer or complete a Case Management Order may result in sanctions being imposed by the Court under the provisions of these rules.

SAMPLE

AGREED CASE MANAGEMENT ORDER

THIS CAUSE came before the Court on the ____ day of _____, _____, for submission of the following case management order.

1. LEAD TRIAL COUNSEL.

a. Attorney for Plaintiff: _____

b. Attorney for Defendant: _____

2. PROCEDURES.

The parties are directed to comply in all respects with the Kansas Code of Civil Procedure as well as the Administrative Rules of the Fourth Judicial District located on the Courts website at: www.4jdkdks.org

3. DISCOVERY ISSUES.

a. Discovery issued by plaintiff to date: _____

b. Discovery issued by defendant to date: _____

c. Discovery Deadlines:

1. Additional written discovery:

Plaintiff: _____

Defendant: _____

2. Identification of expert witnesses and reports:

Plaintiff: _____

Defendant: _____

3. Depositions:

Plaintiff: _____

Defendant: _____

4. Witness and Exhibit lists: _____

4. MOTIONS.

Motions, joinder of parties, or amendments to pleadings shall be filed by

_____.

5. MOTIONS FOR SUMMARY JUDGMENT.

Motions for summary judgment shall be filed by _____.

6. PRE-TRIAL CONFERENCE.

A pre-trial conference is scheduled on the _____ day of _____, _____, at _____ a.m./p.m.

7. TRIAL.

The parties have stipulated and it is agreed that the trial is tentatively scheduled for the _____ day of _____, _____, at _____ a.m./p.m.

This case is currently designated to be tried ___ by jury ___ no jury. The parties estimate the trial will be completed in ___ days.

IT IS SO ORDERED.

THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME SHOWN ON THE ELECTRONIC FILE STAMP

Counsel for plaintiff

Counsel for defendant

CIVIL
Rule No. 4.202

DISCOVERY

(1). **DISCOVERY CONFERENCES** - Discovery conferences should not be needed if the parties cooperate in the preparation of a case management order and follow the deadlines therein. If necessary to expedite disposition of litigation, minimize expense and conserve time, the Court may conduct one or more discovery conferences with counsel. The Court shall set separate deadlines for the listing of any witnesses (including expert witnesses), taking of depositions and completion of other discovery and may enter such other orders as are appropriate including the setting of pre-trial and trial dates.

(2). **STIPULATIONS** - Stipulations for the extension of discovery deadlines set by the Court will not be effective until, and unless, approved by the Court.

(3). **REQUIREMENT OF A WRITING** - All objections to interrogatories, depositions, requests or applications under K.S.A. 60-226 through 60-237, as well as all motions thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement; (e.g., disputes arising during the taking of depositions), in which event attorneys are encouraged to call the discovery judge for a ruling thereon.

(4). **MOTIONS FOR ORDERS COMPELLING DISCOVERY** - Unless otherwise ordered, the Court will not entertain any such motion unless counsel for the moving party has conferred or has made reasonable effort to confer with opposing counsel concerning the matter in dispute prior to the filing of the motion. Counsel for the moving party shall file a certificate of compliance with this rule with any motion filed under K.S.A. 60-237. Motions should be filed in a timely fashion to comply with the Case Management Order deadlines.

(5). **MOTIONS FOR PROTECTIVE ORDERS** - The filing of a motion for a protective order pursuant to K.S.A. 60-226 or K.S.A.60-230 shall stay the discovery at which the motion is directed pending order of the court. The filing of a motion to quash or modify a deposition subpoena shall stay the deposition at which the motion is directed. No properly noticed deposition shall be automatically stayed under this rule unless the motion directed at it shall have been filed and served upon counsel or parties by delivering a copy within 11 days after service of the deposition notice, and at least 48 hours prior to the noticed time of the deposition. Pending resolution of any motion, which stays a deposition under this rule, neither the objecting party, witness, nor any attorney shall be required to appear at the deposition to which the motion is directed until the motion has been ruled upon or otherwise resolved.

(6). **FILING WITH THE COURT** - Unless otherwise ordered, no written discovery questions or answers should be filed with the Court. The only requirements for filing are notification of service of discovery and notice of answer filing. This rule does not include those filings as exhibits necessary for pre-trial motions.

CIVIL
Rule No. 4.203

DEPOSITIONS

(1). **COOPERATION** - Counsel are expected to cooperate with, and be courteous to each other and deponents. Counsel is further expected to cooperate in selecting the least expensive and least disruptive manner of conducting the deposition. Counsel should consider such cost saving methods as telephone depositions, and sharing of expenses in bringing an out-of-state witness to Kansas for the deposition rather than all counsel traveling to the out-of-state location.

(2). **STIPULATIONS** - Unless contrary to or inconsistent with an order of the Court or any case management order, the parties (and, when appropriate, a non-party witness) may stipulate in any suitable writing to alter, amend, or modify any practice relating to noticing, conducting, or filing a deposition.

(3). **SCHEDULING** - Absent extraordinary circumstances, counsel shall consult in advance with opposing counsel and proposed deponents in an effort to schedule depositions at mutually convenient times and places. Depositions shall be scheduled to conform to normal business hours of 9:00 a.m. to 5:00 p.m. Monday through Friday unless otherwise mutually agreed by all counsel and the witness. The most convenient location for a party's deposition shall be presumed to be in the office of that party's counsel. Except for the principal plaintiff, defendant or key experts, the fact that some counsel may be unavailable shall not, in view of the number of attorneys involved in the litigation, be grounds for postponing a deposition if another attorney from the same firm is able to attend. Unless by agreement of counsel or leave of court is first obtained, at least 10 days notice shall be considered a reasonable time of any deposition to be given.

(4). **ATTENDANCE**

(a). **Local Counsel** - Local counsel shall be required to appear at the taking of depositions, unless excused by prior order of the Court, where it appears that counsel's presence will not be necessary.

(b). **Who May Be Present** - Unless otherwise mutually agreed by the parties or ordered under K.S.A. 60-226(c), depositions may be attended by counsel of record, members and employees of their firms, attorneys specially engaged by a party for purpose of the deposition, the parties or the representative of a party, and counsel for the deponent. While a deponent is being examined about any stamped confidential document or the confidential information contained therein, persons to whom disclosure is not authorized under the Protective Order shall be excluded.

(5). **CONDUCT**

(a). **Objections** - The only objections that should be raised at the deposition are those made required to be under K.S.A. 60-232(d)(3) in order to preserve the objection or to preserve a privilege, judicial limitation, or opportunity to seek court protection. Objections on other grounds are unnecessary and should generally be avoided. Relevance and materiality are not appropriate grounds. All objections should be concise, stating the basis of the objection and nothing more than is necessary to preserve the objection and must not suggest answers to (or otherwise coach) the deponent. Argumentative interruptions will not be permitted.

(b). **Directions not to Answer** - Directions to the deponent not to answer are improper except on the ground of privilege to enforce a judicial limitation or to enable a party or deponent to present a motion to the Court for termination of the deposition on the ground that it is being conducted in bad faith or in such a manner as unreasonably to annoy, embarrass, or oppress the party or the deponent. When a privilege is claimed, the witness should nevertheless answer questions relevant to the existence, extent, or waiver of the privilege, such as the date of a communication, who made the statement, to whom the contents of the statement have been disclosed, and the general subject matter of the statement.

(c). **Private Consultation** - Private conferences between deponents and their attorneys during the actual taking of the deposition are improper except for the purpose of determining whether a privilege should be asserted. Unless prohibited by the Court for good cause shown, such conferences may, however, be held during normal recesses and adjournments.

(6). **DOCUMENTS**

(a). **Production of Documents** - Witnesses subpoenaed to produce numerous documents must be served at least 30 days before the scheduled deposition unless the witness agrees to a shorter time period. Depending upon the quantity of documents to be produced, some time may be needed for inspection of the documents before the interrogation commences.

(b). **Protective Order** - A copy of any Protective Order shall be provided to the deponent before the deposition commences if the deponent is to produce or may be asked about documents which may contain confidential information.

(7). **DEPOSITIONS OF WITNESSES WHO HAVE NO KNOWLEDGE OF THE FACTS**

An officer, director or managing agent of a corporation, partnership, association other organization or a government entity serviced with a notice of a deposition or subpoena regarding a matter about which such person has no knowledge may submit to the noticing party a reasonable time before the date noticed an affidavit so stating and identifying a person within the corporation or government entity believed to have such knowledge. Notwithstanding such affidavit, the noticing party may proceed with the deposition, subject to the right of the witness

to seek a protective order. A public or private corporation, partnership, association, other organization or governmental entity, noticed as the deponent under K.S.A. 60-230(b)(6) shall designate the person to be deposed as the representative of the entity who has the most knowledge regarding the subject matter on which the examination is requested.

(8). **EXPERT WITNESSES** - Leave is granted to depose expert witnesses in addition to or in lieu of discovery through interrogatories. Objection to such depositions may be made by motion. Experts shall, upon written request without the necessity of a subpoena, bring to the deposition, the expert's written report, complete file, documents or other materials reviewed and billing records regarding the compensation to be paid for the study and testimony.

(9). **VIDEOTAPED DEPOSITIONS** - By indicating in its notice of a deposition that it will record the deposition by videotape, a party shall be entitled to videotape the deposition pursuant to the following terms and conditions.

(a). **Stenographic Recording** - The videotaped deposition shall be simultaneously recorded stenographically by a qualified court reporter. The court reporter shall on camera administer the oath or affirmation to the deponents. The written transcript by the court reporter shall constitute the official record of the deposition for purposes of K.S.A. 60-230(e) (submission to witness) and K.S.A. 60-230(f) (filing; exhibits).

(b). **Cost** -The requesting party shall bear the expense of the videotaping. Any party may at its own expense obtain a copy of the videotape and the stenographic transcript. Requests for taxation of these costs and expenses may be made at the conclusion of the litigation in accordance with applicable law.

(c). **Video Operator** - The operator(s) of the videotape recording equipment shall be subject to the provisions of K.S.A. 60-228(c) unless otherwise agreed by the parties. At the commencement of the deposition, the court reporter shall swear or affirm to record the proceedings fairly and accurately.

(d). **Attendance** - Each witness, attorney, and other person attending the deposition shall be identified on camera at the commencement of the deposition. Thereafter, only the deponent (and demonstrative materials used during the deposition) will be videotaped.

(e). **Standards** - The deposition will be conducted in a manner to replicate, to the extent feasible, the presentation of evidence at a trial. Unless physically incapacitated, the deponent shall be seated at a table or in a witness box except when reviewing or presenting demonstrative materials for which a change in position is needed. To the extent practicable, the deposition will be conducted in a neutral setting, against a solid background, with only such lighting as is required for accurate video recording. Lighting, camera angle, lens setting, and field of view will be changed only as necessary to record accurately the natural body movements of the deponent

or to portray exhibits and materials used during the deposition. Sound levels will be altered only as necessary to record satisfactorily the voices of counsel and the deponent. Eating and smoking by deponents or counsel during the deposition will not be permitted.

(f). **Interruptions** - The videotape shall run continuously throughout the active conduct of the deposition. Videotape recording will be suspended during all "off the record" discussions.

(g). **Filing** - The party requesting the videotape deposition shall preserve custody of the original videotape in its original condition until further order of the court. No part of a videotape deposition shall be released or made available to any member of the public unless authorized by the Court.

(h). **Objections** - Requests for pretrial rulings on the admissibility of evidence obtained during a videotaped deposition shall be accompanied by appropriate pages of the written transcript. If the objection involves matter peculiar to the videotaping, a copy of the videotape and equipment for viewing the tape shall also be provided to the Court.

(i). **Use at Trial** - A party desiring to offer a videotape deposition at trial shall be responsible for having available appropriate playback equipment and a trained operator. After the designation by the parties of the portions of a videotape to be used at trial, an edited copy of the tape, purged of unnecessary portions (and any portions to which objections have been sustained), shall be prepared by the offering party to facilitate continuous playback; but a copy of the edited tape shall be made available to other parties at least 10 days before it is used, and the unedited original of the tape shall also be available at the trial. Failure of a party to review and present their objections to the Court prior to trial on such edited tapes shall not be grounds to object to their admission at trial. Any conflicts regarding the admissibility of the tapes shall be resolved prior to trial.

(10). **WAIVER OF TRANSCRIPTION AND FILING** - The parties and deponents are authorized and encouraged to waive transcription and filing of depositions that prove to be of little or no usefulness in the litigation or to agree to defer transcription and filing until the need for using the deposition arises.

(11). **RULINGS** - Immediate presentation. Disputes arising during depositions that cannot be resolved by agreement and that, if not immediately resolved, will significantly disrupt the discovery schedule or require a rescheduling of the deposition, may be presented by telephone to the Court. The presentation of the issue and the Court's ruling will be recorded as part of the deposition by the court reporter taking the deposition.

CIVIL
Rule No. 4.204

PRETRIAL CONFERENCE

(1). **PRE-TRIAL CONFERENCE** - A date for a pre-trial conference shall be in the case management order in cases designated for jury trial. A date for a pre-trial conference may be set at request of counsel or upon the Court's own motion in cases designated for bench trials.

(2). **PRE-TRIAL QUESTIONNAIRE** - At least one (1) week before the pre-trial conference, counsel for each party shall complete a pre-trial questionnaire and mail a copy thereof to the Court and to all other counsel. The originals of the pre-trial questionnaire shall be filed with the Clerk of the District Court only if the parties fail to file an agreed Pre-Trial Order before the holding of a formal conference. A suggested form for the pre-trial questionnaire is attached to this rule. Its use is recommended to the bar.

(3). **PREPARATION OF PRE-TRIAL CONFERENCE ORDER** - All pre-trial orders shall be prepared by the attorney designated by the judge presiding at the pre-trial conference and shall be filed within the time specified by the Court. A suggested form for the pre-trial order is attached to this rule.

(4). **PRESENCE OF TRIAL COUNSEL AND PARTIES REQUIRED** - The attorney who will actually conduct the trial shall appear at and conduct the pre-trial conference. If good cause is shown why the actual trial attorney cannot appear, the Court may proceed if the appearing attorneys are familiar with the matter so that a meaningful pre-trial may be conducted. Local counsel shall also be present. Unless the pre-trial order is agreed upon in advance, no dispositive motions will be heard by the Court, parties shall also be present.

(5). **PROCEDURE** - In conducting a formal pre-trial conference, the Court will follow Kansas Supreme Court Rule No. 140.

(6). **AGREED-TO PRE-TRIAL ORDER DOCKET** - Any case in which the attorneys agree upon a pre-trial order, the case shall be set on the Court's docket for submission of the agreed order, at which time the attorneys for each side shall appear to obtain the Court's review and approval of said order and a trial setting. Parties will not be required to attend.

(7). **FAILURE TO PRESENT AGREED-TO PRE-TRIAL ORDER** - In the event counsel fails to present an agreed-to pre-trial order at the designated time, counsel shall be prepared to conduct a formal pre-trial conference forthwith, or as soon thereafter as the Court shall determine, with parties in attendance.

(8). **MEDICAL MALPRACTICE SETTLEMENT CONFERENCE** - In medical malpractice cases, as part of the pre-trial conference or as part of the agreed-to pre-trial order, the court shall designate the person before whom a settlement conference will be conducted and shall provide for the scheduling of said conference not less than forty-five (45) days before trial.

SAMPLE

PRETRIAL QUESTIONNAIRE

Instruction: This questionnaire must be completed by each party and copies mailed to the Presiding Judge and all other counsel at least one week prior to pretrial conference. All questions must be answered or indicated as not applicable. All answers must be typed. If the space provided is not sufficient for your answers, you may type your own questionnaire and answers in accordance with this format.

1. The name of the party you represent:

2. Contentions and theories of recovery:

a. Theory of your claim or defense and supporting factual contentions (including, if applicable, grounds of negligence or comparative negligence against parties and non-parties, and affirmative defenses):

b. List and itemize total of damages claimed:

3. Request for amendments to your pleadings:

4. Request for admissions and stipulations:

a. The Court has jurisdiction over the parties and the subject matter.

b. Venue is proper in _____ County, Kansas.

5. List names and addresses of all witnesses you intend to call at trial: (Identify as an expert any witness you intend to call as an expert.)

6. List all exhibits you intend to offer at trial and identify any which have not already been shown to opposing counsel:

*General classifications of witnesses and exhibits are not acceptable.

7. Motions:

a. List motions you have pending:

b. List motions you intend to file prior to trial and date by which you propose to file each motion:

8. Trial Assignment:

- a. Is this trial to the Court or to a jury or to a master to be appointed by the Court?
- b. Will a jury of 6 members be accepted?
- c. What is the estimated time for trial?
- d. Should case receive priority setting and if so, why? (If due to out-of-town witnesses, please specify.) (Counsel are required to bring scheduling calendars to the pretrial conference.)

9. Guardian ad litem:

Does any party require a Guardian ad Litem?

10. Expert or Cumulative Witness Limitations:

List request for limitation of witnesses:

11. Questions of fact:

12. Questions of law:

13. Unusual questions of evidence:

14. Anticipated problems relative to jury instructions:

15. Settlement:

- a. What are the prospects of settlement?
- b. Would a settlement conference be of assistance?

16. Do you plan to file trial briefs? If so, set forth proposed time schedule for filing.

17. State any procedural problems or recommendations:

18. Discovery. (It is presumed that all discovery is completed at the time of pretrial.)

a. If further discovery is requested, specify what further discovery is necessary, and state why:

b. State when it would be completed and request leave under Supreme Court Rule 136 to continue specified limited discovery:

Attorney for: _____

CERTIFICATE OF SERVICE

On this _____ day of _____, _____, a true and correct copy of this document was mailed, postage prepaid, to:

SAMPLE
PRETRIAL CONFERENCE ORDER

This Pretrial Conference order is entered by Judge _____ on the _____ day of _____, _____.

Counsel present were, _____ appearing for the plaintiff; and _____ appearing for the defendant.

WHEREUPON, the Court conducted a pretrial hearing under Supreme Court Rule No. 140: (If an agreed upon order so states.)

1. PLAINTIFF'S CONTENTION AND THEORIES OF RECOVERY

The plaintiff's contentions and theories of defense are as follows:

2. DEFENDANT'S CONTENTIONS AND THEORIES OF DEFENSE

The defendant's contentions and theories of defense are as follows:

3. AMENDMENTS TO THE PLEADINGS

The Court allowed the following amendments to the pleadings:

4. ADMISSIONS AND STIPULATIONS

The parties agree to be bound by the following:

- a. The Court has jurisdiction over the parties and of the subject matter.
- b. Venue is proper in _____ County, Kansas.

5. WITNESSES (If you intend to call any witness as an expert, so identify them.)

a. Plaintiff:

(1)

(2)

b. Defendant:

(1)

(2)

c. Identified by both parties:

(1)

(2)

6. EXHIBITS

a. Plaintiff:

(1)

(2)

b. Defendant:

(1)

(2)

c. Identified by both parties:

(1)

(2)

7. MOTIONS

The Court made the following rulings on motions and the filing of motions:

(1)

(2)

8. EXPERT OR CUMULATIVE WITNESS LIMITATIONS

The Court made the following limitations on expert and cumulative witnesses:

(1)

(2)

9. ISSUES OF FACT

The issues of fact to be determined in this action are as follows:

a.

b.

10. ISSUES OF LAW

a. The following issues of law are identified:

(1)

(2)

b. Rulings on issues of law:

(1)

(2)

11. QUESTIONS OF EVIDENCE OR PROCEDURE

a. The following questions of evidence or procedure are identified:

(1)

(2)

b. Rulings on evidence or procedural questions:

(1)

(2)

12. JURY INSTRUCTIONS

a. The following jury instruction problems are identified:

(1)

(2)

b. Ruling on jury instruction:

(1) Proposed jury instructions will be submitted _____ days before trial.

(2)

13. TRIAL BRIEFS

Trial briefs, if any must be submitted _____ days before trial.

14. ORDERS

In addition to the foregoing, the Court made these additional orders:

a. All discovery is terminated except:

(1) Uncompleted discovery which is specifically allowed as follows:

(a)

(b)

b. This Pretrial Order supersedes all pleadings and shall control the trial of this matter.

c. Witnesses and exhibits listed by one party may be called by any other party. All exhibits will be marked and exchanged by the parties 7 days before trial.

d. The trial of this case shall be limited to the issues, witnesses and exhibits listed; and no deviation therefrom will be permitted except for rebuttal or impeachment purposes or by special order of the Court to prevent manifest injustice.

15. TRIAL OF THE ACTION

Trial of this case shall be to a jury of twelve (12) persons and a majority verdict of 10 will be required. (Modify if six-member jury is acceptable.) Estimated time of trial is _____ days and will commence on _____.

IT IS SO ORDERED.

**THIS ORDER IS EFFECTIVE AS OF THE DATE AND
TIME SHOWN ON THE ELECTRONIC FILE STAMP**

CIVIL
Rule No. 4.205

MOTIONS IN CIVIL CASES

(1). **FORM AND FILING** - All motions, unless made during a hearing or at trial, shall be in writing and shall be filed with the clerk. An original shall be filed and shall be accompanied by a brief or memorandum suggesting the reasons and authorities in support.

(2). **RESPONSES AND REPLIES TO MOTIONS** - A party opposing a motion other than one to dismiss or for summary judgment shall, within ten (10) days after service of the motion upon it, file an original with the clerk and serve upon all other parties a written response to the motion containing a short, concise statement of his opposition to the motion, and if appropriate, a brief or memorandum in support thereof. A party shall have twenty-one (21) days to respond to a motion to dismiss or for summary judgment. A party may, within ten (10) days after the service of such response in opposition upon him, file an original with the clerk and serve upon all other parties a copy of a written reply memorandum. No sur replies will be allowed. All motions, responses to motions and replies shall be in the form of pleadings and shall meet all formal statutory requirements pertaining to pleadings.

(3). **HEARINGS AND SUBMISSION FOR DECISION** - If oral argument or a fact hearing is allowed by the Court, after request by counsel, the Court will set the matter specially for hearing. At any time after the expiration of the initial response time to a motion when no request for a hearing or oral argument has been granted, counsel shall notify the Court that the motion is ready for ruling. Unless approved by the Court in advance, hearings on Motions to Dismiss and Motions for Summary Judgment will be heard at the pre-trial conference unless otherwise scheduled in advance.

(4). **EXCEPTIONS** - The exceptions to sections (1), (2) and (3) above are:

(a). Initial applications to the court for additional time to plead which do not request extensions in excess of thirty (30) days will be ruled on instantly without supporting memoranda and without awaiting responses from adverse parties.

(b). Motions which show on their face factual authorities sufficient to support the relief requested do not require additional memoranda. (Motions and supporting memoranda may be combined and where combined should be so labeled.)

(c). Motions accompanied by an agreed order may be ruled on without further supporting or responsive memoranda.

(d). Preliminary domestic motions may be supported and opposed by affidavits in lieu of or in addition to other memoranda.

(e). Contested motions for temporary or permanent change of custody.

(5). **COPY TO COURT** - A chamber copy of civil motions, responses, and replies, if any, filed with the clerk, may be delivered to the Judge presiding over such motion as needed or requested by the Court.

(6). **TIME COMPUTATION** - The provisions of K.S.A. 60-206 shall govern the computation of the time periods set forth in this rule.

(7). **COMPLIANCE** - Any motion may be dismissed by the Court for failure to comply with the requirements of this rule.

(8). **MOTION FOR SPECIAL PROCESS SERVER** - All motions for special process server shall be accompanied by an order. Both the motion and order shall be on one page in the form approved by the court.

(9). **MOTION FOR AN EXTENSION OF TIME TO PERFORM AN ACT** - All motions for an extension of time to perform an act required or allowed to be done within a specified time shall show (1) when there was a prior consultation with opposing counsel, which is required, and the views of opposing counsel; (2) the date when the act was first due; (3) if prior extensions have been granted, the number of extensions granted and the date of expiration of the last extension; (4) the cause for the requested extension. Extensions will not be granted unless the motion is made before the expiration of the specified time, except upon a showing of excusable neglect; and (5) if for extension of discovery, compliance with K.S.A. 60-216(b). Stipulations for extensions of time are subject to the approval of the court.

(10). **MOTIONS FOR CONTINUANCE** - Motions to continue a pretrial conference, a hearing on a motion, or the trial of an action must be filed with the clerk reasonably in advance of the hearing date and shall reflect the views of opposing counsel. Continuances may not be automatically granted upon stipulation of counsel.

(11). **COPIES OF MOTIONS, BRIEFS IN SUPPORT AND BRIEFS IN OPPOSITION** - Except as the court may specially authorize, the length of briefs including attachments and exhibits shall not exceed the following:

Motions for Summary Judgment, Motions to Dismiss, and Motions for Judgment on the Pleadings

Brief in support - 50 pages

Brief in opposition - 50 pages

Reply brief - 20 pages

All other motions

Brief in support - 20 pages

Brief in opposition - 20 pages

Reply brief - 10 pages

Any motion to exceed page limitations must be submitted before submission of the brief and shall include a specific total page request. Such motions may be ruled upon without waiting for a response from any other party. If a motion is granted increasing the size of a brief in support, the page limit for the brief in opposition is automatically increased to the same page limit.

Any brief that exceeds the page limitations may be stricken by the court.

CIVIL
Rule No. 4.206

EXPERT WITNESSES

(1). **IDENTIFICATION OF EXPERTS** - At a case management conference, if not included in the case management order, the Court shall determine the time that identification of experts will be made by the parties.

(2). **NUMBER OF EXPERTS**. At any time during the pendency of a matter, the Court may limit the number of expert witnesses to be called by each party to avoid repetition and unnecessary expense.

(3). **EXPERT REPORT** - The parties shall comply with the provisions of K.S.A. 60-226(b)(6) with respect to the disclosure of expert testimony. A written report signed by the witness shall be furnished to all parties of record which shall contain a complete statement of all opinions to be expressed and the bases and reasons therefor. The disclosure shall include a current curriculum vitae setting out the qualifications of the expert and identifying all published and unpublished writings of the expert pertaining to the expert's opinions in the case. The disclosure shall also identify all other data, writings or exhibits upon which the expert relies upon to support his or her opinions in the case. Published writings may be identified by citation. Copies of the expert's unpublished writings shall be furnished with the report.

(4). **DISCOVERY** - At any case management or status conference, or thereafter, the Court shall explore with counsel the possibility of using alternative means of discovery of the opinions of expert witnesses, however, the parties shall retain the right to depose opposing experts.

(5). **TREATING PHYSICIANS** - Treating physicians may be identified as experts without the necessity of a full disclosure as set forth in this rule. However, if counsel anticipates using them for opinions other than causation, the nature and extent of the injury, and the reasonableness and necessity of medical treatment and expenses, then full disclosure shall be made.

Rule No. 4.207

RESERVED

Rule No. 4.208

JOURNAL ENTRIES

(1). When a judgment has been rendered or order of the Court has been entered, a journal entry reflecting the same shall be prepared by the prevailing party or such party assigned by the Court.

(2). The journal entry shall properly indicate in the heading, introductory paragraph, and concluding paragraph to identify in particular the judgment or ruling that the pleading is journalizing.

(3). The journal entry shall be filed with the Court for approval within 20 days from the date of judgment or order of the Court. Failure to file a journal entry may result in sanctions being imposed by the Court under the provisions of these rules.

Rule No. 4.209

RESERVED

Rule 4.210

ALTERNATIVE DISPUTE RESOLUTION

The Court may enter an order directing counsel and the parties, at the earliest appropriate opportunity, to attempt to resolve or settle their dispute using extra-judicial proceedings such as mediation, conciliation, or other alternative dispute resolution programs. Any such order may set forth the terms of the extra-judicial proceedings. Litigants in all civil cases are required to consider the use of an alternative dispute resolution process, including, but not limited to, mediation, settlement conferences, early neutral evaluation, and arbitration, at an appropriate stage in the litigation. Specific cases in which use of alternative dispute resolution would not be appropriate may be exempt from this requirement.

Settlement conferences shall be conducted in such a way as to permit an informative discussion between counsel and the parties, and the judge, or mediator of every possible aspect of the case bearing on its settlement, thus permitting the judge, or mediator to privately express his or her views concerning the settlement of the case. Attendance by a party representative with settlement authority at such conferences is mandatory, unless the court orders otherwise.

Settlement conference statements or memoranda submitted to the court or any other communications which take place during the settlement conference shall not be used by any party in the trial of the case. The judge, or mediator presiding over the settlement conference shall not communicate to the judge trying the case, the confidences of the conference except to advise as to whether or not the case has been settled. If the conference is conducted by a mediator, the costs of the conference, including the reasonable fees of the mediator, shall be assessed to the parties in such proportions as shall be determined by the judge. This provision will not apply in those cases involving conciliation.

Rule No. 4.211

SANCTIONS

(1). Sanctions Under These Rules, K.S.A. 60-211, and Other Rules and Statutes.

(a). On Court's Own Initiative. The Court, upon its own initiative, may issue an order to show cause why sanctions should not be imposed against a party and/or an attorney for violation of these rules, K.S.A. 60-211, or other provisions of the Kansas rules or statutes. The Court shall state the reasons therein for issuing the show cause order. Unless otherwise ordered, all parties may respond within ten (10) days after the filing of the order to show cause. The responses may include affidavits and documentary evidence as well as legal arguments.

(b). On a party's Motion. The issue of sanctions may be raised by a party's motion and responded to in the same manner as specified above.

(c). Procedure. The Court may rule forthwith on either or both of the issues

of violation and of the nature and extent of any sanction imposed as raised in its order to show cause or a party's motion and responses thereto. Discovery and evidentiary hearings on the question of sanctions will be permitted only when ordered by the Court. In ruling on the imposition of sanctions, the Court shall articulate the factual and legal basis for its decision.

(2). Imposition of Sanctions. In addition to the sanctions provided for violations of K.S.A. 60-211 and other Kansas rules and statutes, for violation of a local rule or order of the court, the court may make such orders as are just under the circumstances of the case, including but not limited to the following:

(a). An order that designated matters or facts shall be taken as established for purposes of the action:

(b). An order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting it from offering specified witnesses or introducing designated matters in evidence;

(c). An order striking pleadings or parts thereof, or staying proceedings until the rule is complied with, or dismissing the action or any part thereof, or rendering a judgment by default against the failing party;

(d). An order imposing costs, including attorney's fees, against the party, or its attorney, who has failed to comply with a local rule.

(3). Sanction Within the Discretion of the Court. In considering the imposition of sanctions, the Court may consider whether a party's failure was substantially justified or whether other circumstances make the imposition of sanctions inappropriate.