

# Kansas Judicial Council Bulletin

DECEMBER, 1963

PART 4—THIRTY-SEVENTH ANNUAL REPORT

## Motion Days, 1964



## Rules Relating to Appellate Procedure in Civil Cases Under the New Code

(Effective January 1, 1964)

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## Foreword

Following established practice, this issue of the BULLETIN contains a list of motion days for 1964 in the various district courts of the state, as designated by the district judges.

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We take this opportunity to call attention to errors in the October, 1963, issue of the BULLETIN. On page 9, "Roster of Judicial Officials," the list of district court judges was inadvertently printed from a list made prior to the election last year, and should read as follows: Districts 17—William B. Ryan; 24—Charles H. Stewart; 29, Div. 2—William J. Burns; 33—Maurice A. Wildgen; and 40, Div. 2—James H. Rexroad. On page 11, Table A-2, the totals are incorrect in districts 4, 8, 12, 15, 17, 20, 30 and 39.

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The advisory committee which worked on revision of the Civil Code, and continued in existence by the Judicial Council for the purpose of drafting proposed "Rules Pertaining to the Record on Appeal" and other rules made necessary by the new Code of Civil Procedure, submitted its tentative draft of proposed rules to the Judicial Council at its regular meeting on the 10th day of October, 1963.

As a result of such joint meeting some modifications were made, and the proposed rules as modified were submitted to the Supreme Court and recommended for adoption. The rules finally adopted by the Supreme Court contained only minor changes. The court, however, withheld action concerning the adoption of a rule relating to the assignment of civil cases in multiple judge districts. Action on such rule is being held in abeyance for a period of six months following January 1, 1964, during which time the practice in the various multiple judge districts will be observed. The new code contemplates the pretrial of cases and authorizes discovery proceedings to make it effective. It necessarily contemplates that the judge who pretries the case and issues an order thereon will also try the case.

The rules adopted by the Supreme Court on the 18th day of November, 1963, are set forth in this BULLETIN (following the Schedule of Motion Days).

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Each of the advisory committees appointed by the Judicial Council, to which attention was directed in the Foreword of the October, 1963, BULLETIN, has been working hard to draft modernized laws within the scope of its authority. On following pages are reports of the chairmen of these committees.



## Revision of Probate Code Relating to Admission and Commitment of the Mentally Ill

For a number of years there has been a growing demand to modernize the language and procedure of our statutes to facilitate the voluntary admission of a patient or the order of the Court, after hearing, for involuntary hospitalization in a psychiatric hospital.

The 1963 Session of the legislature, by House Concurrent Resolution No. 43, authorized and directed the Judicial Council "to make a comprehensive, exhaustive and complete study of those provisions of the Kansas Probate Code relating to the commitment and admission of persons to state mental hospitals, the guardianship of the person and property of incompetents including the mentally ill, chronically physically ill, and the conservation of the estates of such persons and also of any other statutes of this state, civil or criminal, which use" the "terms 'lunatic,' 'idiot,' 'imbecile,' 'feeble minded,' and 'distracted person'" . . . "such as the statutes relating to divorce, alimony, separate maintenance, crimes and offenses . . ."

As directed by House Concurrent Resolution No. 43, the Judicial Council has formed such a committee. The committee is charged with doing this revision in a manner similar to the Council Committee which for the past three years worked on the Civil Code revision. The committee is composed of: Professor Dan Hopson, Jr., Lawrence, Reporter; Honorable Joe H. Swinehart, Probate Judge, Kansas City; Raymond Briman, Topeka; Marvin E. Thompson, Russell; Donald L. Burnett, Larned; Roy Kirby, Coffeyville; and Robert H. Cobean, Wellington, the only member of the Judicial Council serving on said committee acting as ex-officio chairman.

The Committee has had several sessions and is attempting to follow the American Bar Association study and also the recently enacted Ohio Legislation in this field. While the committee has much of this revision yet in the future, it now appears that the committee will recommend:

1. The involuntary admission of persons to psychiatric hospitals be court centered, but that said admissions, voluntary and involuntary, be considered as admissions to general hospitals for the treatment of physical illnesses, in that the admission, in and by itself will not deprive the patient of any civil or property rights. The involuntary admission will be by proper Probate Court hearing, with all constitutional rights secured to the proposed patient. Since this hearing for determining the "mental illness" of a proposed patient and the ultimate finding and order that a proposed patient is "mentally ill," will not affect his civil and/or property rights, the record of such hearing on mental illness may well be treated as confidential and not available to the public generally.

This is to encourage people who are in need of psychiatric treatment to receive it early and without any stigma of public record or loss of civil and/or property rights if in fact they may be mentally ill and still not incompetent.

2. If a person is incompetent, whether also mentally ill, or otherwise, a completely separate proceeding, with all constitutional safeguards, would be conducted before the Probate Court, in which the question of "incompetency"

will be determined; his civil and/or property rights determined; and in which a guardian or conservator may be appointed to protect the person and his property.

3. The committee has only briefly discussed, but with some favor, providing for the appointment of a conservator (perhaps following the California Act) for a person who may not be mentally incompetent but only physically incapable of looking after his property. In such case the conservator might be appointed by the Probate Court on the application of the person seeking a conservator to protect his own property.

In the process of revising the present Kansas statutes on the subject, the above described outmoded nomenclature will be modernized in harmony with present medical and psychiatric terminology; the proceedings will be court centered; and all constitutional safeguards provided.

ROBERT H. COBEAN, *Chairman.*

## Criminal Law Revision

With the assistance of a special appropriation made by the 1963 Session of the Legislature, the Judicial Council has begun the task of revision and recodification of the statutes relating to crimes and criminal procedure. The primary responsibility for the project is assigned to an advisory committee appointed by the Judicial Council. The committee consists of the following members of the Kansas Bar: Honorable Doyle E. White, of Arkansas City, Judge of the Nineteenth Judicial District, Chairman; E. Lael Alkire, Wichita, Vice-chairman; Lester M. Goodell, Topeka; Howard E. Payne, Olathe; Selby S. Soward, Goodland; and A. K. Stavely, Assistant Attorney General, Topeka. Paul E. Wilson of Lawrence, Professor of Law at the University of Kansas, is reporter and draftsman for the committee. This group proposes to prepare recommendations for the first comprehensive revision of the Kansas Criminal Law in the State's history.

At its initial meeting the committee established a tentative agenda. First consideration is to be given to Chapter 21 of the General Statutes—the substantive crimes act. Thereafter, the committee will focus its attention on Chapter 62—the Code of Criminal Procedure. Several state penal code revisions have been accomplished during the past decade. Hence, there is a wealth of experience of other states that is now available to the Kansas committee. The committee is examining the newly enacted Codes of Illinois, Minnesota, Wisconsin and New Mexico, as well as the Model Penal Code drafted by the American Law Institute. The results of work done in other jurisdictions may be useful in the Kansas study. However, the committee is conscious of its responsibility to recommend a criminal code for Kansas, uniquely responsive to Kansas needs.

As the study has only begun, it is not possible to forecast when the draft will be completed. The committee and the Council pledge only that the project will be carried forth “with all deliberate speed.”

Suggestions of the bench and bar as to any revision or recodification of Chapter 21 or of Chapter 62 of the General Statutes of Kansas, as amended, should be sent to the Chairman of the Advisory Committee or to the reporter of the Advisory Committee.

DOYLE E. WHITE, *Chairman.*

## MOTION DAYS IN DISTRICT COURTS—1964

(Please see notes on page 76)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Allen.....	Iola.....	Spencer A. Gard.....	Jeanne Smith.....	37	14 27	10 24	9 23	6 20	5 18	8 22	7 21	6 19	2 23	14
Anderson.....	Garnett.....	Floyd H. Coffman.....	Blanche I. Shinkle.....	4	3	7	2	3	22	8	11	12	6	4
Atchison.....	Atchison.....	Edmund L. Page.....	Hal Waisner.....	2	8 15 22 29	5 19 26	4 11 18 25	1 8 15 22 29	6 13 20 27	3 10 17 24	2 9 16 23 30	7 14 21 28	4 11 18 25 30	2 9 16 23 30
Barber (See note 8).....	Medicine Lodge.....	Charles H. Stewart.....	Edith Myers.....	24	6	10	3	27	12	8	22	26	6	8
Barton (See note 6).....	Great Bend.....	Frederick Woleslagel.....	Geneva Steincamp.....	20	8	5	3	1	6	2	2	7	2	2
Bourbon (See note 2).....	Fort Scott.....	Robert H. Miller.....	Mary Smallwood.....	6	6	5	4	8	11	3	14	7	4	2
Brown.....	Hiawatha.....	Chester C. Ingels.....	Edna Boicourt.....	22	21c	18c	17c	21c	19c	2c	22c	20c	17c	22c
Butler.....	El Dorado.....	George S. Reynolds Page W. Benson	Leah E. Miller.....	13	3	3	2	3	1	8	4	2	9	4
Chase.....	Cottonwood Falls.....	Jay Sullivan.....	Myrtle Austin.....	5	31	24	27	24	29	26	25	30	27	30
Chautauqua.....	Sedan.....	George S. Reynolds Page W. Benson	Grace Sears.....	13	10	7	6	6	8	1	8	5	2	7
Cherokee.....	Columbus.....	Jerome Harman.....	Nina Coldiron.....	11	7	4	3	7	5	2	1	6	3	1
Columbus Div.....	Columbus.....	.....	.....	.....	1	5	4	1	6	3	9	7	18	2
Galena Div.....	Galena.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Cheyenne (See note 5).....	St. Francis.....	William B. Ryan.....	Lois Slyhoff.....	17	24	14	6	6	25	10	17	7	3	17

MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED  
(Please see notes on page 76)

Courts	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Clark	Ashland	Ernest M. Vieux	Hope Grimes	31	9c 17c	6c 17c	5c	9c	7c	4c	10c 23c	8c	5c	10c
Clay (See note 7)	Clay Center	Lewis L. McLaughlin	Hazel K. Chestnut	21	8	5	4	2	1	1	9	1	2	3
Cloud	Concordia	Marvin O. Brummett	Minnie L. Johnson	12	6	5	4	6	6	3	23	21	13	14
Coffey	Burlington	Jay Sullivan	Mary H. Finnerty	5	27	23	30	27	25	29	23	26	30	23
Comanche	Coldwater	Ernest M. Vieux	Mary Guyer	31	8c	5c	4c	8c	6c 13c	3c	9c	7c	4c	7c
Cowley	Winfield	Doyle E. White	Barbara Gilland	19	3 17	7 21	6 20	3 17	1 15	5 19	4 13	2 16	6 20	4 13
Crawford Girard Div. Pittsburg Div.	Girard	Don Musser	Josephine Cattaneo	33	3	7	6	3	1	5	4	2	6	4
Decatur (See note 5)	Oberlin	William B. Ryan	Alice J. Vernon	17	22	12 24	4	14	11	3	15	5 12	17	16
Dickinson (See note 3) Div. No. 1 Div. No. 2	Abilene	Walter F. Hembrow Albert B. Fletcher, Jr.	Seth Barter, Jr.	8	6c	5c	4c	2c	13c	2c	14c	2c	3c	1c
Doniphan	Troy	Chester C. Ingels	Gwendoline Etherton	22	22c	19c	13c	22c	20c	3c	23c	21c	13c	23c
Douglas (See note 12)	Lawrence	Frank R. Gray	Lucille E. Allison	41	3b	3b	6b	3b	4b	5b	11b	2b	2b	4b
Edwards	Kinsley	Maurice A. Wildgen	Cecil Matthews	33	8a 10a	5a 10a	4a	8a	1a 4a	3a	2a	7a 20a	4a	2a
Elk Div. No. 1 Div. No. 2	Howard	George S. Reynolds Page W. Benson	Floy B. Magers	13	6	10	9	10	4	5	21	9	6	14

## MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED

(Please see notes on page 76)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Ellis.....	Hays.....	Benedict P. Cruise.....	Orlando Wasinger.....	23	13a	3a	10a	14a	13a	9a	15a	12a	10a	15a
Ellsworth.....	Ellsworth.....	John I. Young.....	Frank A. Vanek.....	30	27	24	23	27	5	5	3	12	4	8
Div. No. 1.....		L. A. McNalley.....												
Div. No. 2.....														
Finney (See note 10).....	Garden City.....	Bert J. Vance.....	G. Mae Purdy.....	32	13c	7c	6c	10c	11c	5c	21c	9c	6c	11c
Ford.....	Dodge City.....	Ernest M. Vieux.....	Elta J. Riley.....	31	10c 20c	7c	6c	10c 20c	8c	5c	11c 14c	9c	6c	11c
Franklin.....	Ottawa.....	Floyd H. Coffman.....	Christina Woke.....	4	6	5	4	6	20	10	14	14	18	2
Geary (See note 3).....	Junction City.....	Walter E. Hembrow.....	Edward C. Verheke.....	8	3c	4c	2c	3c	5c	1c	2c	1c	9c	2c
Div. No. 1.....		Albert B. Fletcher, Jr.....												
Div. No. 2.....														
Gove.....	Gove.....	Benedict P. Cruise.....	Louise Brown.....	23	15a	13a	16a	16a	12a	15a	17a	13a	16a	17a
Graham.....	Hill City.....	C. E. Birney.....	Margaret A. Hildebrand.....	34	6	3	4	15	11	3	21	2	9	3
Grant.....	Ulysses.....	L. L. Morgan.....	Edna M. Walker.....	39	6f	3f	2f	13c	11f	8f	2c	5f	2f	7c
Gray.....	Cimarron.....	Ernest M. Vieux.....	Carrie Borland.....	31	7c	4c	3c	6c	5c	2c	8c	6c	3c	8c
													9c	
Greeley (See note 10).....	Tribune.....	Bert J. Vance.....	Laura M. Holmes.....	32	8c	10c	4c	7c	6c	2c	16c	19c	4c	8c
Greenwood.....	Eureka.....	George S. Reynolds.....	Alma Long.....	13	20	14	13	13	13	12	11	12	13	11
Div. No. 1.....		Page W. Benson.....												
Div. No. 2.....														
Hamilton (See note 10).....	Syracuse.....	Bert J. Vance.....	Ancilla J. Minor.....	32	10c	17c	4f	7f	8c	4c	13c	12c	4f	8f
Harper (See note 8).....	Anthony.....	Charles H. Stewart.....	Helen Pearl.....	24	13	3	2	13	11	15	21	12	4	7

## MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED

(Please see notes on page 76)

Courts	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Harvey (See note 4) . . . . .	Newton . . . . .	Sam H. Sturm . . . . .	Joe Fox . . . . .	9	9b 23b	10b 20b	12b 26b	2b 23b	11b 21b	4b 18b	3b 17b	8b 22b	9b 19b	3b 17b
Haskell . . . . .	Sublette . . . . .	L. L. Morgan . . . . .	Mildred Chrispens . . . . .	39	6c	3c	9c	6c	11c	8c	21c	5c	2c	1c
Hodgeman . . . . .	Jetmore . . . . .	Maurice J. Wildgen . . . . .	Agnes C. Gleason . . . . .	33	8f .....	5f 21a	4f .....	8f .....	6f 13a	3f .....	2f .....	7f .....	4f 9a	2f .....
Jackson (See note 11) . . . . .	Holton . . . . .	Robert H. Kaul . . . . .	Florence Clements . . . . .	36	15a	5c	4c	8c	4a	3c	2c	5a	4c	2c
Jefferson (See note 11) . . . . .	Oskaloosa . . . . .	Robert H. Kaul . . . . .	Myrtle Kimmel . . . . .	36	17c	7c	2a	10c	8c	1a	4c	9c	2a	4c
Jewell . . . . .	Mankato . . . . .	Donald J. Magaw . . . . .	Iris Cosand . . . . .	15	2	6	2	6	1	1	22	6	2	4
Johnson . . . . .	Olathe . . . . .	Pat Holland . . . . .	.....	10	6	3	2	6	4	1	1	5	2	7
Div. No. 1 . . . . .	.....	Earl E. O'Connor . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Div. No. 2 . . . . .	.....	Clayton Brenner . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Div. No. 3 . . . . .	.....	Raymond H. Carr . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Div. No. 4 . . . . .	.....	Harold R. Riggs . . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Kearny (See note 10) . . . . .	Lakin . . . . .	Bert J. Vance . . . . .	Bertha Adams . . . . .	32	10f	5f	9c	9c	8f	4f	18f	7f	9c	10c
Kingman (See note 8) . . . . .	Kingman . . . . .	Charles H. Stewart . . . . .	Gladys Layman . . . . .	24	8	5	23	21	13	1	23	20	5	14
Kiowa . . . . .	Greensburg . . . . .	Ernest M. Vieux . . . . .	Eunice E. Rich . . . . .	31	8f	5f	4f	8f	4c	3f	9f	7f	4f	9f
Labette . . . . .	Oswego . . . . .	Hal Hyler . . . . .	Glen R. Cosatt . . . . .	16	10 24	4 21	6 20	14 30	8 22	12 26	11 25	6 23	6 20	11
Osage Div. . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Parsons Div. . . . .	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Lane (See note 10) . . . . .	Dighton . . . . .	Bert J. Vance . . . . .	Eva Cramer . . . . .	32	9c	6c	16c	8c	7c	3c	17c	8c	16c	9c
Leavenworth . . . . .	Leavenworth . . . . .	Kenneth Harmon . . . . .	Mary Kate Gausz . . . . .	1	3	7	6	3	1	5	4	2	6	4

## MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED

(Please see notes on page 76)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Lincoln Div. No. 1 Div. No. 2	Lincoln	John I. Young L. A. McValley	Roy Livingood	30	7	17	4	8	18	8	10	6	9	9
Linn (See note 2)	Mound City	Robert H. Miller	Ferne Beary	6	7	4	3	6	5	2	8	6	3	7
Logan	Russell Springs	Benedict P. Cruise	H. Balte Selley	23	16a	14a	11a	6a	13d	10d	8a	14d	12d	7a
Lyon	Emporia	Jay Sullivan	Alice M. Long	5	29	26	25	29	27	24	30	28	25	23
Marion (See note 3)	Marion	Walter F. Hembrow Albert B. Fletcher, Jr.	C. J. Ross	8	2c	3c	5c	1c	4c	3c	1c	5c	4c	3c
Marshall (See note 7)	Marysville	Lewis L. McLaughlin	Walter J. Koppes	21	6	7b	4	6	8	3	8	2	4	2
McPherson (See note 4)	McPherson	Sam H. Sturm	Alma Bretches	9	13b 24b	7b 21b	13b 27b	6b 24b	8b 22b	5b 19b	4b 18b	5b 23b	6b 20b	4b 18b
Meade	Meade	Ernest M. Vieux	Edyth Cooper	31	7f	4f	3f 16c	7f	5f	2f	8f	6f 29c	3f	8f
Miami (See note 2)	Paola	Robert H. Miller	Ethel J. Hunt	6	8	3	2	7	4	1	7	5	2	1
Mitchell	Beloit	Donald J. Magaw	Ida B. Jamison	15	3	5	3	3	4	4	21	5	3	3
Montgomery Independence Div. Coffeeville Div.	Independence	Warren B. Grant	Bessie Scofield	14	2 3	6 7	5 6	2 3	7 1	4 5	3 4	1 2	5 6	3 4
Morris (See note 3)	Council Grove	Walter F. Hembrow Albert B. Fletcher, Jr.	Nellie McMichael	8	7c	6c	3c	6c	6c	15c	3c	6c	2c	7c
Morton	Elkhart	L. L. Morgan	Lavell Penick	39	7f	10c	3c	7c	12f	9f	8c	6f	3f	2f



MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED  
(Please see notes on page 76)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Nemaha.....	Seneca.....	Chester C. Ingels.....	Ruth Shaffer.....	22	20c	17c	16c	20c	18c	1c	21c	19c	16c	21c
Neosho.....	Erie.....	George W. Donaldson.....	Merle Estes.....	7	8 14	5 4	10 11	1 14	6 5	3 2	2 8	14 13	4 3	2 1
Chanute Div.....														
Ness.....	Ness City.....	Maurice A. Wildgen.....	Martha Borthwick.....	33	7f	4f	3f 3a	7f	5f	2f	1f 14a	6f	3f	1f 14a
Norton (See note 5).....	Norton.....	William B. Ryan.....	Elsie Brault.....	17	13 20	10	2	20	15	4	8	9	13	14
Osage.....	Lyndon.....	Alex Hotchkiss.....	Lucille Geisinger.....	35	3c	7c	3c	3c	1c	2c	4c	2c	3c	4c
Osborne.....	Osborne.....	Donald J. Magaw.....	Irene Lafoon.....	15	6	3	4	2	5	3	23	2	4	2
Ottawa.....	Minneapolis.....	John L. Young L. A. McNailey	Esther Plunkett.....	30	13	10	3	13	6	4	2	26	3	7
Pawnee.....	Larned.....	Maurice A. Wildgen.....	Eulah Almquist.....	33	9f 2fa	6a	5a	9a 13a	7a	4a	3a	8a 12a	5a	3a
Phillips (See note 5).....	Phillipsburg.....	William B. Ryan.....	Evelyn M. Parker.....	17	21	8 11	3	16	4	2	14 21	19	4	15
Pottawatomie.....	Westmoreland.....	Robert H. Kaul.....	Deane L. Arnold.....	36	16c	6c	5c	7a	7c	4c	1a	8c	5c	1a
(See note 11)														
Pratt (See note 8).....	Pratt.....	Charles H. Stewart.....	Mabel Axline.....	24	7	4	9	20	18	9	14	19	9	9
Rawlins (See note 5).....	Atwood.....	William B. Ryan.....	Louise Portschy.....	17	23	13	5 16	15	18	9	16	6	2 9	18

## MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED

(Please see notes on page 76)

Courtesy	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Reno. Div. No. 1. Div. No. 2.	Hutchinson.	John Fontron James H. Rexroad.	George Walter	40	3 10 14 17 24 31	7 21 28	6 13 20 27	3 10 17 24	1 8 15 22 29	5 12 19 26	4 11 18 25 30	2 9 16 23 30	6 13 20 27	4 11 18
Republic.	Belleville.	Marvin O. Brummett.	Earl J. Baldrige.	12	7	3	3	7	4	2	29	19	17	15
Rice (See note 6).	Lyons.	Frederick Woelagel.	Laura Saint.	20	7	3	2	7	4	1	1	5	9	1
Riley (See note 7).	Manhattan.	Lewis L. McLaughlin.	Joseph F. Musil.	21	10	3	6	3	4	5	11	5	6	4
Rooks.	Stockton.	C. E. Birney.	Irma Renner.	34	13	10	5	16	4	4	8	14	12	7
Rush.	La Crosse.	Maurice A. Wildgen.	Esta Manahan.	33	7a 13a	4a	3a 23a	7a	5a	2a	1a 23a	6a	3a	1a
Russell.	Russell.	Benedict P. Cruise.	Gladys Kling.	23	6a	10a	9a	13a	14a	8a	14a	5a	9a	14a
Saline. Div. No. 1. Div. No. 2.	Salina.	John I. Young L. A. McNealley	Betty J. Just.	30	6	3	2	6	4	3	1	5	2	2
Scott (See note 10).	Scott City.	Bert J. Vance.	Nellie Scheureman.	32	9f	6f	5f	13c	7f	3f	17f	8f	5f	14c
Sedgwick. Div. No. 1. Div. No. 2. Div. No. 3. Div. No. 4. Div. No. 5. Div. No. 6. Div. No. 7.	Wichita.	William C. Kande Howard C. Kline B. Mack Bryant James V. Riddel, Jr. James J. Noone E. E. Saffest Thomas C. Raum	Jo Ann Dunn.	18	All motions in civil cases, except divorce, are heard on the second Monday morning following the filing thereof. These motions are assigned to the various divisions of court by the Assignment Judge who mails notices of hearings to attorneys of record in advance. All motions in divorce cases, including contempt and custody, are heard at 1:30 P.M. on the second Monday afternoon following the filing thereof, at which time they are called by the Assignment Judge and assigned to the various divisions of court for immediate hearing.									
Seward.	Liberal.	L. L. Morgan.	Mary Lindley.	39	13c	7c	6c	20c	15c	12c	4c	12c	6c	4c

## MOTION DAYS IN DISTRICT COURTS—1964—CONTINUED

(Please see notes on page 76)

Courts	County seat	Judge	Clerk	No. of Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Shawnee (See note 1)...	Topeka	Beryl Johnson	Lucile M. Carter	3	3	28	27	24	22	19	11	9	6	4
Div. No. 1		Marion Beatty			10	7	6	3	1	26	18	16	13	11
Div. No. 2		E. Newton Vickers			17	14	13	10	8	5	25	23	20	18
Div. No. 3		David Prager			24	21	20	17	15	12	4	2	27	24
Div. No. 4												30		
Sheridan	Hoxie	C. E. Birney	Minnie Carder	34	2	24	2	13	18	1	15	5	10	1
Sherman	Goodland	C. E. Birney	Viva Peter	34	7	14	3	6	1	8	14	13	16	4
Smith	Smith Center	Donald J. Magaw	Florence Vincent	15	7	4	5	1	6	2	24	1	5	1
Stafford (See note 6)	St. John	Frederick Woelagel	Arlene E. McCandless	20	6	4	4	6	5	3	8	6	4	7
Stanton	Johnson	L. L. Morgan	Marjorie Newton	39	7c	24c	2c	7c	12c	9c	14c	6c	3c	2c
Stevens	Hugoton	L. L. Morgan	John F. Fulkerson	39	27c	6c	23c	9c	14c	11c	3f	26c	5c	3c
Sumner	Wellington	Wendell Ready	Mary E. Carter	25	7	4	3	7	5	2	15	6	3	1
Thomas	Colby	C. E. Birney	Thelma Livingston	34	3	7	16	14	25	2	16	1	2	2
Trego	WaKeeney	Benedict P. Cruise	Virginia Webb	23	14a	11a	2a	15a	11a	1a	16a	12a	2a	16a
Wabaunsee	Alma	Alex Hotchkiss	Mary E. Tolbert	35	2c	4c	5c	2c	5c	4c	3c	6c	5c	3c
Wallace	Sharon Springs	Benedict P. Cruise	Evelyn A. Warren	23	16d	14d	11d	20a	13d	10d	21a	14d	12d	21a
Washington	Washington	Marvin O. Brummett	Lois Acree	12	8	4	2	8	5	1	30	20	16	16
Wichita (See note 10)	Leoti	Bert J. Vance	Kate Elder	32	8f	5c	5c	20c	6f	2f	16f	7c	5c	21c

## MOTION DAYS IN DISTRICT COURTS—1964—CONCLUDED

(Please see notes on page 76)

COUNTIES	County seat	Judge	Clerk	No. Jud. Dist.	Jan.	Feb.	Mar.	Apr.	May	June	Sept.	Oct.	Nov.	Dec.
Wilson.....	Fredonia.....	George W. Donaldson.....	Dwaine Spoon.....	7	7	6	5	7	7	4	1	1	5	3
Woodson.....	Yates Center.....	Spencer A. Gard.....	Alma Abbott.....	37	7	4	3 17	21	12	2	8 22	20	17	15
Wyandotte (See note 9). Div. No. 1.....	Kansas City.....	O. Q. Clafin, III..... (Pre) (Post)	Richard D. Shannon.....	29	3 4	7 1	6 7	3 4	1 2	5 6	4 5	2 3	6 7	4 5
Div. No. 2.....		William J. Burns..... (Pre) (Post)			10 11	14 17	13 20	10 17	8 15	12 19	11 18	9 16	13 20	11 18
Div. No. 3.....		Harry G. Miller..... (Pre) (Post)			18 24	15 28	21 27	18 24	16 22	20 26	19 25	17 23	21 27	19 24
Div. No. 4.....		William H. McHale..... (Pre) (Post)			25	22	28	25	23	27	26	24	28	26

Italicized dates indicate the first day of the regular term of court.

a. 9:00 a. m.; b. 9:30 a. m.; c. 10:00 a. m.; d. 1:00 p. m.; e. 1:30 p. m.; f. 2:00 p. m.

NOTE 1. In Shawnee County the schedule continues through July and August, as follows:

Div. No. 1, July 17 and August 14.

Div. No. 2, July 24 and August 21.

Div. No. 3, July 3 and 31, and August 28.

Div. No. 4, July 10 and August 7.

NOTE 2. In Bourbon County, July 15 is motion day. In Linn County, July 13 is opening day of court term. In Miami County, July 14 is motion day. On all motion days court convenes at 10:00 a. m. and on days fixed for jury trials court convenes at 9:00 a. m.

NOTE 3. No jury at May term in Dickinson County, and June terms in Morris and Geary Counties, except on special order.

NOTE 4. In Harvey County motion days are July 2 and 16, and August 6. In McPherson County motion days are July 3 and 17, and August 7.

NOTE 5. In District 17, cases will be set on motion days, as follows: Cheyenne County, March 6 and November 3; Decatur County, February 12 and October 5; Phillips County, January 21 and September 14; Rawlins County, March 3 and November 2. The following dates are regular term, equity and motions: Cheyenne County, May 25; Decatur County, May 11; Norton County, April 20; Phillips County, May 4; and Rawlins County, May 18.

NOTE 6. In Barton, Rice and Stafford Counties, court convenes at 10:00 a. m. except when jury appears, when court convenes at 9:00 a. m.

NOTE 7. In Marshall County opening day of September term delayed one day a/c Labor Day. In addition to the regular days of court in Riley County, time permitting, special days of court will be held on the third Friday of each month. Additional days of court are scheduled in Clay, Marshall and Riley Counties, as the need arises.

NOTE 8. In Barber, Harper, Kingman and Pratt Counties, court convenes at 10:00 a. m. on motion and term days. Court convenes at 9:30 a. m. for jury trials. In Barber County, July 13 is term and motion day.

NOTE 9. In Wyandotte County, dates showing (Pre) are pre-trial motion days, and dates showing (Post) are post-trial motion days. Court convenes at 9:30 a. m. on motion days. During July and August motions are heard by the Judge then presiding.

NOTE 10. In Finney, Greeley, Hamilton, Kearny, Lane, Scott and Wichita Counties, unless otherwise ordered, jury sessions will convene at 9:30 a. m.

NOTE 11. In Jackson, Jefferson and Pottawatomie Counties, time permitting, a special motion day will be held in each county two weeks after the regular motion days.

NOTE 12. In Douglas County, July 3 and August 7 are motion days. On days on which a term of court opens, the civil docket will be called beginning at 9:30 a. m. and the criminal docket will be called beginning at 2:00 p. m.

# Rules Relating to Appellate Practice

## Rule No. 1

### PREFATORY RULE

(a) **REPEAL OF FORMER RULES.** Except as stated in this rule, the Rules of the Supreme Court as revised May 1, 1959, and numbered 1 to 19a, inclusive, and those numbered 43 to 55, inclusive, are hereby repealed insofar as they apply to civil cases as of January 1, 1964. However, as to all appeals in civil cases to the Supreme Court in which the clerk of the trial court shall have transmitted a copy of the notice of appeal to the Clerk of the Supreme Court, as required by G. S. 1949, 60-3307, prior to January 1, 1964, original rules numbered 5 to 9, inclusive, shall remain in force and be applicable to such appeals until the final disposition thereof.

(b) **EFFECTIVE DATE, REVISED RULES.** The following rules, insofar as they apply to civil cases, numbered 1 to 12, inclusive, and those numbered 101 to 119, inclusive, shall be effective commencing January 1, 1964, except that with reference to the appeals transmitted by the clerk of a trial court prior to January 1, 1964, as stated in the preceding paragraph, the following rules shall be applicable only to the extent that they are not inconsistent with the former rules numbered 5 to 9, inclusive.

(c) **APPEALABLE ORDERS ON DECEMBER 31, 1963.** In any civil case in which there are appealable orders entered on or before December 31, 1963, with reference to which the time for appeal, as in accordance with the law in effect on that date, will not be expiring until some date after December 31, 1963, appeals therein may be taken thereafter within the time permitted under the law in effect on December 31, 1963, or within a period of thirty days after December 31, 1963, whichever is the shorter.

(d) **STATUTORY REFERENCES.** In these rules, wherever there is a reference to a section of a statute by number without further designation that it is a reference to the General Statutes of Kansas, 1949, or to the Supplement to the General Statutes of Kansas, 1961, the section reference shall be deemed to be a reference to Chapter 303 of the Session Laws of Kansas, 1963.

(e) **RULES RENUMBERED.** The existing rules relating to the State Board of Law Examiners as revised May 15, 1961, and numbered 20 to 42, inclusive, are continued in effect but are hereby renumbered from 201 to 223, respectively. The existing rules relating to the State Board of Examiners of Court Reporters as revised November 1, 1950, and numbered 1 to 15, inclusive, are continued in effect but are hereby renumbered from 301 to 315, respectively.

(f) **RULES RELATING TO APPELLATE PROCEDURE IN CRIMINAL CASES.** All rules relating to appellate procedure in criminal cases in force on December 31, 1963, and found in G. S. 1949, 60-3826 and 60-3827, and any amendments thereto (also found in the Kansas official reports, Volume No. 188, page xxvii, *et seq.*), together with Rule No. 56 promulgated April 16, 1963, as follows:

"When any defendant has been convicted of a felony and he is without means to employ counsel to perfect an appeal to the supreme court, he may make affidavit to that effect, stating that he intends to appeal and requesting the appointment of counsel. The judge of the court in which such defendant was convicted shall, when satisfied that the affidavit is true, appoint competent counsel to conduct such appeal."

shall remain in full force and effect and be applicable to all appeals in criminal cases, until further order of the Court.

## Rule No. 2

FORM AND SERVICE OF PAPERS GENERALLY. Except as otherwise specifically required by the rules of the Supreme Court, all petitions, motions, applications, or other papers sought to be brought to the attention of the Court shall comply with, and be subject to the conditions of, Sec. 60-205, Sec. 60-210, and Sec. 60-211. The Clerk shall keep a separate file for each cause in which all such documents shall be preserved. He shall endorse on each paper filed the date of the filing, and he shall maintain an appearance docket and a journal comparable to, and for the same general purpose of, those required of clerks of the district court under Sec. 60-2601.

## Rule No. 3

COSTS AND FEES. No cause shall be docketed, whether original or appealed, except one in *forma pauperis* in accordance with Rule No. 6 (*m*), without payment of a non-refundable docket fee in the amount of \$35.00 to the Clerk of the Court. The docket fee shall be the only cost assessed in each cause for the Clerk's office, but there shall be separately assessed when applicable all fees for service of process, witness fees, reporter's fees, allowances for fees and expenses of masters or commissioners appointed by the Supreme Court, and any other proper fees and expenses. All such fees and expenses shall be approved by the Court unless specifically fixed by statute. When any such fees and expenses are to be anticipated in a cause, the Court may require the parties to the proceeding to make deposits in advance to secure the same. In disposing of any cause before it, the Court may apportion and assess any part of the original docket fee, the expenses for transcripts and for reproduction of the record under Rule No. 6, and of any additional fees and expenses allowed in the case, against any one or more of the parties in such manner as justice may require. The mandate shall then include a statement of such assessment, and execution may issue thereon as for any other judgment, or in an original case the Clerk of the Supreme Court may cause an execution to issue.

## Rule No. 4

ORIGINAL CASES. Original jurisdiction of the Supreme Court will not ordinarily be exercised if adequate relief appears to be available in a court of concurrent jurisdiction. If there is a court of concurrent jurisdiction, the petition shall state, in addition to all other necessary allegations, the reasons why the action is brought in the Supreme Court instead of in such court of concurrent jurisdiction. The Rules of the Supreme Court pertaining to the reproduction of the record and of briefs shall govern in original cases so far as they are applicable unless the Court otherwise orders in a particular case.

## Rule No. 5

INTERLOCUTORY APPEALS. When an appeal is sought under the provisions of Sec. 60-2102 (*b*), a motion for permission to take such an appeal shall be filed with the Clerk of the Supreme Court within ten (10) days after the entry of the order from which an appeal is sought to be taken. The motion shall (*a*) state the relevant facts, including the nature and a brief history of the proceedings in the district court with all the important dates, (*b*) have annexed thereto a copy of the order from which the appeal is sought to be taken and in which the district judge makes the findings required by said section, and a copy of any findings under Sec. 60-252, and of any written opinion of the district court relating thereto, and (*c*) state briefly the controlling question of law which the order is believed to involve, the ground for difference of opinion with respect thereto which is believed to be substantial, and the basis for belief that an immediate appeal may materially advance the ultimate termination of the litigation. The motion shall be served in accordance with Sec. 60-205. Any adverse party may within five (5) days after service thereof

serve and file a response thereto. The motion shall be filed and docketed as a regular appeal. If permission to appeal is granted, the notice of appeal shall be filed in the district court within the time fixed by Sec. 60-2103 (a) for taking an appeal or within ten (10) days after permission to appeal is granted, whichever is later. In such case no additional docket fee shall be charged, and the record on appeal shall be filed under the same docket number.

### Rule No. 6

**RECORD ON APPEAL TO SUPREME COURT.** (a) *Designation of Contents of Record on Appeal.* If no stenographic transcript of proceedings in the district court is required to be prepared for an appeal, the designation of the contents of the record by the appellant shall be served and filed in the district court within ten (10) days from the filing of the notice of appeal. It shall specify the portions of the record, proceedings, and evidence to be contained in the record on appeal. If a stenographic transcript needs to be prepared, the appellant shall request the same in accordance with G. S. 1949, 20-903 within ten (10) days after filing his notice of appeal, and he shall then serve and file his designation within twenty (20) days after completion of the transcript by the official court reporter.

(b) *Transcript.* If there be designated for inclusion any proceedings which were stenographically reported, the appellant shall file with his designation the reporter's transcript of such proceedings. If the designation includes only a part of the reporter's transcript, the appellant shall file a copy of such additional parts thereof as the appellee may need to enable him to designate and file the parts he desires to have added, and if the appellant fails to do so, the judge shall on motion require him to furnish the additional parts needed. Any transcript filed in the case shall be available for the use of all the parties.

(c) *Form of Testimony.* Testimony of witnesses designated for inclusion should be in narrative form except that testimony must be included with verbal accuracy whenever the decision of any question in controversy may be affected thereby. A party shall file with his designation a narrative statement of such part of the testimony as he is designating to be included in narrative form. Any other party to the appeal, if dissatisfied with the narrative statement, may require testimony in question and answer form to be substituted for all or part thereof.

(d) *Statement of Points.* Each appellant shall serve and file with his designation of the record a concise statement of the points on which he intends to rely and which will be briefed in the appeal. The points shall be without duplication, and each point shall state a particular and ultimate issue with reference to which reversible error is claimed to have been committed, but only such detail is required as will (1) enable opposing parties to judge the sufficiency of the designated record on appeal, and (2) inform the Supreme Court of the specific issues to be considered. A mere statement that a ruling was against the appellant without specifying what issue was involved in such ruling will not be an adequate statement of a point (e. g., that a motion for summary judgment, or directed verdict, or modification of a judgment was overruled), unless it is further stated on what legal or factual issue such ruling was erroneous. An issue may be raised in the statement of points regardless of whether a motion for a new trial was filed; but no issue, other than an issue going to the jurisdiction of the court over the subject matter of the litigation, may be briefed or will be considered on the appeal unless included in the statement of points. After the expiration of the period for designation of additional portions of the record, an appellant may not amend his statement of points relied on except by stipulation of the parties or order of the judge on such terms as will be just for the opposing parties. Within twenty (20) days after the service and filing of the appellant's designation of the record and his statement of points, any other party to the appeal may serve and file a designation of additional portions of the record, proceedings, and evidence to be included, and may make objections to a narrative statement proposed by the appellant, or offer an alternative statement.



(Illustrative of a statement of points for an appeal in an action based on negligence with a petition comparable to Form 13, Appendix of Forms, is the following:

- "1. It was improper to permit any evidence of alleged physical handicap of the defendant driver of the vehicle in the absence of indication at the pre-trial conference that such issue was to be raised at the trial.
- "2. It was error to receive plaintiff's evidence of speculative earnings which did not come from his regular occupation.
- "3. The trial court erred in holding that recovery by the plaintiff was not barred by his own negligence in crossing the highway where there was no crosswalk.
- "4. The court's instructions to the jury improperly and prejudicially stated the law with reference to the duty of a driver towards a pedestrian.
- "5. There was no substantial evidence to support an award for future hospitalization."

(e) *Record to Be Abbreviated.* All matter not essential to the decision of the questions presented by the appeal shall be omitted. Formal parts of all exhibits and more than one copy of any document shall be excluded. Documents shall be abridged by omitting all irrelevant and formal portions thereof. For any infraction of this rule or for the unnecessary substitution by one party of evidence in question and answer form for a fair narrative statement proposed by another, the Supreme Court may withhold or impose costs as the circumstances of the case and discouragement of like conduct in the future may require; and costs may be imposed upon offending attorneys or parties.

(f) *Stipulation as to Record.* Instead of serving designations as above provided, the parties by written stipulation filed with the clerk of the district court may designate the parts of the record, proceedings, and evidence to be included in the record on appeal.

(g) *Record to Be Prepared by Appellant—Necessary Parts.* Within thirty (30) days after all statements of points and designations of the record have been served and filed, the appellant shall cause the record to be reproduced and twenty (20) copies thereof filed with the Clerk of the Supreme Court, unless a different order is made in a particular case by the Supreme Court. When said copies are filed, the Clerk of the Supreme Court shall docket the appeal. The reproduced record shall contain all the matters designated by the parties but shall always include, whether or not designated, copies of the following: the material pleadings without unnecessary duplication; the material parts of the pre-trial order; the verdict, or the findings by the court under Sec. 60-252, together with the directions for the entry of judgment thereon; in an action tried without a jury, the master's report, if any; the opinion; the judgment or part thereof appealed from; the notice of appeal with date of filing; the designations or stipulations of the parties as to the matter to be included in the record; and the statement of points on which each appellant intends to rely. It shall also include a statement of the costs incurred for a reporter's transcript necessary to the appeal, a statement of the cost of reproducing the record, and the certification of the appellant or his counsel that it is a true and correct record in accordance with the requirements of this Rule. There shall be an index identifying with reasonable detail the separate pleadings, exhibits, witnesses, orders, etc. In addition to the copies required to be filed with the Clerk of the Supreme Court, there shall be served in accordance with Sec. 60-205 five (5) copies on each party, or each group of parties united in interest.

(h) *Control of Court in Preparation of Record.* It is not necessary for the record on appeal to be approved by the district court or judge thereof except as provided in subdivisions (m), (n), and (p) of this Rule. If anything material to either party is omitted from the record by error or is misstated therein, the parties by stipulation or the Supreme Court may direct that the omission or misstatement shall be corrected. If in the preparation of the record an appellant claims that any party to the appeal is unnecessarily including matters in the record, or unnecessarily causing testimony to be included in question and answer form, the district judge may on reasonable notice to the parties affected require such parties to advance portions of the cost of the reproduction as he deems appropriate; and the record shall then contain a statement of the respective portions of the expense paid by each party. All other questions as to the content and form of the record shall be presented to the Supreme Court.

(i) *Order as to Original Papers or Exhibits.* Whenever the Supreme Court finds that original papers or exhibits should be inspected by it, it may make such order therefor and for the safekeeping, transportation, and return thereof as it deems proper. If an exhibit is incapable of reasonable reproduction in the record on appeal and the original is believed by a party to be necessary to the proper presentation of the issues on appeal, a motion for the use thereof may be made to the Supreme Court and should specify the nature of the exhibit, its relevance to the issues, and the unavailability of an adequate reproduction.

(j) *Record for Intermediate Hearing in Supreme Court.* If, prior to the time the complete record on appeal is settled and filed as herein provided, a party desires to docket the appeal in order to make in the Supreme Court a motion for dismissal, for a stay pending appeal, for additional security on the supersedeas bond, or for any intermediate order, the clerk of the district court at his request shall certify and transmit to the Supreme Court a copy of such portion of the record or proceedings below as is needed for that purpose.

(k) *Several Appeals.* When more than one appeal is taken to the Supreme Court from the same judgment, a single record on appeal shall be prepared containing all the matter designated or agreed upon by the parties, without duplication. The several appeals shall be docketed as one case and shall be heard together unless the Supreme Court orders the separation thereof. The periods of time under subdivision (a) and (d) of this Rule for designation of the record and for statement of points shall apply separately for each appeal, but the time for reproduction of the record under subdivision (g) shall not expire until thirty (30) days after the necessary preceding steps for all the appeals have been completed.

(l) *Method of Reproduction.* The method of reproducing the record on appeal shall be in accordance with Rule No. 9, except when such method is determined under subdivision (m) of this Rule, or is otherwise determined by the Supreme Court in a particular case.

(m) *Appeals in Forma Pauperis.* If a district judge from whose order or judgment a notice of appeal has been filed enters a finding that the requirements of this Rule and of Rule No. 9 in the reproduction of the record would, because of the indigence of the appellant, established to the satisfaction of the district judge with reasonable notice and hearing, amount to a denial of an appellate review, the judge may authorize an appeal in *forma pauperis*. When such leave is granted, the judge may by order specify some different and more economical manner by which the record on appeal may be prepared and settled, to the end that said party may be enabled to present his case to the Supreme Court.

(n) *Appeals When No Stenographic Report Was Made.* In the event no stenographic report of the evidence or proceedings at a hearing or trial was made, the appellant may prepare a statement of the evidence or proceedings from the best available means, including his recollection, for use instead of a stenographic transcript. This statement shall be served on the appellee who may serve objections or propose amendments thereto within ten (10) days after service upon him. Thereupon, the statement, with objections or proposed amendments, shall be submitted to the judge of the district court for settlement and approval and as settled and approved shall be included in the record on appeal.

(o) *Voluntary Dismissals.* An appellant may at any time dismiss an appeal by stipulation or by filing and serving a notice of dismissal, in the district court before the appeal is docketed and in the Supreme Court thereafter. A dismissal shall have the effect of making the order or judgment appealed from final and not further appealable. Unless a dismissal is by agreement of the parties, the court may on motion and reasonable notice assess against the appellant those costs and expenses incurred by the appellee to the date of the dismissal that would have been assessed against the appellant if the case had not been dismissed and there had been an affirmance of the judgment or order.

(p) *Record on Appeal; Agreed Statement.* When the questions presented by an appeal to the Supreme Court can be determined without an examination of all the pleadings, evidence, and proceedings in the court below, the parties may prepare and sign a statement of the case showing how the questions arose and were decided in the district court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the questions by the Supreme Court. The statement shall include a copy of the judgment appealed from, a copy of the notice of appeal with its filing date, and a concise statement of the points to be relied on by the appellant. If the statement conforms to the truth, it, together with such additions as the judge may consider necessary fully to present the questions raised by the appeal, shall be approved by the judge and shall then be reproduced in accordance with this Rule and filed with the Clerk of the Supreme Court for the docketing of the appeal.

(q) *Effect of Delays—Extensions of Time.* Whenever an appellant fails to complete any step necessary to the docketing of an appeal within the time prescribed by this Rule, he shall be deemed to have abandoned the appeal unless the time for such step shall be extended by the Judge of the court from which the appeal is taken for good cause and after reasonable notice to the other parties. Whenever an appellee fails to complete any step permitted to him within the time prescribed by this Rule, he shall be deemed to have waived his right to such step unless the time for the same shall be extended by the judge for good cause and after reasonable notice to the parties affected. The refusal of the judge to extend the time for the completion of any such steps shall be final, unless the Supreme Court shall upon immediate application, filed in accordance with Rule No. 7, find such refusal to have been an abuse of discretion and shall grant such extension as justice may require. Any application filed pursuant to this rule shall be docketed in accordance with Rule No. 3, insofar as applicable, and comply with Rules No. 2 and No. 7. When an appeal has been abandoned in accordance with this subdivision, the judge of the court from which the appeal has been taken, after reasonable notice to the parties affected, shall enter a finding of such abandonment; and thereupon the costs of the appeal shall be assessed against the appellant.

### Rule No. 7

MOTIONS. (a) *Generally.* Every application to the Supreme Court for an order shall be by motion which, unless made during a hearing, shall be in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The motion shall be filed with the Clerk of the Court and shall be accompanied by eight (8) legible copies. Any other party may, within five (5) days after service upon him of a motion, serve and file a response thereto with a like number of copies. Oral arguments on motions will not be permitted unless ordered by the Court.

(b) *Post Decision Motions.* The Clerk will refrain from issuing a mandate on a decision of the Court for a period of twenty (20) days after the decision has been announced unless the Court otherwise orders. During said period of time, any party may file a motion for rehearing or for a modification of the decision, and thereupon, unless otherwise ordered by the Court, the issuance of the mandate will be stayed pending the determination of the issues raised by such a motion.

### Rule No. 8

BRIEFS. (a) *Time for Serving and Filing.* The appellant shall serve and file his brief within twenty-five (25) days after the appeal has been docketed, and the appellee shall serve and file his brief within twenty-five (25) days after the service of the appellant's brief. In the service of briefs, each party, or each group of parties united in interest, is entitled to be served with five (5) copies of the opponent's brief. Twenty (20) copies of all briefs shall be filed with the Clerk of the Supreme Court.

(b) *Content and Form.* Briefs shall be reproduced in accordance with the requirements of Rule No. 9 unless the Court makes a different order in a particular case. All briefs shall be indexed as to the points relied on and as to the authorities cited in support of each point. The body of the brief shall contain:

1. A brief statement of the general nature of the action or proceeding in the district court as, for example, that the action was one in replevin, or for damages, or to construe a will, or to quiet title.
2. A concise statement of the facts pertinent to the points relied upon with page references to the record.
3. A statement of the points relied upon.
4. A brief of the argument, exhibiting a clear statement of the points of law or fact to be discussed, with reference to the pages of the record and the authorities relied upon in support of each. All citations of cases shall be to the official reports, giving the local citation, and also the West Reporter System.

The appellee's brief need not contain the statement of points nor a statement of the case unless that presented by the appellant is controverted. No reply brief shall be filed by the appellant unless appellee's brief presents an issue of law not touched upon in the appellant's brief. No brief shall exceed fifty (50) pages in length except by special permission of the Court. If a reply brief is proper, it shall not exceed fifteen (15) pages in length except by special permission of the Court.

(c) *Default.* The clerk will not file the brief of any party except within the time prescribed by this rule, unless the Court, upon timely motion, for good cause shown, has extended the time. If an appellant defaults in the filing of his brief, the appeal will be dismissed by the clerk.

(d) *Extension of Time.* No application for an extension of time in which to file any paper or document will be considered by the Court, unless such application is filed prior to the expiration of the period of time which is sought to be extended.

### Rule No. 9

REPRODUCTION OF RECORDS AND BRIEFS. Unless permission is given otherwise in a specific case by the Supreme Court, or by the trial court in accordance with the provisions of Rule No. 6 (m), records and briefs in the Supreme Court shall always be printed with conventional style type. The basic material shall be in not less than 12-point type set on a 16-point slug. Quotations, subparagraphs, tabulations, or other subsidiary material shall be in not less than 12-point type, but may be set on a 12-point slug. Footnotes, if any, may be in 8-point type. The pages shall be 6 by 9 inches, and the printed matter thereon shall be in a space which does not exceed 25 by 42½ pica ems (4¼ by 7¼ inches). The paper shall be white and of good grade without gloss.

### Rule No. 10

HEARINGS. (a) *Sessions.* Sessions of the Court for the hearing of cases will be held from time to time on such dates as shall be fixed by the order of the Court. Each daily session will commence at 9:30 a. m.

(b) *Assignment of Cases.* Cases will be assigned for hearing as nearly as practicable in the order in which they were docketed, except the cases entitled by law to preferential setting, or cases which for weighty reasons require early disposition, will be advanced by the Court as justice and public interest may require. If a case is claimed to be entitled to preferential setting, a motion for the same should be made by a party thereto, and absence of such a motion shall constitute a waiver of any right to such a preferential setting.

(c) *Dockets.* Not less than thirty (30) days before each sitting of the Court, the Clerk shall prepare and mail to all attorneys of record in causes assigned for hearing during such sitting a printed copy of a trial docket

showing the day on which each case will be heard. The daily docket will be called in open Court at the commencement of each day's session. Failure of a party to be represented at the call of the day's docket shall constitute a waiver of oral argument by such party.

(d) *Arguments.* Unless extended time is granted by the Court, oral arguments will be limited to thirty (30) minutes each for the appellant and the appellee. If on either side of a case there are several parties who are not united in interest in the issues of the appeal and who are separately represented, motions for separate arguments may be made at the call of the day's docket at which time the Court will allot time for the separate arguments. Any party who does not have a brief on file in accordance with Rule No. 8 will not be permitted an oral argument. An attorney at law in good standing in another jurisdiction may have the privilege of making oral argument if request for the same is made at the call of the day's docket and there is personally present and associated with him an attorney authorized to practice law in this state and appearing of record with him in the case.

(e) *Filing of Decisions.* Decisions of the Court will be announced by the filing of the opinions with the Clerk of the Court at any time decisions are ready to be announced. On the day of filing, the Clerk will send one copy of the decision to an attorney of record for each side and, in appealed cases, one copy to the judge of the court from which the appeal was taken.

### Rule No. 11

REMOVAL OF RECORDS FROM FILES. No record or paper belonging to the files of the Court shall be taken from the office or custody of the Clerk except upon order of the Court or a Justice thereof. A receipt specifying the record or paper shall be given by the party obtaining it and no order will be made except for good reason.

### Rule No. 12

#### SUPREME COURT COMMISSIONER

(a) *QUALIFICATIONS.* A Supreme Court Commissioner appointed by virtue of House Bill 416, 1963 Legislative Session, shall have the same qualifications as a Justice of the Supreme Court and subscribe to a like oath of office.

(b) *LIMITED ACTIVITIES.* The Commissioner shall abstain from the practice of law or publicly expressing an opinion on any legal question that might come before the Court for determination. He shall immediately become familiar with the duties and responsibilities of a member of the Court, and shall at all times conduct himself in a manner becoming the dignity and responsibilities of the Court. He shall devote full time to the work of the Court.

(c) *DUTIES.* (1) *Generally.* The Commissioner shall be subject to all rules and orders of the Court and shall perform such services as the Court may direct.

(2) *Writing Opinions.* He shall prepare an opinion on all cases referred to him by the Chief Justice. The opinion shall contain a syllabus, a statement of the facts, and the reason and authority for the conclusion reached.

(3) *Hearings.* He shall keep himself available to sit with the Court in the hearing of arguments, when directed to do so by the Chief Justice, and when directed prepare an opinion on any case so heard.

(4) *Conferences.* He shall when directed attend conferences of the Court and participate to such extent as the Court may desire, but he shall have no vote on any matter before the Court for determination.

(d) *OPINIONS BY COMMISSIONER.* (1) *Reporting.* All opinions of the Commissioner shall be promptly reported to the Court with a proper indication that the opinion has been written by him.

(2) *Opinion Before Decision.* If a case is referred to the Commissioner for an opinion before the Court has reached a decision, the opinion shall be submitted to the Court *en banc* for approval, modification or rejection.

(3) *Opinion After Decision.* If a case is referred to the Commissioner for an opinion after the Court has reached a decision, it shall be circulated among the members of the Court for their individual approval or suggestions.

(4) *Effect.* When the Court has approved an opinion of the Commissioner, it shall be promulgated as the opinion of the Court and filed. Judgment shall be entered in the same manner, with like effect, and subject to the same orders and motions as in the case of other opinions and judgments of the Court.

(5) *Notations.* The opinions of the Commissioner, when approved by the Court, shall carry at the end thereof the notation, "Approved by the Court." Special concurrences and dissents shall be noted as in opinions by members of the Court.

## **Rules Relating to District Courts**

### **Rule No. 101**

**CORRECTION OF REFERENCES.** The reference in Section 60-260 (*b*) to Section 60-205 (*b*) is hereby corrected to be a reference to 60-309. The reference in Section 60-466 to "exception (*q*) (2) of Section 60-460" is hereby corrected to be a reference to "exception (*o*) (2) of Section 60-460." The reference in Section 60-1108 to Section 60-1105 (*b*) is hereby corrected to be a reference to Section 60-1105 (*a*). The reference in Section 60-1402 to Section 60-308 (*e*) is hereby corrected to be a reference to Section 60-307 (*e*). (Section 60-2607.)

### **Rule No. 102**

**PROOF OF PUBLICATION SERVICE.** The last sentence of Section 60-312 (*c*) is hereby deleted. When service of process is made by publication and the mailing of copies of the publication in accordance with Section 60-307 (*f*), the proof of such mailing shall be by affidavit of the person who mailed such copies and such affidavit shall be promptly filed. If the mailing was by restricted mail, the return receipts shall be made a part of the affidavit and filed therewith.

### **Rule No. 103**

**CUSTODY OF COURT'S RECORDS.** No file or record of the court shall be permitted to be outside of the physical possession and control of the clerk or judge except on the signed receipt of an attorney or of an abstractor whose place of business is within the county, and subject to being returned immediately upon request, and also subject to any additional conditions prescribed by the rules of the district court. No such file or record shall be taken outside of the county of the clerk's office except by order of the judge.

### **Rule No. 104**

**FORM OF PLEADINGS.** All pleadings, briefs, and other papers prepared by attorneys or litigants for filing in courts, other than those required to be reproduced in accordance with Rule No. 9, shall, unless the judge specifically permits otherwise, be typed with black ink on one side only of legal cap sheets. Typing shall be double-spaced except that single spacing may be used for subparagraphs, legal descriptions of real estate, itemizations, quotations, and similar subsidiary portions of the instrument.

### **Rule No. 105**

**TIME OF FILING PAPERS.** In addition to endorsing the date of the filing of every paper with the clerk, as required by Sec. 60-2601(*d*), the clerk shall also endorse the time of day of such filing thereon.

### **Rule No. 106**

**CLERK'S EXTENSION OF TIME.** The initial time to plead to any petition, as such time is stated on the summons served upon the party, may be extended once by the clerk of the court for a period of not to exceed ten (10) additional days. The party seeking such extension shall prepare the order for the clerk's signature, and copies thereof shall be served upon counsel for all adverse parties in accordance with Sec. 60-205. All other extensions of time to plead shall be by order of the judge.

## Rule No. 107

**SURETIES ON BONDS.** Whenever any bond is permitted or required to be taken by a clerk or sheriff in accordance with the provisions of Chapter 60 without being approved by the court, it shall be sufficient if the surety thereon is a surety company currently admitted to do business in the State of Kansas. No corporation other than a surety company may be accepted as a surety unless so ordered and approved by the judge. Whenever a natural person is accepted and approved as a surety by a clerk or sheriff, such surety shall be required to attach to such bond a sworn financial statement which reasonably identifies the assets relied upon to qualify him as surety and the total amount of any liabilities, contingent or otherwise, which may affect his qualifications as a surety. No attorney may act as a surety on any such bond. The principal on any bond may at his option, in lieu of providing a surety, deposit with the clerk of the district court cash money in the full amount of the bond. Such a deposit shall be retained by the clerk until the bond is fully discharged and released or the court orders the disposition of the deposit.

## Rule No. 108

**ENTRIES OF APPEARANCE.** In all actions in which a party shall enter his appearance solely by personally signing an instrument designed for that purpose, and no attorney subsequently appears of record to represent him, such entry of appearance shall be held to be ineffective unless the signature of the party has been acknowledged before an officer authorized by law to take acknowledgments.

## Rule No. 109

**ATTORNEY PRACTICING IN FOREIGN STATE.** An attorney regularly practicing outside of this state and in good standing as a member of the Bar of the place of his regular practice may be recognized as an attorney by the courts, commissions, and agencies of this state, for any action or proceeding, but only if he has associated with him as attorney of record in such action or proceeding a member of the Bar of this state qualified under the provisions of G. S. 1949, 7-104, upon whom service may be had in all matters connected with such action or proceeding proper to be served upon an attorney of record.

## Rule No. 110

**WITHDRAWAL OF ATTORNEY.** An attorney who has appeared of record in any proceeding may withdraw; but he shall be relieved of his duties to the court, his client, and opposing counsel only when he has served notice of withdrawal on the client and on opposing counsel, filed a copy of the notice and proof of the service thereof with the clerk, and the judge shall have entered an order approving the withdrawal, except that no such order shall be required if another attorney authorized to practice law in this state is appearing of record to represent the client.

## Rule No. 111

**LIMITATIONS ON DISCOVERY.** The following limitations shall apply in the use of the discovery procedures authorized by Sections 60-226 to 60-237, inclusive:

(a) In all actions in which the amount in controversy does not exceed \$500 exclusive of interest and costs:

- (1) Depositions upon oral examination may be taken only (I) if a witness is outside of the county of the place of trial or hearing and his absence was not procured by the party who will offer his testimony, or (II) a party or witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment.
- (2) Interrogatories to parties under Section 60-233 shall not exceed ten in number.



(b) In all actions in which the amount in controversy does not exceed \$2000 exclusive of interest and costs:

- (1) Depositions of witnesses who are not parties to the action upon oral examinations may be taken only (I) if a witness is outside of the county of the place of trial or hearing and his absence was not procured by the party who will offer his testimony, or (II) a witness is unable to attend or testify because of age, sickness, infirmity or imprisonment.
- (2) Interrogatories to parties under Section 60-233 shall not exceed fifteen in number.

(c) The court in which an action is pending may on motion order the limitations of this Rule suspended in the interest of justice and on such terms and conditions as will fairly protect the parties against harassment and against incurring expenses disproportionate to the amount in controversy.

### Rule No. 112

INEFFECTIVE STIPULATIONS. All stipulations between counsel, or oral admissions of counsel, which are not subsequently reduced to writing and signed by the counsel to be charged therewith, or which are not made in open court and also made a part of the record, shall not be given any effect by the court.

### Rule No. 113

REQUIRED DAYS OF COURT. In every judicial district, the judge or judges thereof shall arrange their calendars so as to be personally present at least one day in each calendar month, except July and August, at the courthouse in each county, for the purpose of disposing of pending matters in which a jury is not required. The designation of such days of court shall be made at the beginning of each calendar year, and a copy thereof shall be filed with the Supreme Court and with the clerk of each district court in the district. If any party seeks the hearing of any matter at such day of court and it is not such a matter as may be heard *ex parte*, or if the judge on his own motion sets any matter for hearing at such day of court, notice of the hearing shall be given to all parties affected either by the party, or by the clerk at the direction of the judge, not less than three (3) days prior to the date of hearing. Matters set for hearing on other days shall be at the discretion of the judge and with not less than five (5) days notice to the parties affected, unless the matter is one of immediate urgency in which case the time shall be such as is reasonable and possible under the circumstances.

### Rule No. 114

MEMORANDA AND ARGUMENTS ON MOTIONS. Every motion made in writing which seeks a ruling of some part of the merits of the action (*e.g.*, lack of jurisdiction, motion for summary judgment, etc.) as distinguished from a motion regulatory only of the procedure in the action (*e.g.*, motion to limit discovery, motion to substitute successor party, etc.) shall be accompanied by a short memorandum setting forth (a) any reasons for the motion not fully stated in the motion itself, and (b) the citation, without extended elaboration, of any authorities which it is necessary for the judge to consider in ruling upon the motion. If the motion also contains a request for oral argument, or if within five days of the service of the motion an adverse party serves and files a request for oral argument, no ruling shall be made on the motion without opportunity being given to counsel to present such arguments. In either event, an adverse party may at his option serve and file a similar memorandum in opposition to the motion. In the absence of any request by either party for oral argument in accordance with this Rule, the judge may rule upon the motion forthwith and communicate the ruling to the parties in accordance with Rule No. 115.

## Rule No. 115

**NOTICE OF RULINGS AND JUDGMENTS.** Whenever a judge shall make a ruling on a motion or application of any kind and there are affected parties who have appeared in the action but who are not then present, either in person or by their attorneys, if any, and who are not then in default, the judge shall also cause written notice of such ruling or decision to be mailed to such parties or attorneys forthwith. When a judge directs the entry of a final judgment against a party who is not then present, either in person or by his attorney, if any, and whose mailing address appears in the file of the proceeding or is readily available, he shall cause written notice of the general nature of the judgment to be mailed immediately to such party; but the failure to mail such notice, or the failure of the party to receive the same, shall not affect the validity of the judgment.

## Rule No. 116

**REASONS FOR DECISIONS.** In all contested matters submitted to a judge without a jury, the judge shall, in addition to stating the controlling facts required by Sec. 60-252, briefly state the legal principles controlling the decision. If either party shall have urged the application of a presumption of law, the reasons given for the decision shall include a statement as to whether the judge gave effect to the presumption of law contended for. If evidence was admitted over proper objections, and in his reasons for the decision the judge does not state that such evidence, specifying the same with particularity, was not considered, then it shall be presumed in all subsequent proceedings that the evidence was considered by the judge and did enter into his decision.

## Rule No. 117

**COURTROOM DECORUM.** The conduct and demeanor of attorneys when present during any court proceeding shall be such as to reflect respect for the dignity and authority of the court, and to maintain the proceeding as an objective search for the applicable facts and the correct principles of law. An attorney must always stand when addressed by the judge or when speaking to the judge. Unless the judge specifically prescribes otherwise, an attorney must stand when interrogating a witness and should refrain from moving about except as may be necessary for the presentation of exhibits or other assistance to the court. Except as the judge may specifically permit otherwise, only one attorney may examine or cross-examine a witness on behalf of all parties united in interest. Photography within or of the courtroom while court is in session on any matter of litigation, or any photography of any simulation by judges or attorneys of a court session of any matter in actual litigation, is prohibited. The electronic recording of any such court session is prohibited except as it may be done for preserving a record thereof for the use of the court in connection with the litigation itself.

## Rule No. 118

**PROCEEDINGS IN AID OF EXECUTION.** Before any order shall issue for proceedings in aid of execution under Sec. 60-2419, unless there is on deposit with the clerk of the district court of the county in which such proceedings are to be had a balance of deposit as security for costs in the sum of \$10.00 or more, the party desiring such order shall first make a deposit of \$10.00 as security for costs with such clerk.

## Rule No. 119

**LOCAL RULES.** The judge or judges of each judicial district may make such rules as are found necessary for the administration of the affairs of the district court, and of all courts of limited jurisdiction in such district, to the extent that such rules are not inconsistent with the applicable statutes and rules promulgated by the Supreme Court.

## **Rules Relating to the State Board of Law Examiners**

REVISED MAY 15, 1961

### **Rule No. 201**

**STATE BOARD OF LAW EXAMINERS.** There is hereby created and continued as an adjunct of the Court a board to be known as The State Board of Law Examiners, which, subject to direction and approval of the Court, shall have general supervision over admission to and exclusion from the bar.

### **Rule No. 202**

**MEMBERSHIP—APPOINTMENT.** The board shall consist of five members of the bar of the state, to be appointed by the Court. Appointments shall be in writing, and shall be entered on the journal of the Court. Each appointment shall specify duration of term of the appointee.

### **Rule No. 203**

**MEETINGS.** The board shall hold regular meetings in the city of Topeka on the second Monday of February and the fourth Monday of June of each year and may hold such special meetings as it may deem necessary.

### **Rule No. 204**

**ORGANIZATION—QUORUM.** At each February meeting a chairman and a secretary shall be elected from the membership of the board. Three members shall constitute a quorum for the transaction of business.

### **Rule No. 205**

**EXAMINATIONS—INVESTIGATIONS.** The board shall conduct examinations of applicants for admissions to the bar, and shall conduct such preliminary inquiries and investigations as may be necessary or proper to determine qualification of applicants to be examined and to be admitted.

### **Rule No. 206**

**DUTIES OF MEMBERS OF THE BAR.** It shall be the duty of every member of the bar of this Court to aid the Court and the Board of Law Examiners in investigations concerning the character and qualification of all applicants for admission to practice, and to communicate to the board any information he may have affecting such matters.

### **Rule No. 207**

**COMPLAINTS—INVESTIGATIONS—DISBARMENT.** The board shall investigate formal complaints made to it or referred to it by the Court relating to unlawful or unethical practice of the law in this state. When in the judgment of the board it shall be proper, the board shall institute and prosecute proceedings for disbarment or other discipline of delinquent attorneys.

### **Rule No. 208**

**INVESTIGATORS.** The board may be assisted by an investigator or investigators, to be selected by the board, in the investigation of complaints relating to unlawful or unethical practice of the law, and the institution and prosecution of proceedings for disbarment.

## Rule No. 209

**RULES.** Subject to approval of the Court, the board may make rules relating to the subject of admission to the bar and other subjects within its authority. When approved by the Court, Rules adopted by the board shall be published as a part of the rules of the Court.

## Rule No. 210

**COMPENSATION—EXPENSE.** Commencing July 1, 1947, each member of the board shall receive as compensation for his services in the preparation for and the conduct of examinations for admission to the bar, the sum of three hundred dollars per year, and the secretary of the board shall receive for his services as such secretary the further sum of four hundred dollars per year. All compensation due under this rule shall be paid in quarterly installments. In addition, each member of the board shall be paid all actual and necessary expenses incurred in the performance of services for which he receives compensation, including the expense of going to, attending and returning from meetings.

## Rule No. 211

**EXPENSES—COMPENSATION—DISBARMENT.** (a) Members of the board shall be paid all actual and necessary expenses incurred in conducting investigations of complaints of unprofessional conduct. (b) Investigators shall be paid their actual and necessary expenses incurred in performance of their duties, and may be paid such compensation for their services as may be allowed by the board. (c) The board is authorized to advance from the fund provided in Rule No. 212 the actual and necessary expenses of members incurred in the preparation, institution and prosecution of disbarment cases. The board is also authorized to advance from the fund the actual and necessary expenses of commissioners appointed by the Court in disbarment cases. The fund shall be reimbursed for such advancement from costs taxed and collected or costs taxed and charged against the state, as provided in G. S. 1961 Supp., 7-117. (d) In disbarment cases members of the board and commissioners shall receive the compensation provided in G. S. 1961 Supp., 7-117, to be recovered or charged against the state as therein provided.

## Rule No. 212

**BOARD OF LAW EXAMINERS' FUND.** Registration costs referred to in Rule No. 215, and examination costs referred to in Rule No. 217, shall constitute a fund to be known as the Board of Law Examiners' fund. Disbursements for compensation and expenses, contemplated by Rules Nos. 210 and 211, shall be from this fund.

## Rule No. 213

**DEFICIENCY OF FUND.** Should the Board of Law Examiners' fund be insufficient at any time to pay all demands upon it, the members of the board shall be first paid their compensation and expenses, or ratable proportions thereof. Other demands upon the fund shall then be paid as the board may determine, subject to approval of the Court.

## ADMISSION TO THE BAR

## Rule No. 214

**RESIDENTS—NONRESIDENTS.** Any resident of Kansas who was admitted to practice in the district and inferior courts of this state prior to June 1, 1903, will be admitted to practice in this Court on motion, and any practicing attorney of any state or territory having professional business in this Court may be admitted for the time and purpose of such business, upon taking the oath hereinafter set out, or such attorney may be heard by permission of the Court

without formal admission. All motions for the admission of attorneys must be presented in the morning hour, immediately after the first call of the docket. Each resident attorney, upon being admitted under this Rule, shall pay three dollars to the Clerk, who shall furnish him a certificate of admission and a printed copy of the Rules.

### Rule No. 215

REGISTRATION OF STUDENTS. (a) At the time of entering upon a course of reading in the office of an attorney as a preparation for admission to the bar of Kansas, the prospective applicant shall file a declaration thereof with the Clerk of the Supreme Court on blanks furnished by the Clerk, and by such proof of good moral character and preliminary general education as are required of an applicant for admission to the bar by the Rules of this Court and of the Board of Law Examiners. If such proofs are approved by the board, the Clerk shall register him as a law student; otherwise he shall not be registered. (b) The declaration shall be accompanied by a deposit with the Clerk of this Court of the sum of \$10 as costs of the proceeding for admission to the bar instituted by the person registering. This deposit shall not be refunded, but may be credited on the deposit provided for in Rule No. 217, at the time of filing petition for admission to the bar.

### Rule No. 216

PETITION CONTENTS. All applications for admissions to the bar shall be by petition to this Court, made in duplicate, and filed with the Clerk of this Court. Every petition shall be made on forms to be procured from the Clerk, shall be verified by the applicant, and shall state his full name, his date and place of birth, the facts showing that he is a citizen of the United States of America and a resident of the State of Kansas, and such other information as may be required to complete fully the forms of the petition.

In addition to the foregoing, each applicant for admission to the bar as provided by Rule VIII of the Board of Law Examiners shall also file with the Clerk, in duplicate, his answers to a questionnaire to be procured from the Clerk, showing his educational qualifications, his study of the law, the date or dates of his admission to the bar of the highest court of another jurisdiction, the places where and occupations and employments in which he had been engaged, and other information elicited on such questionnaire.

### Rule No. 217

EXAMINATION COSTS. A. Excepting applicants under subdivision B hereof, each applicant shall pay to the Clerk of this Court the sum of \$35 as costs of the proceedings for admission to the bar. If the Board of Law Examiners, after investigation, is of the opinion the applicant is not qualified to take the examination it shall report such fact to the Clerk of the Supreme Court and fifty percent of the fee accompanying the application shall be returned by the Clerk to the applicant, but if the application is approved by the board such fee shall not be returned. If, upon examination by the board the petition of the applicant be denied, he may, with the consent of the board take a second examination without payment of additional costs, but an additional sum of \$25 shall be paid for the third and each subsequent examination.

B. Each applicant for admission as provided by Rule VIII of the Board of Law Examiners shall pay to the Clerk of this Court the sum of \$100.00 as costs of the proceedings for admission to the bar and shall furnish to the Court such information as the Court may require as to his legal and prelegal education, his reputation, character, and professional standing, and such other matters as the Court may specify, it being understood that until changed by the order of this Court, such information shall be submitted to an investigating body or organization of this Court's selection for investigation of such information and a report thereon to this Court, and that the applicant shall pay the cost of such investigation by depositing with the Clerk the sum of \$50.00 prior to January 1, 1962,

and thereafter he shall deposit the sum of \$75.00, to be remitted to the body or organization making such investigation and report. If the application be denied for any reason, the applicant shall be entitled to a refund of \$50.00 and no more.

### Rule No. 218

**REFERENCE OF PETITION.** On the filing of a petition, the Clerk shall immediately send to the secretary of the Board of Law Examiners one of the duplicates, and shall post the name and address of the applicant in a conspicuous place in his office for a period of thirty days, after which the petition shall be referred to the board.

### Rule No. 219

**EXAMINATIONS—DATE.** Examination to determine qualification of applicants shall be held regularly by the board at its February and June meetings in each year. Special examinations may be held in the discretion of the board.

### Rule No. 220

**EXAMINATIONS—MORAL QUALIFICATIONS—GENERAL LEARNING—LEARNING IN THE LAW.** Examinations relative to the qualifications of applicants shall be oral or in writing, or partly oral and partly in writing, in the discretion of the board. They shall include an inquiry into the moral qualifications and general learning of each applicant as well as into his learning in the law. Each applicant shall satisfy the board that he has completed a full standard high-school course in an accredited school, and that he has completed a full course of study in an accredited college, and a full course of study in an accredited law school and that he has been granted and holds the degree of A. B., or B. S., or higher degree and the degree of LL. B. or a higher degree: *Provided*, That from and after June 1, 1960, the applicant must show that the A. B. or B. S. or higher degree and the LL. B. or higher degree conferred upon him has been earned by satisfactory completion of study during fourteen academic semesters in an accredited college and in an accredited law school. In satisfying the fourteen academic semesters of study, the applicant must have completed not less than six semesters in an accredited college and not less than six semesters in an accredited law school, and the other two semesters either in the accredited college or in the accredited law school as the curricula of those schools may provide or require: *Provided further*, That an applicant who has complied with Rule No. 215 of this Court and Rule V of the State Board of Law Examiners pertaining to law office study shall show completion of eight academic semesters of study in an accredited college and the granting to him of an A. B., B. S. or higher degree, but shall not be required to show that he has received the degree of LL. B. or other higher degree from an accredited law school.

The standard for determining sufficiency of any educational requirement, or of courses of study leading to the granting of the degrees above mentioned shall be that fixed and recognized by the University of Kansas.

### Rule No. 221

**OTHER QUALIFICATIONS.** Investigation into other qualifications of applicants shall be conducted in such manner and be determined upon such proof as the board may require.

### Rule No. 222

**ADMISSION TO PRACTICE.** As soon as practicable after the completion of an examination, the board shall file a report with the Clerk of the Court recommending the granting or the denial of the petition of the applicant. Whenever such report shall recommend the granting of a petition, unless some reason shall appear to the contrary, the Court will make an order admitting the applicant to practice in all the courts of the state, which order shall become effective upon his taking an oath in open Court, the form of which shall be in substance as follows:

"You do solemnly swear that you will support and bear true allegiance to the constitution of the United States and the constitution of the State of Kansas; that you will neither delay nor deny any man his right through malice, for lucre, or from any unworthy desire; that you will not knowingly foster or promote, or give your assent to any fraudulent, groundless or unjust suit; that you will neither do, nor consent to the doing of any falsehood in court; and that you will discharge your duties as an attorney and counselor of the supreme court and all inferior courts of the state of Kansas with fidelity both to the court and to your cause, and to the best of your knowledge and ability. So help you God."

Upon the making of such order the Clerk shall issue to such applicant a certificate of his authority to practice law in this and all inferior courts of the state, upon his signing his name on the roll of attorneys of this court. Whenever the board shall recommend a denial of the petition, an order will be made to that effect.

*Provided further however*, The authority granted to practice law shall not be exercised except as provided under Rule No. 109 *infra*, when the licensee herein has been admitted to the Bar of another state or territory and is regularly engaged in the practice of law in such other state or territory.

### Rule No. 223

TEMPORARY PERMIT TO PRACTICE. Any applicant for admission to the bar who is a graduate of an approved law school or who has been admitted to practice in the highest court of any other state, may, pending the hearing of his application, also file with the Clerk of this Court a request for a temporary permit to practice law until the next examination to be held by the Board of Law Examiners. If the Court shall find that the applicant has had no opportunity to take an earlier examination, and that the circumstances are such as to justify it, a temporary permit will be granted expiring at the date of the next examination, effective upon his taking an oath to support the constitution of the United States, and the constitution of the state of Kansas, and conform to the requirements of the attorney's oath prescribed by the Rules of the Court.

### RULES ADOPTED BY THE STATE BOARD OF LAW EXAMINERS

RULE I. CONDITIONS PRECEDENT. No applicant will be accepted for examination in the law until he has satisfied the board (a) that he is a person of good moral character; (b) that he is possessed of the requisite general education.

RULE II. CERTIFICATE OF CHARACTER. Every applicant for examination for admission to the bar will be required to produce and file with the secretary of the board a written certificate signed by a judge of the district court and three members of the bar of the county where he resides or has lately resided, or other evidence satisfactory to the board showing that he is a person of good moral character.

RULE III. PROOF OF EDUCATION. A diploma showing that the applicant is a graduate of a State University or other accredited university, college or high school will be accepted as *prima facie* evidence that he possesses the educational qualifications which the diploma represents. If he has no diploma, a certificate of graduation with showing of loss or destruction of diploma may be furnished in lieu thereof. If he has no diploma or certificate of graduation, affidavits of the applicant and his teacher or teachers, or other evidence may be offered showing that he possesses the prescribed educational qualifications.

RULE IV. REQUIREMENTS. Examinations relative to the qualifications of applicant shall be oral or in writing, or partly oral and partly in writing, in the discretion of the board. They shall include an inquiry into the moral qualifications and general learning of each applicant as well as into his learning in the law. Each applicant shall satisfy the board that he has completed a full standard high-school course in an accredited school, and that he has completed a full course of study in an accredited college of arts and sciences, and a full

course of study in an accredited law school and that he has been granted and holds the degree of A. B., or B. S., or higher degree, and the degree of LL. B. or a higher degree, provided that a degree from or attendance upon a law school shall not be required of any applicant whose legal education has been acquired by law-office study, in conformity with Rule No. 215 of the Supreme Court of Kansas and Rule V of the Board of Law Examiners. The standard for determining the sufficiency of any educational requirement or degree herein mentioned shall be the equal of that fixed and recognized by the University of Kansas.

**RULE V. EXAMINATIONS.** Applicants of good moral character and the requisite general education, who have complied with the Rules of the Supreme Court and of the State Board of Law Examiners, and are citizens of the United States, and residents of the State of Kansas, having acceptably read law in Kansas for three years in the office of a regularly admitted and practicing attorney in Kansas as preceptor, as hereinafter prescribed, or being graduates of the law department of the University of Kansas or some other accredited law school of equal requirements and reputation, will be admitted to examination in the law at such times as examinations shall be held by the board.

*Provided,* That a resident of another state who has been graduated from an accredited law school in this state may be admitted to the first examination held by the board after such graduation.

**LAW-OFFICE STUDY.** All such law-office students shall make the study of law their only occupation in such law office, and their principal occupation in life during such period of study, and shall devote their undivided time and attention to such study, for at least thirty (30) hours every week for at least thirty-six (36) weeks of every year. They shall follow and use the course of study at the time prescribed by the law department of the University of Kansas, and shall use the books recommended and used in that department, and they and their preceptors shall, on or before the 10th day of January and June of each year, during such study report to the State Board of Law Examiners the time devoted, the studies pursued by such students during the preceding half year and compliance with this Rule V.

The preceptor shall be a regularly admitted and practicing attorney and shall devote an average of at least one hour per day of every such student's law-office study to the discussion with him of the legal subject then being studied by such student. At the end of each eighteen (18) weeks of such study the preceptor shall give such student a written examination of at least fifteen (15) questions (in the aggregate) on different aspects of every such subject pursued by the student during that period, and shall promptly forward such written examination, including questions and answers, to the Clerk of the Supreme Court, who shall preserve them and make the same available to the State Board of Law Examiners. There shall be attached to each such examination the certificate of the student and the preceptor under oath that such questions were drawn and submitted by the preceptor without the previous knowledge or participation of the student and that such examination was written by the student in the presence of the preceptor without assistance of any kind. The State Board of Law Examiners shall read and grade such papers (according to the passage marks required at the time by the law department of the University of Kansas) and shall file with the Clerk of the Supreme Court their written report as to whether such papers are passing or failing papers. If any such paper on any subject is a failing paper, thereafter another and different such examination or examinations (by the preceptor) shall be required and given until the subject is passed by the student acceptably to the board as aforesaid.

**RULE VI. SUBJECTS OF EXAMINATION.** Applicants will be required to pass a satisfactory examination as to their learning in the law upon such of the following, or other subjects, as the board may require: Constitutional law, real property, personal property, domestic relations, civil procedure, criminal law and procedure, corporations, contracts, torts, partnerships and voluntary associations, principal and agent, master and servant, wills and administration,



bankruptcy, negotiable instruments, conflict of laws, evidence, equity, bailments and carriers, sales, trusts, insurance, and legal ethics.

**RULE VII. METHOD OF EXAMINATIONS.** At every examination each applicant shall draw a number on a slip of paper, on which he shall write his name and deposit it in a sealed envelope with the Clerk of the Supreme Court. When the applicant shall have finished any book he shall sign it with his number only, and mark it as directed by the board, and any other mark of identification placed upon the book shall disqualify it, and the board may refuse to read or consider it.

**RULE VIII. APPLICANTS ADMITTED IN OTHER STATES** Any applicant for admission to the bar of Kansas who was duly admitted to the practice of law by the highest court of another jurisdiction, who practiced there continuously for a period of five years and continued to practice there or elsewhere up until within six months of his making application for admission here, may be admitted to practice in this state without written examination as to his learning in the law upon showing by his application made in accordance with Rule No. 217 B: 1. That he is a bona fide resident and citizen of the State of Kansas at the time of his making his application. 2. That at the time he was first admitted in another jurisdiction he was fully qualified to have taken the bar examination in this state under the rules of this Court then in effect. 3. That he is now and has been a person of good moral character and is a proper person to be admitted to the bar of Kansas. 4. That he will furnish to the Board of Law Examiners such other and further information as the board may require in the consideration of his application.

Upon final consideration of the application the board will report in writing to the Court its recommendation as to whether the applicant shall be admitted.

And all of such applicants shall present themselves before the Board of Law Examiners at the preliminary meeting preceding the regular semiannual meeting at which they seek admission under this Rule.

**RULE IX. CORRESPONDENCE SCHOOLS.** Correspondence schools are not recognized by the board, and applicants for admission to the bar will receive no credit for studies in such institutions.

# Rules Relating to the State Board of Examiners of Court Reporters

REVISED NOVEMBER 1, 1950

## Rule No. 301

STATE BOARD OF EXAMINERS OF COURT REPORTERS. There is hereby created a board to be known as the State Board of Examiners of Court Reporters, which subject to direction and approval of the Court, shall have general supervision over the granting of certificates of eligibility for appointment as official reporters of district courts.

## Rule No. 302

MEMBERSHIP—APPOINTMENT. The members of the board shall be appointed by the Supreme Court for regular terms or to fill vacancies. The board shall consist of two judges of the district court, two attorneys engaged in the active practice of law, and one official reporter of the district court. The reporter and one judge shall be appointed for one year, one judge and one attorney shall be appointed for two years, and one attorney shall be appointed for three years, and thereafter each appointment shall be for a term of three years: *Provided, however*, If any reporter or judge shall cease to hold his office his membership on the board shall terminate.

## Rule No. 303

ORGANIZATION—QUORUM. Within ten days after appointment and at each yearly meeting thereafter, a chairman and secretary shall be elected from the membership of the board. Three members shall constitute a quorum for the transaction of business.

## Rule No. 304

DUTIES AND POWERS. The board shall conduct such preliminary investigations as may be necessary to determine the qualifications of the applicants to be examined; shall conduct examinations of applicants for certificates; may conduct inquiries respecting the efficiency of reporters to whom certificates have been issued, and investigate complaints for the suspension or revocation of any certificate previously issued. Each member of the board is empowered to administer oaths and affirmations, subpoena witnesses, and take evidence at any place within the state concerning any matter within the jurisdiction of said board.

## Rule No. 305

MEETINGS—DATES. The board shall hold regular meetings to conduct examinations of applicants for certificates in the city of Topeka on the second Monday in October of each year, and may hold special meetings at such time and place as it may deem necessary.

## Rule No. 306

RULES. Subject to the approval of the Court, the board may make rules relating to the examination of applicants, and when approved by the Court, they shall be published as a part of the Rules of the Court.

## Rule No. 307

APPLICATION—EXAMINATION FEE. All applicants for examination shall make written application upon a form approved by the board and furnished by its secretary or the Clerk of the Supreme Court. Such application shall be filed in duplicate with the Clerk of the Supreme Court at least thirty days prior to

any regular meeting and shall be accompanied by a fee of \$25, payable to the Clerk of the Supreme Court, and if a resident of this state, by a certificate of good moral character signed by three citizens of Kansas, two of whom shall be practicing attorneys in the county of applicant's residence; all nonresident applicants shall furnish a similar certificate signed by three citizens of the county or judicial district of his residence, one of whom shall be a judge of a court of general jurisdiction in that county or district. If the board, after investigation is of the opinion that the applicant is not qualified to take the examination it shall report such fact to the Clerk of the Supreme Court, and sixty percent of the fee accompanying such application shall be returned by him to the applicant, but if the application is approved by the board such fee shall not be returned. Should the applicant fail to pass the required examination he may take subsequent examinations after the expiration of six months and within two years without the payment of an additional fee. The Clerk of the Supreme Court shall hold all fees pending determination of the eligibility of the applicants.

### Rule No. 308

**EXAMINATION.** (a) Notes may be taken by any recognized system of shorthand, including the use of a shorthand writing machine. Each applicant shall state the system he uses in taking notes and shall demonstrate that he follows the principles of such system with sufficient accuracy that other persons who use the same system can read the notes readily. Applicants shall be required to write from dictation for such period as may be determined by the board at a speed varying from 130 to 200 words per minute from court proceedings and testimony and to transcribe and read aloud therefrom. They shall furnish their own machines and writing materials. (b) Applicants shall be examined with respect to their knowledge of the duties of a court reporter and of general court procedure and legal terminology. (c) Speed and accuracy in taking, transcribing and reading notes will be the chief basis of the test, but punctuation, spelling and style of transcribing and general education shall be given due consideration.

### Rule No. 309

**ISSUANCE OF CERTIFICATES.** (a) The Board of Examiners shall recommend the issuance of a certificate to any person who was an official reporter of a district court of this state on June 30, 1941, upon his or her application therefor within one year thereafter, and while so serving, and the payment of the application fee provided by Rule No. 307, upon a preliminary investigation and without a formal examination, unless it should appear to the satisfaction of the Board of Examiners that a certificate should not be issued without such examination. Upon a favorable recommendation of the board the Supreme Court shall issue the certificate.

(b) Any person who was not an official reporter of a district court of this state on June 30, 1941, or being one, is not favorably recommended, as provided by (a) of this Rule, who desires to obtain a certificate, shall make the application and take the examination provided for by Rules Nos. 307 and 308. Unless some reason appears why it should not be done. The Supreme Court shall issue a certificate to each person who takes the examination and is favorably recommended by the Board of Examiners.

No certificate shall be issued to any person who is not a bona fide resident of the state at the time the certificate is issued.

### Rule No. 310

**TITLE AND RIGHT TO ITS USE.** Any person to whom a certificate is issued shall have the right to use the title "Certified Shorthand Reporter," or the abbreviation therefor, "C. S. R." The use of such title or abbreviation by a person who does not hold such a certificate shall be regarded as contempt of court and may be punished accordingly.

## Rule No. 311

**SUSPENSION OR REVOCATION.** Upon reasonable notice to the holder, and after a hearing and for good cause shown, any certificate previously issued may be suspended or revoked by order of the Supreme Court.

## Rule No. 312

**TEMPORARY CERTIFICATE.** In the event of a vacancy in the office of court reporter in any district court or division thereof, and there is no person holding a certificate who is available for appointment and who is satisfactory to the judge of such court or division, such judge may request the Supreme Court to issue a temporary certificate to anyone whom he deems qualified; whereupon, the Supreme Court shall issue a temporary certificate to such person, and the judge may appoint such person as the temporary official reporter of said court or division: *Provided, however,* That no such temporary certificate or appointment shall be valid longer than the next regular examination held by the Board of Examiners as much as forty days after the issuance of the temporary certificate. No more than one temporary certificate shall be issued to the same person.

## Rule No. 313

**FUND—EXPENSES.** The examination fees referred to in Rule No. 307 shall constitute a fund to be known as the "Court Reporters Fund," and shall be held and accounted for by the Clerk of the Supreme Court as provided by law. From this fund the Clerk shall pay all expenses of the Board of Examiners incident to the consideration of applications, conducting examinations, and the issuance of certificate, to each attorney member of the Board of Examiners ten dollars per day for the time actually consumed by such member in the work of the board, and to each member of the board the actual and necessary expenses incurred by him in the performance of his duties. The Clerk shall make such payments upon itemized vouchers duly certified by the chairman and secretary of the board and approved by the chief justice of the Supreme Court.

## Rule No. 314

**REPORTING SYSTEMS.** Anyone who has received a certificate as a Certified Shorthand Reporter upon an application which states his system of writing, and who desires to change to another system of writing, shall before doing so file with the secretary of the board an application in writing stating to what system he desires to change and asking permission to take an examination thereon. The application shall be accompanied by a fee of \$10 and shall be in duplicate, one copy to be filed with the Clerk of the Supreme Court. If the board and the Court approve the system of writing to which the applicant desires to change, and no valid objection appears, the board shall give the applicant the examination requested, and if he successfully passes the examination the board shall so advise the applicant in writing. Before receiving such written advice the applicant shall not use the system of writing to which he desires to change in any judicial proceeding, nor shall he use the words "Certified Shorthand Reporter," or the initials "C. S. R.," nor the seal thereof, in relation thereto.

## Rule No. 315

**RESIDENCE.** The official court reporter of any judicial district in this state shall be present at every session of court, including motion days, and shall be available to the judge of the court to assist him in his work in chambers at all times when needed. The reporter shall reside in the city of the residence of the judge of such court: *Provided, however,* When the reporter resides within the judicial district for which he is acting, the Supreme Court may modify this Rule as to residence upon written application being made therefor by such reporter, and approved by the judge of such district, showing reasonable cause for such modification.

RULES ADOPTED BY THE STATE BOARD OF EXAMINERS  
OF COURT REPORTERS

APPROVED JULY 30, 1941

No. 1. The word "Board," as used in these Rules, means the State Board of Examiners of Court Reporters.

No. 2. The term "Shorthand," as used in these Rules includes not only shorthand written with pen or pencil, but that written by machines.

No. 3. An applicant to become a certified shorthand reporter shall not be examined until he has satisfied the Board that he is a person of good moral character and of good health, and is possessed of the requisite education and special training to perform the duties of that office.

No. 4. One desiring to obtain a certificate as a certified shorthand reporter shall prepare in duplicate an application on the form prepared by the Board and file the same with the Clerk of the Supreme Court at least thirty days prior to any regular or special examination by the Board. The Clerk shall keep one copy for his permanent file and transmit the other to the secretary of the Board.

No. 5. Upon receiving an application, the Board shall make such preliminary inquiries as it deems proper and determine whether the applicant appears to have the requisite learning and other qualifications suitable to take an examination for certification as a certified shorthand reporter and inform the Clerk of the Supreme Court of the result of their investigation.

No. 6. *Examination.*

A. Applicants shall be required to write shorthand from dictation of regular court proceedings, or such other matter as may be selected by the Board, for such period as shall be required, at a speed varying from 130 to 200 words per minute.

B. Any generally recognized system of reporting may be used in taking the examination.

C. Applicants shall be examined with respect to their knowledge of the duties of a court reporter, of court procedure and general legal terminology.

D. Applicants shall be required to transcribe or read aloud such portions of the dictation as the Board may indicate.

E. Applicants shall be required to furnish their own materials, including books, papers and typewriters; and shall make their own transcripts on a typewriter.

F. Speed and accuracy in taking, transcribing and reading of notes will be the chief basis of the tests, but punctuation, spelling and style of transcript and general education shall be given due consideration.

G. Upon completion of the examination, all shorthand notes, transcripts and other papers in connection with an examination shall be returned to and remain in the custody of the Board.

No. 7. Examinations will be held at the Supreme Court room in the state house at Topeka, Kansas, between the hours of 9 a. m. and 5 p. m., on the second Monday in October of each year, or such other times or places as may be designated by the Board.

No. 8. Any person who has successfully passed the examination provided for by these Rules shall be by the Board recommended to the Supreme Court for the issuance of a certificate as a Certified Shorthand Reporter; or any Official Reporter in any District Court of this state who shall make application in compliance with the Rules of the Supreme Court and satisfies the Board as to his fitness to perform the duties of the office shall be by the Board recommended to the Supreme Court for the issuance of a certificate as a Certified Shorthand Reporter without the necessity of taking a formal examination.

Nonresidents of the state of Kansas may take the examination by complying

with the Rules, but no certificate will be issued until such applicant shall become a bona fide resident of the state of Kansas.

No. 9. Fees shall be paid and examinations conducted as provided by the Rules of the Supreme Court and the Rules of this Board.

No. 10. The Board shall investigate any complaint respecting the work or conduct of any person to whom a certificate has been issued and report to the Court the result of their investigation and their recommendation in respect thereto. This Rule shall not prevent the Court from making an investigation on its own motion, or upon a complaint made directly to the Court.

No. 11. *Notice of the Time of Examination.* Advance notice of the time and place of the examination shall be given by the Board in such manner and form as it deems proper.

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