

Kansas Judicial Council Bulletin

DECEMBER, 1978

FIFTY SECOND ANNUAL REPORT



WILLIAM C. FARMER
President, Kansas Bar Association

COURT DAYS, 1979

MEMBERS OF THE JUDICIAL COUNCIL

| | |
|--|------------|
| Alfred G. Schroeder, Chairman, (1963-) | Newton |
| Chief Justice of the Supreme Court | |
| James D. Waugh, Secretary, (1963-) | Topeka |
| J. Richard Foth (1977-) | Topeka |
| Chief Judge of the Court of Appeals | |
| Elwaine F. Pomeroy (1977-) | Topeka |
| Chairman, Senate Judiciary Committee | |
| E. Richard Brewster (1977-) | Topeka |
| Chairman, House Judiciary Committee | |
| Robert H. Cobean, (1947-) | Wellington |
| Jack E. Dalton (1969-) | Dodge City |
| Marvin E. Thompson (1969-) | Russell |
| Herbert W. Walton, (1975-) | Olathe |
| Judge, Tenth Judicial District | |
| James J. Noone, (1975-) | Wichita |
| Judge, Eighteenth Judicial District | |

FORMER MEMBERS OF THE JUDICIAL COUNCIL

| | |
|---|----------------|
| W. W. HARVEY, <i>Chairman</i> , (1927-1941) | Ashland |
| Justice of the Supreme Court | |
| WALTER G. THIELE, <i>Chairman</i> , (1941-1954) | Lawrence |
| Justice of the Supreme Court | |
| ROBERT T. PRICE, <i>Chairman</i> , (1954-1963) | Topeka |
| Justice of the Supreme Court | |
| J. C. RUPPENTHAL, <i>Secretary</i> , (1927-1941) | Russell |
| RANDAL C. HARVEY, <i>Secretary</i> , (1941-1953) | Topeka |
| WILLIAM M. MILLS, JR., <i>Secretary</i> , (1953-1957) | Topeka |
| WALTER G. THIELE, <i>Secretary</i> , (1957-1963) | Topeka |
| EDWARD L. FISCHER, (1927-1943) | Kansas City |
| ROBERT C. FOULSTON, (1927-1943) | Wichita |
| CHARLES L. HUNT, (1927-1941) | Concordia |
| CHESTER STEVENS, (1927-1941) | Independence |
| JOHN W. DAVIS, (1927-1933) | Greensburg |
| C. W. BURCH, (1927-1931) | Salina |
| ARTHUR C. SCATES, (1927-1929) | Dodge City |
| WALTER PLEASANT, (1929-1931) | Ottawa |
| ROSCOE H. WILSON, (1931-1933) | Jetmore |
| GEORGE AUSTIN BROWN, (1931-1933) | Wichita |
| RAY H. BEALS (1933-1938) | St. John |
| HAL E. HARLAN, (1933-1935) | Manhattan |
| SCHUYLER C. BLOSS, (1933-1935) | Winfield |
| E. H. REES, (1935-1937) | Emporia |
| O. P. MAY, (1935-1937) | Atchison |
| KIRKE W. DALE, (1937-1941) | Arkansas City |
| HARRY W. FISHER, (1937-1939) | Fort Scott |
| GEORGE TEMPLAR, (1939-1941, 1943-1947, 1953) | Arkansas City |
| EDGAR C. BENNETT, (1938-1951) | Marysville |
| SAMUEL E. BARTLETT, (1941-1951) | Wichita |
| PAUL R. WUNSCH, (1941-1943) | Kingman |
| WALTER F. JONES, (1941-1945) | Hutchinson |
| GROVER PIERPONT, (1943-1944) | Wichita |
| I. M. PLATT, (1943-1945) | Junction City |
| C. A. SPENCER, (1944-1951) | Oakley |
| CHARLES VANCE, (1945-1947) | Liberal |
| RICHARD L. BECKER, (1949-1951) | Coffeyville |
| W. D. VANCE, (1951-1952) | Belleville |
| JOHN A. ETLING, (1945-1953) | Kinsley |
| DALE M. BRYANT, (1947-1949, 1951-1953) | Wichita |
| FRANKLIN B. HETTINGER, (1952-1953) | Hutchinson |
| JOHN H. MURRAY, (1953-1957) | Leavenworth |
| A. K. STAVELY, (1951-1959) | Lyndon |
| MAX L. DICE, (1957-1959) | Johnson |
| WILLIAM L. MITCHELL, (1959-1961) | Hutchinson |
| JOSEPH J. DAWES, (1953-1960, 1961) | Leavenworth |
| WILFORD RIEGLE, (1953-1960, 1961) | Emporia |
| GLEE S. SMITH, (1961-1963) | Larned |
| SPENCER A. GARD, (1959-1964) | Iola |
| CLYDE HILL, (1961-1965) | Yates Center |
| JAMES E. TAYLOR, (1941-1969) | Sharon Springs |
| J. WILLARD HAYNES, (1951-1969) | Kansas City |
| STEADMAN BALL, (1963-1973) | Atchison |
| JACK R. EULER, (1965-1973) | Wathena |
| ALEX HOTCHKISS, (1964-1973) | Lyndon |
| ALBERT B. FLETCHER, JR., (1973-1975) | Junction City |
| DOYLE E. WHITE, (1961-1975) | Arkansas City |
| J. C. TILLOTSON, (1973-1977) | Norton |
| JOHN F. HAYES, (1973-1977) | Hutchinson |

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FOREWORD

The Honorable William C. Farmer has prepared an article for this issue of the *Kansas Judicial Council Bulletin* entitled "Where Do We Go From Here?" It is an assessment of the need for bar associations and of the Kansas Bar Association's ability to perform the functions needed by its membership as well as by the community in which it operates. It also poses a question regarding the future role of the Kansas Bar Association.

Mr. Farmer is President of the Kansas Bar Association and the current chairman of the Board of Trustees of Wichita State University. He is also a senior partner in the Wichita law firm of Smith, Shay, Farmer and Wetta. His legal experience has been extensive and varied. After graduating from the University of Kansas School of Law in 1941 with LL.B. and J.D. degrees, he spent eight years working as an F.B.I. special agent. He entered the private practice of law in 1949 and then became Chief Deputy County Attorney for Sedgwick County in 1951. Two years later, President Eisenhower named him United States District Attorney for the District of Kansas. After five years in this position he reentered the private practice of law and now has more than 20 years experience as a private legal practitioner. He was a member of the Supreme Court Nominating Commission from 1958-1961 and a state senator from Sedgwick County from 1961-1965. From 1968 to 1972 he was a Special Assistant Attorney General of Kansas for antitrust matters. He is a past president of the Wichita Bar Association, and has served on the Executive Council and a number of committees of the Kansas Bar Association. He was a member of the Bench and Bar Committee, Supreme Court, for three years, and is currently a member of the American Bar Association, American Judicature Society, American Board of Trial Advocates, American College of Trial Lawyers, the Board of Governors of the K.U. Law Society, and the Phi Alpha Delta legal fraternity.

His accomplishments include the authorship of *Industrial Revenue Bond Law*, listing in *Who's Who in America* for several years, and listing in the 1941 edition of *Who's Who in American Colleges and Universities*. He received a B.A. degree from the University of Kansas and was president of that university's student body from 1940-1941.

He has served on the Governor's Economic Development Committee, was a member of the Board of Directors and the Finance Co-chairman of the Mid-Arkansas Valley Development Association, was a member of the Advisory Council on Intergovernmental Relations, and is a former Director of the Wichita Chamber of Commerce.

He currently resides in Wichita, is married, and has two grown children.

The *Kansas Judicial Council Bulletin* contains the article written by KBA President Farmer and the Court Days for 1979. The *Bulletin* also contains information regarding the changes in the collection and publication of court caseload data as well as summaries of FY 1978 court caseload data. The summaries were furnished by K. Kent Batty, Statistical and Information Officer for the Office of the Judicial Administrator. Paul Purcell, of the Judicial Council staff, has

written an article for this issue of the *Bulletin* entitled "Keeping Track of Supreme Court Rules."

Detailed tables which show the volume of work of the Supreme Court, Court of Appeals, and the District Courts for the period from July 1, 1977 to June 30, 1978 do not appear in this issue of the *Kansas Judicial Council Bulletin* as they have in the past. The way in which court caseload data is now published is explained in the note following Mr. Farmer's article. Any person needing detailed information about the volume of work of the Supreme Court, Court of Appeals, or the District Courts covering the period from July 1, 1977 to June 30, 1978 may obtain such information from the Judicial Administrator, Kansas Judicial Center, 301 West 10th Street, Topeka, Kansas 66612.

A brief summary of the activities and accomplishments of the Judicial Council for the past year follows.

The Kansas Judicial Council has moved to new quarters in the Kansas Judicial Center. The address is:

Kansas Judicial Council
Kansas Judicial Center
301 West 10th Street
Topeka, Kansas 66612
(913) 296-2498

There were no changes in membership of the Judicial Council during 1978. The members of the Judicial Council are: Hon. Alfred G. Schroeder, Chairman, Topeka; James D. Waugh, Secretary, Topeka; Hon. J. Richard Foth, Topeka; Hon. James J. Noone, Wichita; Hon. Herbert W. Walton, Olathe; Hon. Elwaine F. Pomeroy, Topeka; Hon. E. Richard Brewster, Topeka; Robert H. Cobean, Wellington; Jack E. Dalton, Dodge City; and Marvin E. Thompson, Russell.

The staff of the Judicial Council consists of Randy M. Hearrell, attorney, who serves as research director of the Council and administrator of the Judicial Council office; Paul Purcell, attorney, who joined the Council staff in March 1978 as a research associate; and Mrs. Nell Ann Gaunt who is the fiscal and administrative assistant to the Council.

The Administrative Procedure Advisory Committee, which was appointed to draft a Code of Administrative Procedure for Kansas is presently inactive. The members of the committee are: Richard C. Byrd, Ottawa; Lewis C. Carter, Holton; Rex L. Culley, Russell; Arden K. Ensley, Topeka; Byron M. Gray, Green Valley, Arizona; John E. Jandera, Topeka; David L. Ryan, Topeka; and John S. Seeber, Wichita.

The Benchbook Advisory Committee has completed its work on the *Kansas Benchbook* but remains a standing committee of the Council to update the benchbook as legislative and judicial change occurs. There are a limited number of undistributed copies of the benchbook which the Council will distribute free of charge to Kansas attorneys in trial practice who are able to show a need for the book. Distribution will be on a "first come—first served" basis. The members of the committee are the Hon. James J. Noone, Chairman and member of the

Council, Wichita; Hon. John W. Brookens, Westmoreland; Hon. Harold R. Riggs, Olathe; Hon. Robert F. Stadler, Iola; Charles S. Fisher, Jr., Topeka; Charles E. Henshall, Chanute; Byron G. Larson, Dodge City; Donald Patterson, Topeka; and Gene H. Sharp, Liberal.

The Civil Code Advisory Committee is a standing committee of the Judicial Council and is designed to keep the Code of Civil Procedure current with amendments to the Federal Code of Civil Procedure and with current needs. The committee also assists the Council in related areas. The members of the committee are: Marvin E. Thompson, Chairman and member of the Council, Russell; Hon. Michael A. Barbara, Topeka; Emmet A. Blaes, Wichita; Hon. J. Richard Foth, a member of the Council, Topeka; Charles E. Henshall, Chanute; Morris D. Hildreth, Coffeyville; Hon. David Prager, Topeka; and Leonard O. Thomas, Kansas City.

The Continuing Legal Education Committee has studied the area of lawyer proficiency. The proposed Supreme Court Rule drafted by the committee has been approved by the Council and is being considered by the Supreme Court. The members of the committee are: Marvin E. Thompson, Chairman and member of the Council, Russell; Hon. David P. Calvert, Wichita; Tom Kelley, Hays; Philip H. Lewis, Topeka; Hon. James K. Logan, Olathe; William B. Swearer, Hutchinson; and William R. Vincent, Topeka.

The Counsel for Indigent Persons Advisory Committee was appointed at the request of the Legislature (1977 H.C.R. 5044) to study the appointment of counsel in criminal and all other proceedings constitutionally requiring appointed counsel. The members of the committee are: Jack E. Dalton, Chairman and member of the Council, Dodge City; A. Jack Focht, Wichita; Gerald L. Goodell, Topeka; Hon. Morris V. Hoobler, Salina; Ira R. Kirkendoll, Kansas City; Michael Lerner, Kansas City; Dolores V. Macke, Overland Park; Walter F. Stueckemann, Jetmore; and Hon. Fred Weaver, Baxter Springs.

The Criminal Code Advisory Committee is designed to keep the Criminal Code and Code of Criminal Procedure up-to-date. The committee also makes related studies that are assigned to it from time to time. The members of the committee are: John C. Tillotson, Chairman, Leavenworth; Hon. James J. Noone, Administrative Chairman and member of the Council, Wichita; Hon. J. Richard Foth, a member of the Council, Topeka; Lee Hornbaker, Junction City; Dennis Moore, Olathe; James Rumsey, Lawrence; George T. VanBebber, Topeka; and Professor Paul E. Wilson, Lawrence.

The Delivery of Legal Services Advisory Committee has been studying the unauthorized practice of law and will make recommendations to the Judicial Council on the matter in the near future. The members of the committee are: James D. Waugh, Chairman and member of the Council, Topeka; Lee I. Cropp,

Wichita; John A. Emerson, Lawrence; Curt S. Heinz, Topeka; John J. Jurcyk, Jr., Kansas City; W. C. "Corky" Long, Wellington; William J. Miller, Dodge City; David M. Mills, Arkansas City; Professor Richard L. D. Morse, Manhattan; and Carl W. Quarnstrom, Topeka.

The Family Law Advisory Committee is studying problems in the area of family law, including divorce. The members of the committee are: Hon. Herbert W. Walton, Chairman and member of the Council, Olathe; Constance M. Achterberg, Salina; Phyllis H. Buzick, Sylvan Grove; John H. Johnitz, Jr., Olathe; Dr. Paul C. Laybourne, Jr., Kansas City; Hon. Jerry L. Mershon, Manhattan; Brian J. Moline, Wichita; Judith C. Runnels, Topeka; and Carolyn S. Skaer, Wichita.

The PIK-Civil Advisory Committee has completed a second edition of *PIK-Civil* which is presently being distributed by Bancroft-Whitney Publishing Company. The members of the committee are: Hon. Don Musser, Chairman, Pittsburg; Hon. Herbert W. Walton, Administrative Chairman and member of the Council, Olathe; Hon. Bob Abbott, Topeka; Hon. Michael A. Barbara, Topeka; Hon. B. Mack Bryant, Wichita; Hon. Ronald D. Innes, Manhattan; Hon. David Prager, Topeka; and Hon. Frederick Woleslagel, Lyons.

The PIK-Criminal Advisory Committee is working on a supplement to *PIK-Criminal*. The members of the committee are: Hon. Herbert W. Walton, Chairman and member of the Council, Olathe; Hon. Bob Abbott, Topeka; Hon. Michael A. Barbara, Topeka; Hon. B. Mack Bryant, Wichita; Hon. Ronald D. Innes, Manhattan; Hon. Don Musser, Pittsburg; Hon. David Prager, Topeka; and Hon. Frederick Woleslagel, Lyons.

The Special Services Advisory Committee is studying the special court services currently offered in the various judicial districts and the manner of implementing the requirement of L. 1978, ch. 120, §14 that the district courts provide, as of July 1, 1979, certain probation services now provided by the Department of Corrections. Members of the committee are the Hon. Alfred G. Schroeder, Chairman and member of the Council, Topeka; Hon. David Prager, Topeka; Hon. C. Phillip Aldrich, Larned; Hon. William R. Carpenter, Topeka; Hon. William D. Clement, Junction City; Hon. William M. Cook, Kansas City; Hon. James J. Noone, a member of the Council, Wichita; Hon. David H. Scott, Independence; and Michael S. McLain, Olathe. *Ex officio* members of the committee are James R. James, Judicial Administrator, and John E. Johnston, Court Services Specialist for the Office of the Judicial Administrator.

The Title Standards Advisory Committee remains available to consider the problems in that area. The members of the committee are: Jack E. Dalton, Chairman and member of the Council, Dodge City; Hylton Harman, Kansas City; Robert F. Lytle, Prairie Village; and Morris Moon, Augusta.

As a final note, the Rules of the Supreme Court relating to (1) the Supreme Court, Court of Appeals and Appellate Practice, and (2) the District Courts were printed in the November 1976 *Kansas Judicial Council Bulletin*. That issue also contained an article and chart describing appellate procedure. Users of that issue of the *Bulletin* are advised that there have been changes to several of the rules appearing in that issue and that several new rules relating to the subject of those rules have been adopted since that issue of the *Bulletin* was published.

With the exceptions noted in the article in this issue dealing with Supreme Court Rules, volume 223 of the *Kansas Reports* contains the current text of all Supreme Court Rules. Users of the information found in the article and chart on pages 4-11 of the November 1976 *Bulletin* should see the Kansas Bar Association's *Kansas Appellate Practice Handbook* as well as the relevant portions of this issue's article on Supreme Court Rules.

ALFRED G. SCHROEDER, *Chairman*
Kansas Judicial Council

WHERE DO WE GO FROM HERE?

"The difference between lawyers now and in the past is today they know not to try to do everything, but to specialize. Like cows give milk while chickens prefer to lay eggs."

Thus spoke a nine-year-old pupil in St. Louis who was responding to his teacher's informal poll on what the pupils thought about lawyers. This pupil may very well have struck a chord that a lot of us have not yet been willing to admit. Like it or not, the practice of law is in the process of rapid change. The era of specialization is not around the corner, it is here.

Twenty-five hundred years ago the Greek philosopher Heraclitus observed "nothing endures but change." The practice of law, as our generation knows it, is rapidly eroding away. Great forces are at work changing our profession. Why the change?

With the Chief Justice of the U.S. Supreme Court, the President of the United States, and the Congress all accusing the legal profession of incompetence and failing to meet its responsibilities, such prestigious criticism is bound to have a profound effect. The Supreme Court is regulating the profession by judicial fiat such as *Baake*, *Goldfarb*, *Bates & O'Steen*, and others. The President calls for simplification of the practice and a decrease in cost. Congress recognizes its right to regulate lawyers. Ongoing elaborate programs of Congress are designed to fill needs for legal services left by the inattention of the profession, to wit: legal aid, legal services corporations, public defender programs, neighborhood dispute centers, and programs for the simplification of the law. Various areas of the practice of law are gradually slipping away from professional service and into the hands of lay persons. Real estate law, areas of probate law, run-of-the-mill marital disputes, simple divorce cases, and much administrative law are examples of this erosion from the profession.

This current trend away from the legal practitioner is largely the result of one major cause: the cost of legal services and the failure of the profession to make such services available to the 75% of our citizens who cannot afford a lawyer. Another contributing factor is that the public questions the competency of lawyers. Such charges are controversial depending on whose survey we choose to follow or whose definition of competency we want to accept. Regardless of the accuracy of such accusations, the mere fact that they were made are sufficient cause for concern. If we have one incompetent practicing lawyer, that is one too many.

We labor under no illusions that all is well in the legal profession today. Organized effort is the only effective way to combat a defective system. Strong and well-endowed bar associations, local, state, and national, are the only combative weapons we have. A competent, well-staffed office and input from leaders in the profession, all working together, can provide the ability and continuity to develop major answers.

The Kansas Bar Association is a strong association whose leadership has done much to improve the image and quality of the profession in the past few years. It was the first bar association in the United States to sponsor continuing legal education on public television. It was first to use videotape of CLE programs and telenet services, to recommend mandatory CLE programs, and to sponsor a 38-state National Conference on Legal Rights of the Mentally Disabled. It was

among the top five states to sponsor prepaid legal services, computerized legal research, statewide lawyer referral, and use of credit cards for payment of legal fees. The KBA has won several ABA Annual Awards of Merit for its outstanding service to the legal profession.

To continue to be effective it is necessary to maintain a plan of development and fix its objectives, not only on current problems, but also to look far into the future. We need to put things in proper perspective and evaluate our needs and priorities.

With this in mind the Kansas Bar Association, for the first time in its history, is holding a Long Range Planning Conference and Retreat. An equal number of lay persons and lawyers, eighty in all, are meeting for two and one-half days at the University of Kansas in an intensive excursion into the future practice of law in Kansas. Doctors, accountants, labor leaders, educators, church leaders, economists, government leaders, farmers, racial and ethnic groups, radio and TV executives and news people, legislators, law enforcement officers, and prosecutors will be meeting with lawyers from all areas of the profession.

The effectiveness and morality of the adversary system and its antithesis, arbitration and mediation, are to be debated. An effort is to be made to understand the changing and reshaping of American society. The future of society will be inspected with a view that it may very well produce a situation where the role of the lawyer becomes limited or unsuitable. A critical eye is to be cast at the lawyer to see if the lawyer can adjust to changing times, needs, and attitudes that might be damaging to the profession in the public eye. It could well be that one reason lawyers may be falling into disfavor is that lawyers symbolize the past and tend to preserve a system that needs fundamental change. The scope of the subjects undertaken for discussion at the conference is all-inclusive. The general categories include professional competence, the bar association and the practice of law, the administration of justice, and the bar association and the public. The conference is taking a critical view of specialization and advertising, mandatory continuing legal education, law schools and their place in the scheme of things, ethics, costs of legal services, government intervention and regulation, access to the courts, arbitration, mediation, tools to speed up legal services, availability of legal services to the poor, public relations and public image, prepaid legal services, legal clinics, and many other related subjects.

After the initial invitations to the conference were sent by the President of KBA it became apparent that the invitees were complemented and anxious to give three days of their time to help the legal profession meet its responsibilities. Letters of acceptance were filled with "gratitude," "pleasure," "anticipation," "delight," "excitement" and "commendation" to the KBA for undertaking such a project. The reception was overwhelming.

By the time this message is printed, the conference will have been held. A full report on the results of the conference will be submitted to the KBA membership in later presidential letters. Debates will be reported on the lawyer's image, personal values, morals, and responsibilities to the society that makes the lawyer's successes possible.

Preparing to meet the future is sometimes difficult because we are trained to rely on precedent set in the past. This has been a persistent and overriding concern of the law. Unfortunately, the solutions of the past are not solutions for the future.

The staff and leadership of the Kansas Bar Association are constantly searching for better and more efficient ways to nudge the legal profession into a futuristic look. In September of this year, as an innovative idea, the Association invited an

ABA inspection team to review our physical plant, the competency of the staff, the efficient use of our budget and personnel, and most of all the quality and effectiveness of our services to our membership. Special emphasis was put on our Continuing Legal Education programs.

Sometime after the three-day inspection a formal report was written. The KBA staff and leadership are proud of the many complimentary conclusions that were reached by the inspection team on our overall operations. They were especially complimentary of our staff and operational efficiency. Our Continuing Legal Education program was rated as one of the top programs in the country. They were particularly complimentary about the scope and depth of our programs considering our limited staff and budget. A need for larger quarters was apparent. The inspectors were interested in our current drive to build a bar center. This is a program that is apparently already accomplished in many states some with less resources than Kansas. An adequate bar center is considered an essential part of an effective bar association operation. Strong bar foundations are the most effective tools to support adequate and quality efforts of a bar association in the service of its members.

It may well be that all of the ongoing energy being exerted by the Kansas Bar Association will not produce adequate answers to our many problems nor produce a great public image for the lawyer. Be that as it may. It won't be because we didn't try.

WILLIAM C. FARMER, *President*
Kansas Bar Association

A Note on Changes in the Collection and Publication of Court Caseload Data

1. *Changes in the Collection of Data*

Prior to court unification, caseload data for the district courts was collected and compiled by the Office of the Judicial Administrator while caseload data for courts of limited and special jurisdiction was collected and compiled by the Judicial Council. The abolition of courts of special and limited jurisdiction on January 10, 1977, and the transfer of their duties and functions to the district courts on that date, necessitated the collection and compilation of all such data by one source rather than by two. In light of K.S.A. 1977 Supp. 20-318 and Supreme Court Rule 1.03(c)(2), and to eliminate duplication of time and effort, all data collection and compilation duties were assigned to the Office of the Judicial Administrator as of July 1, 1977. These duties include collection and compilation of appellate court caseload data.

2. *Changes in the Publication of Data*

Court caseload data is collected and compiled for each *fiscal* year. Data pertaining to fiscal years prior to FY 1978 (July 1, 1977 through June 30, 1978) have been published either in the *Statistical Report on the District Courts of Kansas*, if the data related only to the district courts, or in the *Kansas Judicial Council Bulletin*.

All court caseload data for FY 1978 and for subsequent fiscal years now will be published by the Office of the Judicial Administrator in a new *Annual Report on the Courts of Kansas*. This new report will be the only detailed and comprehensive compilation of court caseload data, although the *Kansas Judicial Council Bulletin* will continue to publish summaries of court caseload data that appears in the *Annual Report*. The new report is available, upon request, from the Office of the Judicial Administrator. In addition to caseload data, the *Annual Report* contains a description of the structure of the state court system as well as information regarding the administration and jurisdiction of the various courts.

Summary of FY 1978 Court Caseload Data

1. Appellate Courts

Changes in appellate practice in January, 1977 required changes in the way in which appellate court caseload data was collected and compiled. These changes have made comparisons between FY 1978 data and data for earlier fiscal years difficult. Cases are now docketed earlier than they would have been under the old rules and, hence, terminations that would have occurred prior to docketing under the old rules now occur after docketing. Since FY 1976, the last full fiscal year during which the old rules and procedure were in effect, cases docketed have increased 116% (from 438 to 944) while cases terminated have increased 127% (from 340 to 772). During FY 1976, 276 opinions were handed down. This increased 107% during FY 1978 to 571 opinions. The number of appellate judges, however, increased from 9 in FY 1976 to 14 in FY 1978, an increase of only 56%. The number of cases docketed per Supreme Court Justice (including Commissioners) was 49 in FY 1976. This increased to 67 per appellate court judge in FY 1978, an increase of 37%. Terminations per judge, however, increased from 38 in FY 1976 to 55 in FY 1978, a 45% increase.

The following three tables summarize appellate court caseload data for FY 1978:

TABLE 1
Supreme Court Caseload Data Summary
FY 1978

| | Civil Appeals | Criminal Appeals | Original Actions | Total |
|------------------------|---------------|------------------|------------------|-------|
| Pending 7/1/77 | 187* | 164 | 7* | 358* |
| Commenced | 21 | 106 | 25 | 152 |
| Transferred from | | | | |
| Court of Appeals | 10 | 8 | 0 | 18 |
| Total caseload | 218 | 278 | 32 | 528 |
| Terminated | 124 | 176 | 25 | 325 |
| Pending 6/30/78 | 94 | 102 | 7 | 203 |

* Adjusted from totals previously reported.

EDITOR'S NOTE: The information contained in these statistical summaries was obtained from the statistical and information officer for the Office of the Judicial Administrator. More detailed information can be found in the *Annual Report on the Courts of Kansas*.

TABLE 2
Court of Appeals Caseload Data Summary
FY 1978

| | Civil Appeals | Criminal Appeals | Total |
|--------------------------------------|------------------|---------------------|-------|
| Pending 7/1/77 | 292* | 93* | 385* |
| Commenced | 602 | 190 | 792 |
| Total caseload | 894 | 283 | 1,177 |
| Transferred to Supreme Court | 10 | 8 | 18 |
| Terminated | 326 | 121 | 447 |
| Total transferred & terminated | 336 | 129 | 465 |
| Pending 6/30/78 | 558 | 154 | 712 |

* Adjusted from totals previously reported.

TABLE 3
Combined Appellate Court Caseload Data
FY 1978

| | Civil Appeals | Criminal Appeals | Original Actions | Total |
|-----------------------|------------------|---------------------|---------------------|-------|
| Pending 7/1/77 | 479* | 257* | 7* | 743* |
| Commenced | 623 | 296 | 25 | 944 |
| Total caseload | 1,102 | 553 | 32 | 1,687 |
| Terminated | 450 | 297 | 25 | 772 |
| Pending 6/30/78 | 652 | 256 | 7 | 915 |

* Adjusted from totals previously reported.

2. District Courts

The following table summarizes district court caseload data for FY 1978:

TABLE 4
District Court Caseload Data Summary
FY 1978

| | Pending 7/1/77 | Filed | Terminated | Pending 6/30/78 |
|--|-------------------|----------------|----------------|--------------------|
| Civil Cases: | | | | |
| Domestic Relations | 8,744 | 24,000 | 22,777 | 9,967 |
| Other | 11,242 | 15,592 | 14,253 | 12,581 |
| Total*, Chapter 60 | 19,986 | 39,592 | 37,030 | 22,548 |
| Criminal Cases: | | | | |
| Felonies | 3,926 | 10,303 | 10,232 | 3,997 |
| Misdemeanors | 3,993 | 14,908 | 14,819 | 4,082 |
| Total, criminal | 7,919 | 25,211 | 25,051 | 8,079 |
| SUBTOTAL ** | <u>27,905</u> | 64,803 | 62,081 | <u>30,627</u> |
| Limited civil actions | | 29,345 | 26,363† | |
| Traffic cases | | 264,024 | 250,028 | |
| Formal juvenile cases | | 15,653 | 12,521 | |
| Decedent estates | | 6,225 | 5,085 | |
| Guardianship/Conservatorship estates | | 1,958 | 899 | |
| Trusts | | 384 | 179 | |
| TOTAL | | <u>382,392</u> | <u>357,156</u> | |

* Due to changes in the reporting system, this total is the total most comparable to the civil caseload totals found in the annual district court reports of the past.

** This subtotal is the figure most comparable to the total caseload figures found in past annual reports.

† This figure includes an adjustment for the termination of pending cases not previously reported under this system.

Other Actions:

| | |
|-------------------------------------|--------|
| Informal juvenile cases | 13,434 |
| Small claims | 10,670 |
| Determinations of descent | 2,055 |
| Adoptions | 1,973 |
| Treatment proceedings | 1,929 |
| Miscellaneous probate actions | 1,202 |

Roster of Judges of the District Court

| Judicial District | DISTRICT JUDGE | ASSOCIATE DISTRICT JUDGE | DISTRICT MAGISTRATE JUDGE |
|-------------------|---|--|--|
| 1 | Div. 1—Kenneth Harmon, ° Leavenworth. Div. 2—J. W. Lowry, Atchison. | Position 1—Frederick N. Stewart, Leavenworth. Position 2—John L. White, Leavenworth. | Position 1—Richard A. Dempster, Atchison Position 2—Dolan McKelvy, Atchison |
| 2 | Div. 1—John W. Brookens, ° Westmoreland. | Position 1—Tracy D. Kingsmith, Jackson. | Position 2—Dennis L. Reiling, Jefferson Position 3—James J. Zeller, Pottawatomie Position 4—Verle L. Swenson, Wabauense |
| 3 | Div. 1—William R. Carpenter, Topeka. Div. 2—Michael Barbara, Topeka. Div. 3—E. Newton Vickers, ° Topeka. Div. 4—Adrian J. Allen, Topeka. Div. 5—James A. Macnish, Jr., Topeka Div. 6—Terry Bullock, Topeka | Position 1—Franklin R. Theis, Shawnee Position 2—James H. Hope, Shawnee Position 3—Mary Schowengerdt, Shawnee Position 4—Bill G. Honeyman, Shawnee Position 5—Matthew J. Dowd, Shawnee | |
| 4 | Div. 1—Floyd H. Coffman, ° Ottawa Div. 2—Robert F. Stadler, Iola. | Position 1—Donald L. White, Franklin | Position 1—George G. Levans, Allen Position 2—Lawrence M. Selanders, Anderson Position 3—Orville E. Steele, Coffey Position 4—Larry L. Coursen, Osage Position 5—Robert L. Ward, Woodson |
| 5 | Div. 1—R. E. Miller, ° Emporia | Position 1—William J. Dick, Lyon. | Position 1—Francis D. Towle, Chase |
| 6 | Div. 1—Charles M. Warren, ° Fort Scott. | Position 1—Leighton Archer Fossey, Linn. | Position 1—Samuel I. Mason, Bourbon Position 3—Brooks Hinkle, Miami |
| 7 | Div. 1—Ralph M. King, Jr., Lawrence Div. 2—James W. Paddock, ° Lawrence | Position 1—John Mike Elwell, Douglas | |
| 8 | Div. 1—John M. Rugh, Abilene Div. 2—William D. Clement, ° Junction City. | Position 1—George F. Scott, Geary Position 2—Edwin G. Westenhaus, Marion | Position 1—Tom Nold, Dickinson Position 3—Clarence L. Sawyer, Morris |
| 9 | Div. 1—Sam H. Sturm, ° Newton | Position 1—John C. Yoder, Harvey Position 2—Carl B. Anderson, Jr., McPherson | |
| 10 | Div. 1—Herbert W. Walton, Olathe Div. 2—James H. Bradley, Olathe Div. 3—Buford L. Shankel, Olathe. Div. 4—Harold R. Ruggs, Olathe. Div. 5—Phil L. Woodworth, Olathe. Div. 6—Lewis C. Smith, ° Olathe. | Position 1—Charles A. Elliott, Johnson Position 2—Earle D. Jones, Johnson Position 3—Keith L. Stanley, Johnson Position 4—Sam K. Bruner, Johnson Position 5—Bill E. Haynes, Johnson Position 6—Robert G. Jones, Johnson Position 7—Janette H. Ward, Johnson Position 8—Gerald L. Houghland, Johnson | |

ROSTER OF JUDGES OF THE DISTRICT COURT—Continued

| Judicial District | DISTRICT JUDGE | ASSOCIATE DISTRICT JUDGE | DISTRICT MAGISTRATE JUDGE |
|-------------------|---|--|--|
| 11 | Div. 1—Don Musser,* Pittsburg. Div. 2—William Meek, Columbus. Div. 3—Charles J. Sell, Parsons. Div. 4—Geo. W. Donaldson, Chanute | Position 1—Richard D. Loffswold, Crawford. Position 2—John C. Cariglietti, Crawford. Position 3—Daniel L. Brewster, Labette Position 4—Richard L. Ashley, Neosho | Position 1—B.J. LaTurner, Cherokee Position 2—Dwayne Spoon, Wilson |
| 12 | Div. 1—Richard W. Wahl,* Lincoln. | Position 1—Marvin L. Stortz, Cloud Position 2—Jack D. Bradrick, Jewell Position 3—Richard S. Fern, Sr., Lincoln Position 4—Henry Russell, Mitchell Position 5—William E. Thompson, Republic Position 6—Steve Kaminski, Washington | Position 1—Roy J. Bennett, Chautauqua Position 2—Darlene P. Royse, Elk Position 3—Harriet Shumard, Greenwood |
| 13 | Div. 1—J. Patrick Brazil, Eureka. Div. 2—Page W. Benson,* El Dorado | Position 1—John M. Jaworsky, Butler Position 1—Raymond Belt, Montgomery Position 2—Kenneth D. David, Montgomery Position 3—Floyd V. Palmer, Montgomery | |
| 14 | Div. 1—David H. Scott,* Independence. | Position 1—Jack L. Burr, Sherman. | |
| 15 | Div. 1—Keith R. Willoughby,* Colby | Position 1—Pauline Coker, Graham Position 2—Gerald Johnston, Rooks Position 3—Ward Gilliland, Sheridan Position 5—Nellie L. Blakely, Thomas | |
| 16 | Div. 1—Robert M. Baker,* Ashland | Position 1—Glen E. Redfield, Clark Position 2—Ralph R. Klepinger, Comanche Position 3—Maurice L. Johnson, Gray Position 4—Pauline Schwarm, Kiowa Position 5—Clara Shore, Meade | |
| 17 | Div. 1—Charles E. Worden,* Norton | Position 1—Frederick J. Hammers, Cheyenne Position 2—Elmer J. Tacha, Decatur Position 3—Wilda June Brown, Norton Position 4—Shirley Henderson, Osborne Position 5—Martha Kellogg, Phillips Position 6—Dorothy R. Reinert, Rawlins Position 7—Fred Mizer, Smith | |

ROSTER OF JUDGES OF THE DISTRICT COURT—Continued

| Judicial District | DISTRICT JUDGE | ASSOCIATE DISTRICT JUDGE | DISTRICT MAGISTRATE JUDGE |
|-------------------|---|---|---|
| 18 | Div. 1—Willis W. Wall, Wichita. Div. 2—Ray Hodge, Wichita. Div. 3—B. Mack Bryant, Wichita. Div. 4—James V. Riddel, Wichita. Div. 5—James J. Noone, Wichita. Div. 6—D. Keith Anderson, Wichita. Div. 7—Thomas C. Raun, Wichita. Div. 8—Nicholas W. Klein, Wichita. Div. 9—David P. Calvert, Wichita. Div. 10—Tyler C. Lockett, Wichita. Div. 11—Robert L. Morrison, Wichita. Div. 12—Michael Corrigan, Wichita. Div. 13—Owen Ballinger, Wichita. | Position A—Elliott Fry, Sedgwick Position B—Robert Hornung, Sedgwick Position C—Hal Malone, Sedgwick Position D—David W. Kennedy, Sedgwick Position E—James G. Beasley, Sedgwick Position F—Paul L. Thomas, Sedgwick Position G—Robert C. Helsel, Sedgwick Position H—Ron Regg, Sedgwick Position I— Position 1—David S. Lord, Cowley Position 2—Robert L. Bishop, Cowley Position 3—Tom Pringle, Cowley Position 4—Lloyd K. McDaniel, Sumner Position 5—Clarence E. Renner, Barber Position 6—Thomas H. Graber, Sumner Position 1—William J. Laughlin, Barton Position 1—Harlan W. Graham, Riley | Position 1—Thomas L. McGuire, Barber Position 2—John Moore, Harper Position 3—Gene Shay, Kingman Position 4—Walter McClauskey, Pratt Position 1—Clarence Kahler, Ellsworth Position 2—Paul W. Cline, Rice Position 3—A. L. Hall, Russell Position 4—Lee Nusser, Stafford Position 1—Chester W. Kent, Clay Position 1—Michael K. Schmitt, Brown Position 2—Virgil W. Begesse, Doniphan Position 3—Maxine Cumro, Marshall Position 4—Francis C. Holthaus, Nemaha Position 1—Yaudie Schable, Cove Position 2—Annabelle M. Peck, Logan Position 3—David L. Rhoades, Trego Position 4—Logan Dobbs, Wallace |
| 19 | Div. 1—Doyle E. White, ° Winfield. Div. 2—Chas. H. Stewart, Kingman. | | |
| 20 | Div. 1—Frederick Woelshel, ° Lyons. Div. 2—Herbert Rohleder, Great Bend. | | |
| 21 | Div. 1—Ronald D. Innes, ° Manhattan. Div. 2—Jerry L. Mershon, Manhattan. | | |
| 22 | Div. 1—William L. Stevenson, ° Hiawatha. | | |
| 23 | Div. 1—Steven P. Flood, ° Hays. | | |

ROSTER OF JUDGES OF THE DISTRICT COURT—*Concluded*

| Judicial District | DISTRICT JUDGE | ASSOCIATE DISTRICT JUDGE | DISTRICT MAGISTRATE JUDGE |
|-------------------|--|---|--|
| 24 | Div. 1—C. Phillip Aldrich,* Larned | Position 1—Harrison Smith, Finney | Position 1—Richard Miller, Edwards Position 2—Virginia M. Schraeder, Hodgeman Position 3—Winston Church, Lane Position 4—Valdah M. Bovard, Ness Position 5—Bruce W. Janssen, Pawnee Position 6—Mary Lou Wheeler, Rush |
| 25 | Div. 1—Bert J. Vance,* Garden City | Position 1—Leroy C. Rose, Seward | Position 1—C. Ann Kennis, Greeley Position 2—Donna L. J. Blake, Hamilton Position 3—Ella V. Neff, Kearny Position 4—Gordon Goering, Scott Position 5—John E. Ley, Wichita |
| 26 | Div. 1—Keaton G. Duckworth,* Elkhart | Position 1—Richard J. Rome, Reno Position 2—E. Victor Wilson, Reno | Position 1—Herbert Noyes, Grant Position 2—David C. Rinehart, Haskell Position 3—Shirley A. Davis, Morton Position 4—Steven C. Seyb, Stanton Position 5—Verna Kay McQueen, Stevens |
| 27 | Div. 1—Porter K. Brown,* Hutchinson Div. 2—James H. Rexroad, Hutchinson | Position 1—Gene B. Penland, Saline Position 2—John Weckel, Saline | Position 1—Adrian Lapka, Ottawa |
| 28 | Div. 1—Morris V. Hoobler,* Salina Div. 2—Raymond E. Haggart, Salina | Position 1—James L. Lysaught, Wyandotte Position 2—David Mikecic, Wyandotte Position 3—Tudor Nellor, Wyandotte Position 4—Bill D. Robinson, Jr., Wyandotte Position 5—Dean J. Smith, Wyandotte Position 6—Lawrence G. Zukel, Wyandotte Position 7—Robert J. Foster, Wyandotte | |
| 29 | Div. 1—O. O. Clafflin, Kansas City Div. 2—Wm. M. Cook, Kansas City Div. 3—Harry G. Miller, Jr.,* Kansas City Div. 4—John W. Mahoney, Kansas City Div. 5—Leo J. Moroney, Kansas City Div. 6—Cordell D. Meeks, Kansas City Div. 7—Wayne H. Phillips, Kansas City | | |

* Denotes Administrative Judge.

COURT DAYS IN DISTRICT COURT—1979

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | Mar. | Apr. | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|--------------------------|------------------|--------------------|-------------------|------|------|------|------|------|------|-------|------|-------|------|------|------|
| Allen | Iola | Jeanne Smith | 4 | 15c | 12c | 19c | 16c | 21c | 18c | 16c | 20c | 17c | 15c | 19c | 17c |
| Anderson | Garnett | Roberta Bowman | 4 | 5c | 2c | 2c | 6c | 4c | 1c | 13c | 10c | 7c | 5c | 2c | 7c |
| Atchison | Atchison | Mary Lou Underwood | 1 | 2 | 5 | 5 | 2 | 7 | 4 | 2 | 6 | 4 | 1 | 5 | 3 |
| | | | | 8 | | | 9 | | | | | 10 | | | |
| Barber | Medicine Lodge | Donna Garten | 19 | 9c | 12c | 13c | 10c | 14c | 12c | 10c | 14c | 11c | 9c | 13c | 11c |
| Barton (See Note 1) | Great Bend | Irene Horner | 20 | 4 | 7 | 6 | 4 | 3 | 5 | 5 | 29 | 6 | 3 | 5 | 5 |
| Bourbon (See Note 2) | Fort Scott | Betty O'Dell | 6 | 8 | 12 | 5 | 9 | 14 | 11 | 2 | 6 | 10 | 8 | 5 | 10 |
| Brown | Hiawatha | Mildred Davis | 22 | 2 | 6 | 7 | 5 | 7 | 5 | 2 | 20 | 4 | 2 | 7 | 6 |
| Butler | El Dorado | Virginia Elmore | 13 | 2 | 5 | 5 | 2 | 7 | 11 | 2 | 3 | 7 | 1 | 13 | 4 |
| Chase | Cottonwood Falls | Virgene E. Gaines | 5 | 8 | 12 | 12 | 9 | 14 | 11 | 9 | 13 | 10 | 8 | 5 | 10 |
| | | | | 22 | 26 | 26 | 23 | 29 | 25 | 23 | 27 | 24 | 22 | 26 | 31 |
| | | | | | | 6 | | | 5 | | | | | 6 | |
| Chautauqua | Sedan | Joyce Borchers | 13 | 5 | 5 | 2 | 2 | 14 | 4 | 6 | 6 | 4 | 5 | 5 | 3 |
| Cherokee | Columbus | Theda Correll | 11 | 2 | 5 | 5 | 2 | 7 | 4 | 2 | 6 | 3 | 1 | 5 | 3 |
| Cheyenne | St. Francis | Ena Zimbelman | 17 | 2 | 5 | 12 | 9 | 10 | 4 | 11 | 13 | 10 | 8 | 13 | 12 |
| Clark | Ashland | Betty Wyatt | 16 | 4c | 8c | 8c | 5c | 3c | 7c | 12c | 9c | 6c | 4c | 8c | 6c |
| | | | | | 20c | | | | | | | 24c | | | |
| Clay Div. 1 Div. 2 | Clay Center | Lucille Murrison | 21 | 18 | 8 | 5 | 12 | 10 | 4 | 12 | 30 | 20 | 25 | 5 | 13 |
| | | | | 4,25 | 1,22 | 5,22 | 5,26 | 3,24 | 4,21 | 19,26 | 2,16 | 6,27 | 4,18 | 5,15 | 6,20 |

COURT DAYS IN DISTRICT COURT—1979—Continued

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|--------------------|-------------|-------------------|-------------------|------|------|-------|-------|-----|------|------|------|-------|------|------|------|
| Cloud | Concordia | Marguerite Larson | 12 | 2b | 6b | 6b | 3b | 8g | 5b | 9g | 1g | 4b | 2g | 6g | 3b |
| Coffey | Burlington | Andra Hegg | 4 | 2c | 6c | 6c | 3c | 1c | 5c | 10c | 7c | 4c | 9c | 6c | 4c |
| Comanche | Coldwater | Ellen Erwin | 16 | 3c | 7c | 7c | 4c | 7h | 6c | 11c | 8c | 5c | 9h | 7c | 3c |
| Cowley | Winfield | Barbara Gilland | 19 | | | | | 21c | | | | | | | 3c |
| Winfield Div. | | | | 8a | 2a | 12a | 6a | 4a | 4a | 6a | 3a | 7a | 1a | 2a | 7a |
| Arkansas City Div. | | | | 8h | 2h | 12h | 6h | 4h | 4h | 6h | 3h | 7h | 1h | 2h | 7h |
| Crawford | Girard | Janice Caruthers | 11 | 15 | 20 | 5 | 9 | 14 | 4 | 2 | 6 | 10 | 8 | 19 | 3 |
| Pittsburg Div. | | | | 8 | 2 | 2 | 2 | 4 | 1 | 6 | 3 | 7 | 1 | 2 | 7 |
| Girard Div. | | | | 4 | 12 | 14 | 10 | 8 | 6 | 2 | 15 | 12 | 1 | 7 | 10 |
| Decatur | Oberlin | Alice J. Vernon | 17 | | | | | | | | | | | | |
| Dickinson | Abilene | Roberta Sleichter | 8 | 2 | 8 | 8 | 4 | 4 | 5 | 6 | 1 | 10 | 3 | 9 | 4 |
| Div. 1 | | | | 23 | 21 | 28 | 26 | 31 | 28 | 25 | 28 | 26 | 31 | 29 | 20 |
| Div. 2 | | | | 3 | 5 | 6 | 3 | 21 | 19 | 3 | 21 | 5 | 1 | 6 | 4 |
| Doniphan | Troy | Alice F. Crane | 22 | 3 | 5 | 6 | 3 | 21 | 19 | 3 | 21 | 5 | 1 | 6 | 4 |
| Douglas | Lawrence | Sherlyn Sampson | 7 | 5a | 5a | 2a | 6a | 7a | 1a | 6a | 3a | 7a | 5a | 5a | 7a |
| (See Note 3) | | | | | | | | | | | | | | | |
| Edwards | Kinsley | Joan Parnell | 24 | 3a | 6 | 6 | 3 | 2 | 5 | 10 | 7 | 12 | 2 | 6 | 4 |
| (See Note 4) | | | | | | | | | | | | | | | |
| Elk | Howard | Nadine Fickle | 13 | 8 | 9 | 12 | 9 | 7 | 8 | 9 | 10 | 17 | 1 | 5 | 10 |
| Ellis | Hays | Velma Giebler | 23 | 8c | 5c | 12c | 9c | 7c | 4c | 9c | 20c | 10c | 1c | 13c | 10c |
| | | | | 22c | 26c | 26c | 23c | 21c | 18c | | | 24c | 22c | 26c | 26c |

COURT DAYS IN DISTRICT COURT—1979—Continued

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|---|-----------------------|-------------------|-------------------|----------|------------|----------|------------|------------|------------|------------|------------|------------|------------|-----------|------------|
| Ellsworth (See Note 1) | Ellsworth | Marian Jiricek | 20 | 23 | 27 | 27 | 24 | 30 | 26 | 2 | 27 | 25 | 23 | 27 | 18 |
| Finney | Garden City | Rose Murray | 25 | 8a 5a | 28a 23a | 7a 9a | 17a 20a | 14a 18a | 15a 22a | 13a 27a | 10a 21a | 17a 28a | 16a 29a | 16a 9a | 21a 18a |
| Ford | Dodge City | Beatrice Slattery | 16 | 5a 15 | 9a | 9a | 6a 16 | 4a | 8a | 13a | 10a | 7a 10 | 5a | 9a | 7a |
| Franklin | Ottawa | Ruby Sanford | 4 | 12c | 9c | 9c | 13c | 4c | 1c | 13c | 10c | 14c | 12c | 9c | 14c |
| Geary Div. 1 Div. 2 | Junction City | Lillian Newman | 8 | 3 24 | 7 22 | 5 29 | 5 25 | 9 30 | 4 27 | 11 26 | 2 29 | 5 27 | 4 30 | 13 28 | 6 19 |
| Gove | Gove | Mabel Fagan | 23 | 3c | 20 | 19 | 17 | 22 | 19 | 10 | 21 | 5c | 16 | 19 | 11 |
| Graham | Hill City | Genevieve Brunk | 15 | 3 | 5 | 5 | 5 | 14 | 4 | 11 | 9 | 17 | 5 | 8 | 6 |
| Grant (See Note 5) | Ulysses | Edna M. Walker | 26 | 4c | 7c | 7c | 9c | 3c | 7c | 5c | 6c | 5c | 2h | 6h | 10c |
| Gray | Cimarron | Marie Babcock | 16 | 2c | 6c | 6c | 2c | 1c | 5c | 10c | 7c | 4c | 2c | 13c | 4c |
| Greeley | Tribune | Mary Melton | 25 | 3e | 26e | 5e | 23e | 7e | 11e | 16e | 13e | 10e | 15e | 5e | 17e |
| Greenwood | Eureka | Eleanor Jacoby | 13 | 15 | 12 | 12 | 9 | 21 | 15 | 13 | 13 | 7 | 8 | 2 | 7 |
| Hamilton | Syracuse | Helen Helm | 25 | 3 | 26 | 5 | 23 | 7 | 11 | 16 | 13 | 10 | 15 | 5 | 17 |
| Harper | Anthony | Olive L. Gornmley | 19 | 8c | 5c | 5c | 2c | 7c | 4c | 2c | 6c | 11c | 1c | 5c | 3c |
| Harvey | Newton | Joe Fox | 9 | 11a | 12a | 8a | 5a | 14a | 7a | 5a | 23a | 13a | 4a | 12a | 6a |
| Haskell (See Note 5) | Sublette | Arlene Staton | 26 | 2c | 6c | 12c | 3c | 1c | 5c | 2c | 1c | 4c | 2c | 12c | 4c |

COURT DAYS IN DISTRICT COURT—1979—Continued

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|--|-----------------------|--------------------|-------------------|--------------|------|-------|-------|------|-------|-------|-------|-------|------|-------|-------|
| Hodgeman (See Note 4) | Jetmore | Agnes Gleason | 24 | 3g | 6 | 6 | 3 | 2 | 5 | 10 | 7 | 12 | 2 | 6 | 4 |
| Jackson | Holton | Paul Shelby | 2 | 8 | 7 | 7 | 4 | 7 | 6 | 11 | 8 | 12 | 1 | 7 | 5 |
| Jefferson | Oskaloosa | Evelyn Ann Bowers | 2 | 9 | 6 | 5 | 3 | 8 | 4 | 10 | 7 | 11 | 2 | 5 | 4 |
| Jewell | Mankato | Joan Rehmer | 12 | 3b | 7b | 7b | 2b | 9b | 6b | 9b | 1b | 5b | 15b | 6b | 4b |
| Johnson | Olathe | Lova Duncan | 10 | (See Note 6) | | | | | | | | | | | |
| Kearny | Lakin | Elizabeth Williams | 25 | 3i | 26i | 5i | 23i | 7i | 11i | 16i | 13i | 10i | 15i | 13a | 17i |
| Kingman | Kingman | Janis McIlrath | 19 | 22c | 8c | 8c | 23c | 10c | 14c | 12c | 9c | 10c | 11c | 8c | 13c |
| Kiowa | Greensburg | Billie Huckriede | 16 | 3h | 7h | 7h | 4h | 7c | 6h | 11h | 8h | 5h | 9a | 7h | 3h |
| Labette | Oswego | Sue Stover | 11 | 2,19 | 6,23 | 9,20 | 10,20 | 8,25 | 12,29 | 10,27 | 14,31 | 11,21 | 2,19 | 13,30 | 11,21 |
| Oswego Div. Parsons Div. (See Note 12) | (See Note 12) | | | 8 | 5 | 6 | 2 | 1 | 4 | 2 | 6 | 10 | 8 | 6 | 10 |
| Lane (See Note 4) | Dighton | Ella Lawrence | 24 | 4a | 7 | 7 | 4 | 3 | 6 | 11 | 8 | 13 | 3 | 7 | 5 |
| Leavenworth | Leavenworth | Ronald E. Miles | 1 | 5 | 2 | 2 | 6 | 4 | 1 | 6 | 3 | 7 | 5 | 2 | 7 |
| | | | | | 5 | | | 7 | | | | | 1 | | |
| Lincoln | Lincoln | Jennie Panzer | 12 | 3g | 5b | 7g | 4b | 9g | 7b | 10b | 2b | 6b | 3b | 19b | 4g |
| Linn (See Note 2) | Mound City | Ann Stuart | 6 | 5 | 2 | 2 | 2 | 4 | 1 | 9 | 3 | 7 | 5 | 2 | 3 |
| Logan | Oakley | Virginia B. Beamer | 23 | 2c | 21c | 20c | 18c | 23c | 20c | 11c | 22c | 4c | 17c | 20c | 12c |
| Lyon | Emporia | Jo Larson | 5 | 31 | 28 | 28 | 25 | 30 | 27 | 25 | 29 | 26 | 31 | 28 | 19 |
| | | | | | 6 | | | 1 | | | | | 2 | | |

COURT DAYS IN DISTRICT COURT—1979—Continued

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|-------------------|---------------|--------------------|-------------------|------|------|-------|-------|-----|------|------|------|-------|------|------|------|
| Marion | Marion | Geraldine Seibel | 8 | 4 | 5 | 6 | 3 | 7 | 6 | 10 | 3 | 7 | 1 | 7 | 5 |
| Div. 1 | | | | 25 | 23 | 27 | 24 | 29 | 26 | 27 | 31 | 24 | 26 | 26 | 21 |
| Div. 2 | | | | 4 | 7 | 5 | 4 | 8 | 4 | 5 | 22 | 6 | 3 | 5 | 5 |
| Marshall | Marysville | Wilma Jean Blaser | 22 | 4 | 2a | 9a | 2a | 11a | 8a | 6a | 24a | 14a | 1a | 2a | 7a |
| McPherson | McPherson | Carol Goodson | 9 | 8a | 6h | 6h | 2h | 1h | 5h | 10h | 7h | 4h | 2h | 13h | 4h |
| Meade | Meade | Evelyn Dye | 16 | 2h | 19 | 19 | | | | | | | 22 | | |
| Miami | Paola | Vivian L. McGready | 6 | 2 | 5 | 6 | 3 | 1 | 4 | 3 | 7 | 4 | 1 | 6 | 4 |
| (See Note 2) | | | | | | | | | | | | | | | |
| Mitchell | Beloit | Marilyn Huffman | 12 | 5b | 7g | 5b | 4g | 10b | 7g | 10g | 2g | 6g | 3g | 5b | 5b |
| Montgomery | Independence | Bessie Scofield | 14 | 4 | 1 | 1 | 5 | 3 | 7 | 5 | 2 | 6 | 4 | 1 | 6 |
| Independence Div. | | | | 3 | 7 | 7 | 4 | 2 | 6 | 11 | 1 | 5 | 3 | 7 | 5 |
| Coffeyville Div. | | | | | | | | | | | | | | | |
| Morris | Council Grove | Marie Borkert | 8 | 5 | 6 | 7 | 2 | 8 | 1 | 9 | 6 | 6 | 2 | 8 | 3 |
| Div. 1 | | | | 26 | 26 | 26 | 23 | 25 | 22 | 24 | 30 | 25 | 29 | 27 | 18 |
| Div. 2 | | | | 3c | 12c | 6c | 4c | 2c | 6c | 3c | 2c | 10c | 3c | 7c | 5c |
| Morton | Elkhart | Verda Mae Allen | 26 | | | | | | | | | | | | |
| (See Note 5) | | | | | | | | | | | | | | | |
| Nemaha | Seneca | Jane Heinen | 22 | 5 | 8 | 8 | 2 | 22 | 18 | 6 | 23 | 7 | 4 | 8 | 3 |
| Neosho | Erie | Virginia Embry | 11 | | | | | | | | | | | | |
| Erie Div. | | | | 3 | 7 | 13 | 4 | 2 | 6 | 11 | 29 | 5 | 10 | 7 | 5 |
| Chanute Div. | | | | 4 | 6 | 14 | 5 | 1 | 5 | 10 | 28 | 6 | 9 | 6 | 4 |

COURT DAYS IN DISTRICT COURT—1979—Continued

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|--------------------|--------------------|--------------------|-------------------|--------------|------|-------|-------|-----|------|------|------|-------|------|------|------|
| Ness | Ness City | Opal Burdette | 24 | 4g | 7 | 7 | 4 | 3 | 6 | 11 | 8 | 13 | 3 | 7 | 5 |
| (See Note 4) | | | | | | | | | | | | | | | |
| Norton | Norton | Darla Engel | 17 | 8 | 14 | 19 | 2 | 7 | 7 | 3 | 16 | 13 | 15 | 5 | 6 |
| Osage | Lyndon | Margaret Knight | 4 | 9c | 13c | 13c | 10c | 8c | 12c | 10c | 14c | 11c | 9c | 13c | 11c |
| Osborne | Osborne | Kathern Krier | 17 | 11 | 8 | 21 | 5 | 7 | 13 | 10 | 22 | 19 | 4 | 1 | 3 |
| Ottawa | Minneapolis | Esther Plunkett | 28 | 9b | 13b | 13b | 10b | 8b | 12b | 10b | 14b | 11b | 9b | 13b | 11b |
| Pawnee | Larned | Shelley R. Son | 24 | 2g | 5 | 5 | 2 | 1 | 4 | 9 | 6 | 4 | 1 | 5 | 3 |
| (See Note 4) | | | | | | | | | | | | | | | |
| Phillips | Phillipsburg | Doris Van Allen | 17 | 9 | 7 | 15 | 2 | 3 | 11 | 12 | 20 | 17 | 3 | 5 | 3 |
| Pottawatomie | Westmoreland | Deane L. Arnold | 2 | 11 | 8 | 8 | 2 | 10 | 7 | 12 | 9 | 10 | 4 | 8 | 3 |
| Pratt | Pratt | Betty Onstott | 19 | 15c | 14c | 14c | 16c | 9c | 13c | 11c | 8c | 12c | 15c | 14c | 12c |
| Rawlins | Atwood | Bessie B. Peterson | 17 | 3 | 5 | 13 | 4 | 9 | 4 | 9 | 14 | 10 | 9 | 8 | 11 |
| Reno | Hutchinson | Sara Hill | 27 | (See Note 7) | | | | | | | | | | | |
| Republic | Belleville | Earl J. Baldridge | 12 | 4g | 8g | 8g | 5g | 7b | 6g | 11g | 3g | 5g | 1b | 7g | 6g |
| Rice | Lyons | Judy MacLaren | 20 | 2 | 5 | 5 | 3 | 2 | 6 | 3h | 28h | 4 | 1 | 6 | 4 |
| (See Note 1) | | | | | | | | | | | | | | | |
| Riley | Manhattan | Ruth Houghton | 21 | | | | | | | | | | | | |
| Div. 1 | | | | 29 | 5 | 26 | 16 | 7 | 11 | 16 | 27 | 17 | 1 | 26 | 10 |
| Div. 2 | | | | 22 | 5 | 12 | 23 | 7 | 18 | 23 | 13 | 24 | 1 | 19 | 17 |
| Rooks | Stockton | Virginia Doughty | 15 | 8 | 6 | 2 | 6 | 7 | 7 | 9 | 6 | 4 | 3 | 1 | 7 |

COURT DAYS IN DISTRICT COURT—1979—Continued

(See Notes on Page 26)

| County | County Seat | Clerk | Judicial District | Jan. | Feb. | March | April | May | June | July | Aug. | Sept. | Oct. | Nov. | Dec. |
|------------------------------------|------------------------|-----------------------|-------------------|--------------|------|-------|-------|-----|------|------|------|-------|------|------|------|
| Rush (See Note 4) | LaCrosse | Clara Humberg | 24 | 2a | 5 | 5 | 2 | 1 | 4 | 9 | 6 | 4 | 1 | 5 | 3 |
| Russell (See Note 1) | Russell | Patricia M. Krug | 20 | 22 | 26 | 26 | 23 | 23 | 25 | 2h | 27h | 24 | 24 | 26 | 17 |
| Saline | Salina | Betty J. Just | 28 | 2b | 6b | 13 | 3b | 1b | 5b | 3b | 7b | 4b | 2b | 6b | 4b |
| | | | | | | | | | | | | 11 | | | 4 |
| Scott | Scott City | B. Arlista Grube | 25 | 2a | 27a | 6a | 16a | 8a | 12a | 17a | 20a | 18a | 22a | 6a | 14a |
| Sedgwick | Wichita | Dorothy I. VanArsdale | 18 | (See Note 8) | | | | | | | | | | | |
| Seward (See Note 5) | Liberal | Faye Shoemaker | 26 | 8c | 2c | 2c | 16c | 4c | 1c | 6c | 3c | 7c | 8c | 2c | 7c |
| Shawnee | Topeka | Lorene Wells | 3 | (See Note 9) | | | | | | | | | | | |
| Sheridan | Hoxie | Vergie Wente | 15 | 9 | 26 | 6 | 3 | 21 | 5 | 10 | 8 | 5 | 1 | 2 | 4 |
| Sherman | Goodland | Dixie Chatfield | 15 | 5 | 2 | 1 | 2 | 8 | 1 | 2 | 7 | 7 | 2 | 7 | 3 |
| | | | | 18 | 15 | 14 | 16 | 17 | 11 | 16 | 16 | 18 | 16 | 19 | 17 |
| Smith | Smith Center | Betty McDonald | 17 | 10 | 1 | 19 | 16 | 2 | 12 | 16 | 21 | 18 | 17 | 19 | 5 |
| Stafford (See Note 1) | St. John | Darlene Bartlett | 20 | 3 | 6 | 7 | 2 | 1 | 4 | 3 | 28 | 5 | 2 | 7 | 3 |
| Stanton (See Note 5) | Johnson | Bonnie Eckas | 26 | 3h | 19c | 6h | 4h | 2h | 6h | 3h | 2h | 17c | 3h | 6c | 5h |
| Stevens (See Note 5) | Hugoton | Betty Lamberson | 26 | 2h | 6h | 19c | 3h | 1h | 5h | 2h | 1h | 4h | 15c | 7h | 4h |
| Sumner | Wellington | Alberta Ellis | 19 | 9c | 6c | 6c | 3c | 8c | 5c | 3c | 7c | 11c | 2c | 6c | 4c |
| Thomas | Colby | Genevieve A. Keller | 15 | 4 | 1 | 19 | 4 | 29 | 6 | 6 | 10 | 6 | 4 | 5 | 5 |

COURT DAYS IN DISTRICT COURT—1979—Concluded

(See Notes on Page 26)

[illegible]

Notes Pertaining to Court Days

Italicized dates indicate the first date of the regular term of court. Letters indicate the time court opens as follows: a. 9 a.m.; b. 9:30 a.m.; c. 10 a.m.; d. 10:30 a.m.; e. 11 a.m.; f. 11:30 a.m.; g. 1:30 p.m.; h. 2 p.m.; i. 2:30 p.m.

NOTE 1: In Barton, Ellsworth, Rice, Russell and Stafford counties, court convenes at 10 a.m. except as otherwise specified. Also in Barton County, Divorce Days are the first and third Fridays of each month.

NOTE 2: In Bourbon, Linn and Miami counties, court convenes at 10 a.m. for trials to the court, and at 9 a.m. for jury trials.

NOTE 3: In Douglas county, on the days on which a term of court opens, the civil docket will be called beginning at 9:30 a.m. in Division No. 1, and 2:30 p.m. in Division No. 2. Criminal cases involving defendants bound over for appearance at the Court Days will be called beginning at 10:30 a.m. in Division No. 1, and 1:30 p.m. in Division No. 2.

NOTE 4: In Rush, Pawnee, Edwards, Hodgeman, Lane and Ness counties, court will convene as follows:

First day of each Regular Term—10 a.m.

Motion Days—Forenoon Session—9 a.m.

Afternoon Session—1:30 p.m.

Jury sessions (unless otherwise ordered)—9:30 a.m.

NOTE 5: In Haskell, Grant, Stanton, Morton, Stevens and Seward counties, court will convene as follows—Central Time:

First day of each Regular Term—10 a.m.

Motion Days—Forenoon Session—10 a.m.

Afternoon Session—2 p.m.

Jury Sessions (unless otherwise ordered)—10 a.m.

NOTE 6: In Johnson county, Court Days are the second and fourth Wednesdays of each month at 1:30 p.m. Designated terms of court are as follows:

The first Tuesday in January.

The first Tuesday in May.

The first Tuesday in September.

NOTE 7: In Reno county, Court Days are Monday through Friday of each week, excepting legal holidays. Motion days are the first four Fridays in each month, excepting legal holidays.

NOTE 8: In Sedgwick county, regular Court Days are all days, Monday through Friday, except holidays. Opening Days of Regular Term will be: Third Monday in January; First Monday in April; and Third Monday in September.

NOTE 9: In Shawnee county, regular court days are all days, Monday through Friday, except holidays.

Chapter 61 Civil Docket is held in room 301 at 9 a.m. each Wednesday. The Traffic Docket is held in room 301 at 10 a.m. each Thursday. Small Claims commence at 9 a.m. each Monday in Room 301.

Motions of an evidentiary nature must be specially set and local District Court Rule 3.301 must be complied with as well as Supreme Court Rule 133. Accusations in contempt are heard on a three week rotation basis of the District Court

Judges with two divisions hearing the same weekly, one at 9 a.m. and the other at 10:30 a.m. on Fridays.

Probate matters are set specifically.

NOTE 10: In Wallace county, Mountain Time is shown.

NOTE 11: In Wyandotte county, regular Court Days are Monday through Friday, except holidays.

All pretrial motions and contempt citations in domestic relations cases, except motions requiring an evidentiary hearing, will be regularly set for hearing on Monday afternoon of each week before an Associate District Judge. All motions and contempt citations filed by S.R.S. or in reciprocal support action cases are regularly set for hearing on Tuesday afternoon of each week before an Associate District Judge.

Each District Judge has one regular motion day each month for all other motions in actions pending in his court, including post-trial motions in domestic relations cases, on Friday afternoons, as follows:

Division 1 & 2—First Friday of month,

Division 3 & 4—Second Friday of month,

Division 5 & 6—Third Friday of month,

Division 7—Fourth Friday of month.

Notice of all such settings will be given by publication in the *Wyandotte Echo*, the Court's official paper, and by mailing a copy of the paper to all attorneys properly registered in the case.

Any motion requiring an evidentiary hearing must be specially set by the judge to whom the case is assigned. Motions in criminal cases are assigned for hearing by the Administrative Judge. Arraignments in felony cases are held on Friday of each week at 1:30 p.m. in the Division assigned to criminal matters.

Probate and Juvenile hearings are set specifically by the Judge.

NOTE 12: In addition to the dates indicated, motions and arraignments will be scheduled in Parsons on Monday of each week. All such motions (and arraignments) will normally be set for hearing on the second Monday after filing unless otherwise requested and arranged with the clerk's office.

KEEPING TRACK OF SUPREME COURT RULES

By Paul Purcell

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- I. Purpose and Scope of Article
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- V. Judicial Construction of Supreme Court Rules
- VI. Recommended Procedure for Finding the Current Version of a Supreme Court Rule
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- VIII. Recent Changes to Rules Relating to Civil Appeals and Highlights of the Appellate Process
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I. Purpose and Scope of Article

This article attempts to identify the location of and to facilitate access to the current version of the Supreme Court Rules and to mention some possible pitfalls users of the rules will want to avoid.

The article is concerned with the rules of the Supreme Court relating to (1) the Supreme Court, Court of Appeals and appellate practice; (2) district courts; (3) the admission, discipline and disbarment of attorneys; (4) the state board of examiners of court reporters; (5) claims under the indigent criminal defendants act; and (6) judicial conduct. Neither the Supreme Court's power to amend statutes, in the manner and to the extent authorized by K.S.A. 12-4701, K.S.A. 1977 Supp. 22-4601, or K.S.A. 60-2607, nor the Kansas Court Personnel Rules are within the scope of this article.

II. Source of Rulemaking Power

The Kansas Supreme Court promulgates rules under the authority inherent in the various sections of Article 3 of the Kansas Constitution, under authority expressly granted by statute, or by exercising its inherent powers.

Rule 602, for example, created the Commission on Judicial Qualifications and was promulgated under the authority of the Kansas Constitution, Article 3, section 15, as well as in the exercise of the Supreme Court's inherent powers. Authority to promulgate Rule 8.02, dealing with motions requesting transfers to the Supreme Court of cases pending before the Court of Appeals, is found at K.S.A. 1977 Supp. 20-3017 (L. 1975, ch. 178, section 17): "Such motion shall be made in the manner and form prescribed by rules of the Supreme Court . . ." Rules 401-404, relating

Author's Note: This article is current through November 30, 1978.

to claims under the indigent criminal defendants act, were promulgated pursuant to K.S.A. 1977 Supp. 22-4507 (originally L. 1969, ch. 291, section 7).

III. Rule Changes Subsequent to Volume 220 of the *Kansas Reports*

Court unification, and the commencement of operation of the Court of Appeals on January 10, 1977, necessitated changes to the rules relating to appellate practice and to the district courts. Changes to these rules were adopted by the Supreme Court in July 1976 to become effective January 10, 1977. New rules relating to the admission, discipline and disbarment of attorneys also were approved in 1976, but were to become effective October 1st of that year. These three sets of rules along with the then existing rules relating to the state board of examiners of court reporters, claims under the indigent criminal defendants act, and judicial conduct were printed in volume 220 of the *Kansas Reports*. In addition, some rule amendments adopted on January 4, 1977 and January 26, 1977, prior to the cutoff date for publication of volume 220, were printed in that volume.

With the exception of the wording of Rule 312, the rule number designation for the Code of Professional Responsibility, and some insignificant misprints, volume 220 provided a complete source for Supreme Court Rules until March 15, 1977 when new Rule 142 became effective. To keep the volume 220 version of the rules current, it became necessary on that date to supplement that version with the *Kansas Reports* advance sheet containing new Rule 142. As subsequent changes occurred, similar additional supplementation was necessary.

Following publication of volume 220 and prior to publication of volume 223 of the *Kansas Reports*, 27 changes to the Supreme Court Rules occurred. These changes are identified in the following table:

TABLE 1
Supreme Court Rules amended (A), promulgated (P), or repealed (R)
subsequent to publication of Volume 220 of the *Kansas Reports*

| Rule | Action | Date of Last Order Requiring Action | Effective Date if Different From Date of Order |
|-----------|--------|---|--|
| 2.04 | A | March 6, 1978 | |
| 3.02 | A | March 6, 1978 | |
| 3.03 | A | March 6, 1978 | |
| 3.05 | A | March 6, 1978 | |
| 5.051 | P | Sept. 14, 1978 | |
| 9.01 | A | March 6, 1978 | |
| 101 | A | Nov. 29, 1977 | January 1, 1978 |
| 108 | P | July 15, 1977 | |
| 118(b) | A | Sept. 14, 1978 | |
| 142 | P | Feb. 7, 1977 | March 15, 1977 |
| 143 | P | May 23, 1977 | |
| 144 | P | Dec. 23, 1977 | September 1, 1977 |
| 184 | R | Sept. 14, 1978 | |
| 203(a)(4) | A | May 8, 1978 | July 1, 1978 |
| 204(f) | A | May 8, 1978 | July 1, 1978 |
| 212(f) | A | May 8, 1978 | July 1, 1978 |
| 216(a) | A | May 8, 1978 | July 1, 1978 |
| 225(a) | A | Sept. 14, 1978 | |
| 225(i) | A | May 8, 1978 | July 1, 1978 |

| Rule | Action | Date of Last Order Requiring Action | Effective Date if Different From Date of Order |
|--------|--------|-------------------------------------|--|
| 225(j) | A | May 8, 1978 | July 1, 1978 |
| 227(a) | A | Sept. 14, 1978 | |
| 230(c) | A | May 8, 1978 | July 1, 1978 |
| 305 | A | May 18, 1977 | |
| 602 | A | Dec. 21, 1977 | |
| 605 | A | Dec. 21, 1977 | |
| 625 | A | Dec. 21, 1977 | |

NOTE: Rule number 3, as amended, of the rules of the state board of examiners of court reporters was approved by the Supreme Court May 18, 1977 and incorporated as a part of the rules of the Supreme Court in accordance with Rule 306.

IV. Locating Supreme Court Rules and Some Special Considerations

A. Using the *Kansas Reports* Version

All of the Supreme Court Rules under discussion were reprinted in volume 223 of the *Kansas Reports*. The correct wording for the 22 of the 27 rules listed in Table 1 that had been promulgated or amended prior to the May 31, 1978 publication cutoff date was incorporated in the reprint. A word that had been left out of the volume 220 version of Rule 312 was properly inserted and the item-numbering for the last two items in the Rule 139 form was corrected. The Code of Professional Responsibility, however, was printed as Rule 501 but is in fact Rule 231. See Prefatory Rule (b) of the Rules Relating to the Admission, Discipline and Disbarment of Attorneys.

Because the rules printed in volume 223 are current only through May 31, 1978, several changes after that date were not included in that volume. Rule 5.051 was promulgated, and Rules 118(b), 225(a) and 227(a) were amended after that date. Further, Rule 184, which appears in volume 223, was repealed. These changes will be shown, however, in forthcoming *Kansas Reports* advance sheets.

Assuming that the only changes to the text of the rules as they appeared in volume 220 of the *Kansas Reports* were the corrections and other changes noted, and making adjustments for the five changes subsequent to the May 31 cutoff date, using the volume 223 version of the Supreme Court Rules, as supplemented with those future advance sheets of the *Kansas Reports* that contain rule changes, is probably the best way to be assured of having the current version of a Supreme Court Rule.

Note that current plans call for the reprinting of all the Supreme Court Rules under discussion in volume 224 of the *Kansas Reports*. If this is done, volume 224 should be the source used for Supreme Court Rules (supplemented, of course, with any advance sheets of volumes of the *Kansas Reports* subsequent to volume 224 that contain Supreme Court Rules).

B. Using the Looseleaf Edition

The looseleaf edition of the Supreme Court Rules was published in the latter half of 1976 prior to publication of volume 220 of the *Kansas Reports*. It does not contain any of the changes that were made subsequent to its publication because it has not been supplemented or revised. These changes include the action taken with regard to the 27 rules listed in Table 1 as well as changes to the following Rules: 118(c), 135, 312, 607, 612, 614, 623. The item-numbering correction for the last two items in the Rule 139 form has not been made. Rules 350-366 relating to

official court reporters and electronic tapes and transcripts were not printed in the looseleaf edition, and the Code of Professional Responsibility was printed as Rule 501 instead of as 231 although an entry on page 75 of the looseleaf edition indicates that a rule number change had taken place.

Users of the looseleaf edition of the Rules may want to compare the text of the rule being used with the text of the same rule from the volume 223 version. Non-correspondence of the two would indicate that the user may not have the current version of the rule.

C. Using the *Kansas Statutes Annotated* Version

In accordance with K.S.A. 77-132(f), the revisor of statutes publishes the supreme court rules in the *Kansas Statutes Annotated*. K.S.A. chapter and section numbers have been assigned to the various groups of Supreme Court Rules and the following table shows where, in the *Kansas Statutes Annotated* or its supplement or both, the Supreme Court Rules are located:

TABLE 2
Location of the Supreme Court Rules in the
Kansas Statutes Annotated and Supplement

| S.Ct. Rule | K.S.A. & Supp. |
|--|-------------------|
| 1.09-9.01 (Appellate Courts) | 60-2701a (K.S.A.) |
| 101-183 (District Courts) | 60-2702a (Both) |
| 201-230 (Attorneys) | 7-124a (Supp.) |
| 231 (Code of Professional Responsibility) | 7-125 (K.S.A.) |
| 301-366 (Court Reporters) | 20-915 (Both) |
| (Rules of the State Board of Examiners of Court Reporters) | 20-916 (Both) |
| 401-404 (A.I.D. Claims) | 22-4536 (K.S.A.) |
| 601-629 (Judicial Conduct) | 20-175 (Both) |

The K.S.A. replacement volumes, when newly published, and the annual K.S.A. supplements are published on or about January 1 of the year of publication. This practice leads to the following possible consequences which should be considered before relying on the text of a Supreme Court Rule as it appears in the *Kansas Statutes Annotated*:

1. Supreme Court Rules promulgated or amended after publication of the pertinent K.S.A. replacement volume or annual supplement will not appear in a successor replacement volume or annual supplement until on or about January 1 of the following year, *at the earliest*. Notice that a Supreme Court Rule has been repealed likewise will not appear in a successor K.S.A. replacement volume or annual supplement until on or about January 1 of the following year, *at the earliest*.

2. The text of rules promulgated or amended and notice of rules repealed late in a calendar year prior to publication in the following year of a successor K.S.A. replacement volume or annual supplement probably will not appear in the pertinent replacement volume or annual supplement *for at least one year*. Rules 602, 605, and 625, for example, were amended on December 21, 1977 and Rule 144 was promulgated on December 23, 1977. The amended text of the first three rules and the text of new Rule 144 do not appear in the K.S.A. 1977 Supplement, which was published on or about January 1, 1978, and will not appear in an annual K.S.A. supplement until on or about January 1, 1979.

Users of the K.S.A. version of the rules may want to compare the text of a rule being used with the text of the same rule from the volume 223 version. Non-cor-

respondence of the two would indicate that the user may not be using the current version of the rule.

D. Using the *Kansas Cases* Version

Kansas Cases, West Publishing Company's reprint of Kansas Supreme Court and Court of Appeals opinions reported in the *Pacific Reporter, Second Series*, contains copies of most of the Kansas Supreme Court Rules. The text of Supreme Court Rules promulgated or amended and notice of Supreme Court Rules repealed subsequent to publication of the latest volume of *Kansas Cases* can be found in the advance sheets of the *Pacific Reporter, Second Series* (Kansas Edition).

The difficulty encountered with the *Kansas Cases* version is that the rules are scattered throughout several volumes (13, so far) and two advance sheets, and there is no recent single volume in which all of the rules have been printed. The Code of Professional Responsibility, Rule 231, is not printed at all in any of the permanent volumes, or in any current, supplementing advance sheet. The rules of the Board of Examiners of Court Reporters are incomplete in that all changes made to that set of rules have not been published in *Kansas Cases*. Moreover, accidental but premature discard of an advance sheet containing a copy of a rule would result in possession of less than a complete set of rules. Thus, to the problem of locating the current version of a particular rule, there is added the problem of locating the rule itself. The following table shows where in the *Kansas Cases* the various rules are located:

TABLE 3
Location of Supreme Court Rules in *Kansas Cases*

| Rules (Basic Set) | Location (<i>Kansas Cases</i> Volume) |
|---|--|
| 1.01-9.01 | 552-556 P.2d |
| 101-183 | 552-556 P.2d |
| 201-230 | 552-556 P.2d |
| 231 (Code of Professional Responsibility) | None |
| 301-315 | 444-450 P.2d |
| 350-360 | 552-556 P.2d |
| 401-404 | 455-460 P.2d |
| 601-629 | 516-518 P.2d |
| (Changes to Basic Set) | (<i>Kansas Cases</i> Volume or P.2d Advance Sheet) |
| 2.04 | 574-576 P.2d |
| 3.02 | 574-576 P.2d |
| 3.03 | 574-576 P.2d |
| 3.05 | 574-576 P.2d |
| 5.051 | 10/13/78 a.s. |
| 9.01 | 574-576 P.2d |
| 101 | 568-573 P.2d |
| 108 | 564-567 P.2d |
| 118(b) | 10/13/78 a.s. |
| 118(c) | 557-561 P.2d |
| 142 | 557-561 P.2d |
| 143 | 564-567 P.2d |
| 144 | 568-573 P.2d |

(Changes to Basic Set)

(Kansas Cases Volume or P.2d
Advance Sheet)

| | |
|---------------------|---------------|
| 184 | 10/13/78 a.s. |
| 203(a)(4) | 6/23/78 a.s. |
| 204(f) | 6/23/78 a.s. |
| 212(f) | 6/23/78 a.s. |
| 216(a) | 6/23/78 a.s. |
| 225(a) | 10/13/78 a.s. |
| 225(i) | 6/23/78 a.s. |
| 225(j) | 6/23/78 a.s. |
| 227(a) | 10/13/78 a.s. |
| 230(c) | 6/23/78 a.s. |
| 305 | 564-567 P.2d |
| 307 | 519-521 P.2d |
| 308(a) | 471-477 P.2d |
| 309 | 471-477 P.2d |
| 312 | 557-561 P.2d |
| 315 | 511-515 P.2d |
| 601 Canon 6, Rule A | 524-528 P.2d |
| 602 | 568-573 P.2d |
| 605 | 568-573 P.2d |
| 607 | 557-561 P.2d |
| 612I | 557-561 P.2d |
| 612II | 552-556 P.2d |
| 614 | 557-561 P.2d |
| 615 | 533-536 P.2d |
| 621 | 533-536 P.2d |
| 622 | 533-536 P.2d |
| 623 | 533-536 P.2d |
| 623(e) | 557-561 P.2d |
| 624 | 533-536 P.2d |
| 625 | 568-573 P.2d |

Users of the *Kansas Cases* version of the rules will want to compare the text of the rule being used with the text of the same rule from the volume 223 version to determine whether the correct version is being used.

E. Finding the "Newly Promulgated or Amended But-Not-Yet-Published" Rule

If the Supreme Court promulgates, amends, or repeals a rule and makes the effective date of the action the date of publication in the *Kansas Reports*, *i.e.*, the advance sheets, usually no major difficulty in obtaining the text of the new or amended rule or in discovering the repeal of a rule will be encountered. By the time publication in the advance sheet occurs, the Kansas Bar Association probably will have published the text of the rule or a notice of the rule's repeal in its monthly newsletter, or judges and attorneys will have learned of the action in some other way.

If, however, the effective date of the action is prior to publication in the *Kansas Reports*, it may be difficult, prior to publication, for attorneys not only to acquire the text of a newly promulgated or amended rule but also to know that any such action has occurred. The office of the clerk of appellate courts and probably the Supreme Court Law Library could provide information to an attorney who had

become aware of a possible change to a specific rule and, of course, the new or amended rules or notice of a rule's repeal probably will be published without delay in the next Kansas Bar Association newsletter and in one of the forthcoming weekly advance sheets of the *Pacific Reporter, Second Series* (Kansas Edition).

V. Judicial Construction of Supreme Court Rules

Not all Supreme Court Rules escape judicial interpretation. Once the current version of a Supreme Court Rule is obtained, the next questions are whether the rule has been judicially construed and, if so, what practical consequences flow from the construction.

The most generally available method of finding the latest decisions construing Supreme Court Rules probably is as follows:

A. Check the "Rules of Supreme Court" and "Code of Professional Responsibility" entries under the "Kansas" listing in the table of "Cumulative Statutes Construed" or "Statutes Construed" or both, as appropriate, in the advance sheets of the *Pacific Reporter, Second Series* (Kansas Edition) back to the last volume and page of that reporter covered by the advance sheet edition or, if none, the cumulative supplement of *Shepard's Kansas Citations*. The last volume and page of the *Pacific Reporter, Second Series* covered can be found at the beginning of the advance sheet edition or cumulative supplement to *Shepard's Kansas Citations* under the "THIS ISSUE INCLUDES CITATIONS IN" entry.

B. Then, check for citations of the latest decisions in the "Kansas Court Rules" entry of the advance sheet edition, or cumulative supplement, or both, as appropriate, of *Shepard's Kansas Citations*.

VI. Recommended Procedure for Finding the Current Version of a Supreme Court Rule

Because of the ease of the procedure and the probability of obtaining the correct version of any Supreme Court Rule it is recommended that only the volume 223 version of the Supreme Court Rules, as supplemented by the rules printed in subsequent *Kansas Reports* advance sheets, be used. If volume 224 or subsequent volumes of the *Kansas Reports* reprint the rules, the most recent *Kansas Reports* version should be used.

To find rules not yet published in the advance sheets of the *Kansas Reports* consult the monthly bar association newsletter and the weekly advance sheets of the *Pacific Reporter, Second Series* (Kansas Edition) but discontinue use of these versions when the rule appears in a *Kansas Reports* advance sheet. After that, use the text of the rule as published in the *Kansas Reports* advance sheet.

After finding the rule, always check to see if the rule has been judicially construed and make adjustments required by any such construction.

VII. Possible Future Changes to Supreme Court Rules

Four subjects which soon may be the object of the Supreme Court's rulemaking power are lawyer advertising, legal specialization by attorneys, compulsory continuing legal education for attorneys, and photography in the courtroom.

Rules relating to lawyer advertising would probably be amended into the disciplinary rules of Canon 2 of the Code of Professional Responsibility (Rule 231) while rules relating to photography in the courtroom would probably be amended into Rule A(7) of Canon 3 of the Code of Judicial Conduct (Rule 601). Rules relating to the other two subjects would probably be adopted as a part of the Rules Relating to the Admission, Discipline and Disbarment of Attorneys (Rule 201 *et seq.*).

VIII. Recent Changes in Rules Relating to Civil Appeals and Highlights of the Appellate Process

Rules 2.04, 3.02, 3.03, and 3.05 of the Rules Relating to the Supreme Court, Court of Appeals, and Appellate Practice were amended on March 6, 1978. Rule 5.051 was newly promulgated on September 14, 1978. These five rules are the only rules involving appellate practice that have been amended or promulgated after January 10, 1977 and none of the appellate practice rules that became effective on or after that date have been repealed. Rule 9.01 also was amended on March 6, 1978 but the amendment is not summarized here because its subject is original actions rather than appeals.

The changes in appellate practice effected by the five rule changes just noted are as follows:

A. *Rule 2.04*: (1) An appellant or cross-appellant now has 10 days after filing the notice of appeal, rather than 3, in which to forward a certified copy of the notice of appeal, and the final order or decision appealed from to the clerk of appellate courts.

(2) That portion of the rule relating to payment of a docket fee by the State of Kansas or by cities and counties in the state was amended to correspond with K.S.A. 60-2005.

B. *Rule 3.02*: Originally, the clerk of the district court was charged with the duty of including in the record on appeal "all documentary exhibits which were offered or admitted into evidence and which are capable of being put into volumes." The amendment requires documentary exhibits to be included only upon the duly served written request of one of the parties. If a documentary exhibit was offered or admitted into evidence and is in the custody of the court reporter, a copy of the request would have to be served on the reporter before the reporter would be required to deliver the exhibit to the clerk for inclusion in the prepared record.

C. *Rule 3.03*: (1) The transcript ordered by the appellant will not include the jury voir dire, the opening statements, or the closing arguments, unless the order so specifies. Within 10 days after service of appellant's order, the appellee may order a transcript of the voir dire, the opening statements, and the closing arguments if the appellant did not order them but the appellee will be responsible for the cost of the additional transcript including advance payment in the same manner the appellant is responsible for the main transcript.

(2) The court reporter now has 10 days after receipt of an order for a transcript, rather than 3, in which to serve on the party ordering the transcript a written estimate of the amount of and a demand for an advance payment.

D. *Rule 3.05*: If an appeal is to be on an agreed statement, the statement as approved by the judge of the district court must be filed with the clerk of the district court within 20 days after the notice of appeal is filed.

E. *Rule 5.051*: Not at all unlike the procedure found in old Rule 6(p), the district court is required to dismiss an appeal if the appellant fails to docket the appeal with the clerk of the appellate courts in accordance with Rule 2.04. The appeal *may* be reinstated by the appellate court upon a showing of good cause and an application by the appellant within 30 days after the district court has entered the order of dismissal. A docket fee is required.

The highlights of appellate procedure for civil actions are now as follows:

| Step | Deadline |
|---|--|
| 1. <i>Notice of Appeal</i> filed in district court, and served. | 1. See K.S.A. 60-2103(a), 61-2102(a), 61-2709(b); Rules 2.01, 2.02, 2.03. See also K.S.A. 60-205(a). |
| 2. Appellant takes appropriate action to obtain <i>stay</i> . | 2. See K.S.A. 60-262, 60-2103; 61-2104 <i>et seq.</i> |
| 3. <i>Appellant forwards</i> to clerk of appellate courts certified <i>copies</i> of the notice of appeal and of the final order or decision appealed from. Docket <i>fee</i> (\$35.00) paid unless excused. | 3. Within 10 days after filing notice of appeal. See Rule 2.04. <i>Caveat</i> : See Rule 5.051. |
| 4. (a) Clerk of district court compiles <i>Record on Appeal</i> to the extent possible. <i>Appellant orders complete transcript</i> unless otherwise stipulated. | 4. (a) Within 10 days after filing notice of appeal. See Rules 3.02 and 3.03. |
| NOTE: A copy of the transcript order and any stipulation for less than a complete transcript must be filed <i>promptly</i> with the clerk of the appellate courts. | |
| (b) If official transcript is unavailable, <i>statement of evidence or proceedings</i> to be served on adverse parties. | (b) Within 10 days after filing notice of appeal. See Rule 3.04. |
| 5. Adverse parties may serve <i>objections</i> or propose <i>amendments</i> to statement of evidence or proceedings. | 5. Within 10 days after service of statement. See Rule 3.04. |
| 6. (a) <i>Notice of cross-appeal</i> filed in district court, and served. | 6. (a) Within 20 days after the notice of appeal has been served on appellee and filed with the clerk of district court. See K.S.A. 60-2103 (h). |
| (b) <i>Cross-appellant forwards</i> to clerk of appellate courts certified <i>copies</i> of the final order or decision appealed from. No docket fee required. | (b) Within 10 days after filing notice of cross-appeal. See Rules 2.04, 2.05. <i>Caveat</i> : See Rule 5.051. |
| 7. <i>Appellee</i> may order <i>transcript</i> of voir dire, opening statements, or closing arguments if appellant did not order them. | 7. Within 10 days after service of appellant's order for transcript. See Rule 3.03. |
| 8. To obtain from appellant/appellee <i>advance payment</i> of estimated cost of <i>transcript</i> , court reporter must serve appellant/appellee with a written estimate of the amount of the estimated cost and a demand for its payment. | 8. Within 10 days after the receipt of the order for the transcript. See Rule 3.03. |

| <i>Step</i> | <i>Deadline</i> |
|--|---|
| 9. Appellant makes advance <i>payment</i> , if demanded by court reporter, or appellate court may <i>dismiss</i> appeal. | 9. Within 10 days after service on appellant of demand for advance payment. See Rule 3.03. |
| 10. <i>Agreed statement</i> filed with clerk of district court, if appeal to be on agreed statement. | 10. Within 20 days after filing notice of appeal. See Rule 3.05. |
| 11. Any party in an appeal pending before the court of appeals may file a <i>motion</i> , in accordance with K.S.A. 20-3017, with the clerk of the appellate courts <i>requesting transfer</i> from the court of appeals to the supreme court for review and final determination. A party's failure to file such a motion is a waiver of all objections that party may have to the jurisdiction of the court of appeals. | 11. Within 20 days after service of the notice of appeal. See Rule 8.02; K.S.A. 20-3017. |
| 12. Court <i>reporter completes</i> ordered transcript, files it with clerk of district court, and certifies filing to the clerk of the appellate courts and to all parties. | 12. Within 40 days after service on the court reporter of the order for transcript, unless the court reporter is granted an extension of time by the clerk of the appellate courts. See Rules 3.03, 5.02. |
| 13. Appellant's brief served on opposing counsel and filed with clerk of appellate courts. | 13. Within 40 days after filing notice of appeal <i>or</i> , if transcript was ordered, within 30 days after service of the certificate of filing of the transcript <i>or</i> , if statement of proceedings (Rule 3.04) or the agreed statement (Rule 3.05) is included in the record on appeal, within 30 days after filing either such statement with the clerk of the district court. See Rule 6.01. |
| 14. Any party may suggest in writing a place for the hearing by the court of appeals, or may suggest the appropriateness of a hearing <i>en banc</i> , or both. | 14. Not later than the time for filing appellee's brief. See Rule 7.02. |
| 15. <i>Appellee's brief</i> (also Cross-Appellant's brief, if any) served and filed. | 15. Within 30 days after service of appellant's brief. See Rule 6.01. |
| 16. <i>Cross-Appellee's brief</i> served and filed. | 16. Within 20 days after service of cross-appellant's brief. See Rule 6.01. |
| 17. <i>Reply Brief</i> served and filed. | 17. Within 15 days after service of any brief to which the reply is made. See Rule 6.01. |

*Step**Deadline*

- | | |
|---|--|
| <p>18. <i>Additions to the record</i> on appeal may be made by any party by written request to the clerk of the district court.</p> <p>19. The clerk of the district court <i>forwards the record</i> on appeal to the clerk of the appellate courts.</p> <p>20. The clerk of the appellate courts <i>notifies</i> parties about the time and place of the <i>hearing</i>.</p> <p>21. Oral arguments.</p> <p>22. (a) Any party to a court of appeals decision may move for a <i>rehearing</i>, or <i>modification</i>, or may suggest a <i>rehearing en banc</i>. (b) Any party to a supreme court decision may move for a <i>rehearing</i>, or <i>modification</i>.</p> <p>23. (a) Any party to a court of appeals decision may <i>petition</i> the supreme court <i>for review</i> of the decision. (b) Any party may file <i>supplemental brief</i>. (c) Any opposing party may respond to a supplemental brief.</p> | <p>18. At any time prior to the transmission of the prepared record to the clerk of the appellate courts. See Rule 3.02. The prepared record is transmitted after the request of the clerk of appellate courts. Such request is made upon the expiration of time permitted by Rule 6.01 for the filing of briefs or upon the expiration of any such time as extended. See Rule 3.07.</p> <p>19. Within 5 days after the request from the clerk of the appellate courts to the clerk of the district court. See Rule 3.07.</p> <p>20. Not less than 30 days before the sitting of the court in which the cause is assigned for hearing. See Rules 7.01(d) and 7.02(d).</p> <p>21. Except as modified by the Supreme Court, presence at the call of the daily docket, for argument before supreme court. See Rule 7.01(d). Brief must be on file. See Rules 7.01(e) and 7.02(e).</p> <p>22. (a) Within 10 days of the decision by the court of appeals. See Rules 7.05, 7.02. (b) Within 20 days of the date of the decision. See Rule 7.06.</p> <p>23. (a) Within 30 days after the original decision of the court of appeals, see Rules 8.03 and 7.05, unless court of appeals grants rehearing. (b) Within 30 days after order granting review. See Rule 8.03. (c) Within 30 days after brief is served. See Rule 8.03.</p> |
|---|--|

NOTE: The word "thereafter" in Rule 8.03(b) could be interpreted to refer to the filing, or service, of the supplemental brief, or to the expiration of the 30 day period for filing the supplemental brief. To establish consistency with the procedure required by Rule 6.01(b), (c), and (d), it is suggested that the deadline is "within 30 days after *service* of the other party's supplemental brief."

| <i>Step</i> | <i>Deadline</i> |
|--|---|
| (d) Oral argument. | (d) As directed. |
| (e) Any party to the decision on review may move for a <i>rehearing</i> , or <i>modification</i> . | (e) Within 20 days of the date of the decision. See Rule 7.06. |
| 24. An aggrieved party may move for an assessment of <i>costs</i> of an unnecessary transcript. | 24. Not later than 10 days after an assessment of costs. See Rule 7.07. |

IX. STATUTES CITED BY SUPREME COURT RULES

| <i>Cited Statute, etc.</i> | <i>Citing Rule</i> |
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| Ks. Const., Art. 3, § 13 | 601: Canon 5 Committee Note |
| Ks. Const., Art. 3, § 15 | 602, 605 |
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| L. 1976, ch. 146, § 33 (K.S.A. 20-345, <i>but see</i> L. 1978, ch. 108, § 7) | 351 |
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| 22-2804(2) | 5.06 |
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| 60-2106 | 7.04 |
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| Canon 6C | 601 Canon 5: Rule C(4)(c), "Compli- ance with the Code of Judicial Con- duct" |
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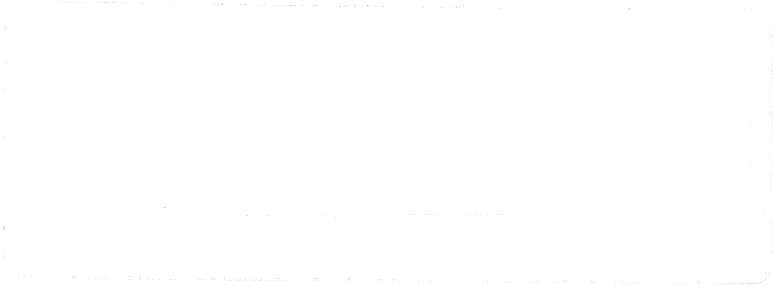
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