

Family Law Local Court Rules
18th Judicial District
Effective October 5, 2020

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**RULE 400
DEFINITIONS**

As used in these rules, the following definitions will apply:

- a. “Assigned Family Law Judge” is the judge from the family law department in charge of hearing all matters and scheduling in a particular case.
- b. “Family Law Judge” refers to all judges in the Family Law Department.
- c. “Presiding Family Law Judge” is the judge in the Family Law Department who is assigned the administrative duties of the department and who will make the final decision in any controversy regarding which judge is assigned to a case or hearing.
- d. “TRIAL” refers to the formal due process presentation of evidence in a court hearing. “TRIAL” and what was formerly known as “EVIDENTIARY HEARING” are synonymous.
- e. “Division Email” refers to the individual email address assigned to each Judge that is in the format “div##@dc18.org.”

**RULE 401
SCOPE OF FAMILY LAW DEPARTMENT & AUTHORITY OF PRESIDING JUDGE**

- a. Family Law cases shall be assigned to the Family Law Department. These shall include everything filed in K.S.A. chapter 23.
- b. Each Family Law case shall be individually assigned to an Assigned Family Law judge.
 - 1. For every new case that is filed, the Clerk of the Court will use a random process to assign that case to the Assigned Family Law judge.
 - 2. For every existing case,
 - A. If a Family Law judge leaves the department, the replacement Family Law judge will take over all of the former Family Law judge’s cases.
 - B. If multiple Family Law judges simultaneously leave the department, each replacement Family Law judge will each take over all of the cases formerly assigned to one particular division. The replacement judges will decide which division to take over by seniority.
 - C. If the number of Family Law judges changes, the Presiding Family Law judge will direct the Clerk to administratively reassign existing cases so that the total workload is distributed appropriately between the Family Law judges.
 - D. The Presiding Family Law Judge or any Assigned Family Law Judge may assign a particular matter of a particular case to a substitute District Judge, from any department, due to temporary workload issues or for any other reason. Once the matter heard by the substitute District Judge has concluded, the remainder of the case will be returned to the Family Law department.
- c. If a judge leaves the Family Law department, that judge may, consistent with Local Rule 109, continue to preside over any matters, already pending, in which the judge has previously presided over substantive hearings. Once those specific matters are concluded, the remainder of the case will be returned to the Family Law Department and assigned to the replacement judge that took over the departing judge’s docket.

- d. All procedural requests such as requests to short file or to continue motions or trials shall be heard only by the assigned Family Law judge, unless that judge is unavailable. If the assigned case judge is unavailable for these inquiries, any Family Law judge may consider the request.
 - e. The Presiding Family Law judge shall administrate the distribution of cases. At any time, on their own motion or upon request of a party, any Family Law judges may reassign cases among themselves. In the event of a dispute, the Presiding Family Law judge will have the final decision regarding which Family Law judge will be assigned to a particular case.
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RULE 402
TEMPORARY ORDERS FILED WITH PETITION

- a. In all divorce, annulment and separate maintenance cases, a Temporary Order may be issued pursuant to this section and K.S.A. 23-2707. If a party requests a temporary order, the order should be presented to a judge in the Family Law Department, or any other District Judge. Judges will be available to sign such orders each day that the Court is in session.
 - 1. If the party seeking the temporary order seeks an in-person signature, such order must be presented before the action is filed. Runners may obtain a judge's signature on temporary orders
 - 2. If the action is e-filed, the temporary order may be e-filed simultaneously with the rest of the action.
 - A. For purposes of determining which party is first in time to file, a case is deemed to be filed on the date and time that the clerk accepts the action for filing and assigns a case number, regardless of when a judge approves the temporary order.
 - B. If a temporary order is rejected by a judge, the filing party will have 5 (five) business days to correct the temporary order and submit for refiling without losing that party's date and time of filing.
 - C. Any disputes regarding time of filing will be resolved by the Presiding Family Law judge.
- b. For all Temporary Orders that order support payments,
 - 1. Temporary Support payments must be stated in monthly amounts, although the order may also provide that the monthly payments may be paid in more frequent installments.
 - 2. All *ex parte* temporary child support orders must be based on the Basic Parental Child Support obligations pursuant to the Kansas Child Support Guidelines, without any Section E adjustments other than income tax considerations. No temporary child support orders that are issued *ex parte* may use the Shared Expense Plan, as that plan requires agreement between the parties. The EPT formula may be used in shared residency arrangements.
- c. If there are deviations in temporary orders from the requirements listed in subsection f below, such deviations must be brought to the attention of the Court for the Court to specifically approve.

1. For deviated temporary orders presented for an in-person signature, the deviations must be specifically approved prior to filing.
2. For e-filed deviated temporary orders, the filing party is responsible for noting the deviations in the document AND communicating the deviation to the judge.
 - A. Any deviated provisions shall be conspicuously marked in the document by highlights, arrows, initial line, or other marking.
 - B. The filing party shall communicate by making a note in the “Note from Filer” section on the e-file screen, AND by contemporaneously sending an email to the assigned judge notifying the judge of the deviated provision.
 - C. The judge can approve the deviated provisions by using a Signature Page Note, or by responding to the attorney’s email that the deviated provisions are approved.
- d. Any temporary order sought under this rule which requires either party to leave the marital residence must be accompanied by a Rule 402 Affidavit stating the following:
 1. whether either party has left the marital residence;
 2. whether alternative housing is available for both parties;
 3. the financial ability of the parties to obtain alternative housing;
 4. the health conditions of both parties and how it affects their future housing needs.
 5. All temporary orders requiring one party to move out of a shared residence shall provide that the move occur forty-eight (48) hours after service upon the Respondent, unless exceptional circumstances are outlined in a sworn affidavit by the Petitioner and an exception is granted at filing by a judge.
- e. Any temporary order sought under this rule which provides for the temporary legal custody of any minor child must be accompanied by an affidavit stating the following:
 1. any special circumstance, stated with specificity, which would make temporary sole legal custody rather than temporary joint legal custody appropriate;
 2. which parent presently has physical custody of the child;
 3. The *de facto* parenting plan that is in effect currently, and for how long;
 4. whether either party has left the marital residence, and if so, with or without the child;
 5. description of each parent’s employment (full-time, part-time, or stay at home, and hours);
 6. whether the child has special needs for which one parent has been providing.
 7. In a divorce case, a temporary parenting plan cannot change the *de facto* residency of the child(ren) without sworn testimony to support a showing of extraordinary circumstances.
 8. In a paternity case, The Parentage Act under K.S.A. 23-2201 et. seq., does not authorize *ex parte* temporary orders regarding child support, custody or restraint. Any request for same shall be made by separate motion.
- f. Temporary orders shall be consistent with this rule, modified to fit the facts of each particular case. A sample, approved form is the *pro se* Temporary Order form found on the www.dc18.org website. Written or electronic copies can be obtained from the ADR coordinator. Sections clearly inapplicable should be omitted. If a party files an *ex parte* Temporary Order, the following provisions are required unless prior special approval is obtained by the Assigned Family Law Judge, or any judge if the Assigned Family Law Judge is not available.

1. Legal Custody along with necessary affidavits if required by statute;
2. Residency and parenting plan;
3. A prohibition against leaving the state with a child that conforms to statute or the following language:
“Removal of the child(ren) from this State without permission of the Court is prohibited unless otherwise agreed in writing by both parents in advance.”
4. This standard co-parenting order, which must appear in either the Temporary Order or the Temporary Parenting Plan:

“Joint Legal Custody means that both parents have equal rights and responsibilities regarding their child(ren) and that neither parent’s rights are superior to the other parent’s. Each parent is required to communicate **before** making decisions affecting education, selection of schooling, religious training, health care, vaccinations, illnesses/operations, non-routine dental or orthodontic care, welfare, selection of regular caretakers, extra-curricular activities and teams, prolonged absence from the residence, first or non-routine haircuts/hair care, body piercings or tattoos and other important matters affecting the minor child(ren). **The discussion between the parents MUST take place before these matters are discussed with the child.**

If the decision is of an emergency nature, then the party having the actual physical custody may make the decision and inform the other parent of the situation and the decision as soon as is reasonably possible. The permission of both parents shall not be necessary in the event of an emergency and this paragraph shall operate as consent by both parties to such procedures as are necessary.

Parental Charge: At **ALL** times, the parents shall communicate respectfully with one another. **NEITHER** parent shall make any derogatory statements about the other parent or to the other parent in any manner where the child(ren) could observe. No parent shall attempt to influence the child(ren) against the other parent.

The parties shall avoid discussing all parts of this court case with the minor child(ren), including child support, property division, and residency, and shall instruct the same of their family members and significant others.

Notice of Address and Phone Numbers. Both parties shall keep one another informed of the current address and phone number where the child will be residing while in their care, as well as the current address and telephone number of their child care providers.

Child’s Records. Each parent shall be entitled to receive complete information related to the minor child(ren)’s school and medical records. This paragraph shall operate as consent by the parties and Order by the Court to the furnishing of such information, by all people in possession of these records, upon the oral or written request of either parent. Both parents should be added to the disclosure list for all future requests.

5. Child support accompanied by a child support worksheet that conforms with the Kansas Child Support Guidelines and these rules;
6. A designation about who will provide health insurance coverage for the child(ren);

7. Spousal maintenance, or a declination of the same;
 8. A KPC Order;
 9. A residence order, which shall allow 48 hours for the vacating party to move unless prior permission for a different time period is obtained by the court;
 10. Temporary division of property and debts;
 11. This restraint provision:

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

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

“In event of a reconciliation of the parties before trial, the filing party shall promptly notify his or her attorney, or if petitioner does not have an attorney, shall promptly prepare and present to this Court a Journal Entry of Dismissal.”
 13. This enforcement provision:

“Nothing in this Temporary Order shall be construed as a final decision concerning the property or rights of either party. The ultimate decision relating to all such matters will be made at the time of trial. This Temporary Order shall remain in effect until modified by the Court.

“DISOBEDIENCE OF THIS ORDER OF THE COURT IS PUNISHABLE AS INDIRECT CONTEMPT OF COURT AND MAY BE PUNISHED BY CONFINEMENT IN JAIL.

“Any duly authorized law enforcement officer of the State of Kansas is directed to use reasonable and necessary means to enforce the provisions of this Temporary Order.”
 14. Parent Education provision;
 15. Hearing provision, which notifies the other party of a right to a hearing to modify the temporary orders and complies with the Family Law Department’s docket and scheduling requirements; and
 16. Notice of Intent to Appear form, substantially similar to the *pro se* form maintained on the www.dc18.org website.
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RULE 403
SUPPORT ORDERS: AFFIDAVITS & WORKSHEETS

- a. Any temporary support order or responsive pleading shall be accompanied by as all documents required by Kansas Supreme Court Rule 139. If there are minor children of the marriage, the order must also include the information required by UCCJEA 209, K.S.A. 23-37,209, or be accompanied by an affidavit containing that information, as well as a completed child support worksheet, and a temporary parenting plan.
- b. Pursuant to Kansas Supreme Court Rule 123, the DRA required by this rule should not include the parties' social security numbers, dates of birth or complete financial account numbers.

RULE 404
SUPPORT ORDERS: KANSAS PAYMENT CENTER

Any new or modified final order for support shall comply with K.S.A. 23-3103, and shall be accompanied by a child support worksheet, where applicable. The following language shall be placed in all such orders: *"All payments for support shall be delivered to: Kansas Payment Center, P.O. Box 758599, Topeka, KS, 66675 8599. It shall be the responsibility of the payor and payee to so inform the Kansas Payment Center of their current address at all times."*

RULE 405
ISSUANCE OF SUMMONS

A summons shall be issued in a divorce, annulment or separate maintenance case unless approval to the contrary has been obtained from a judge of the Family Law Department.

RULE 406
MOTIONS GENERALLY

- a. **Court Trustee**: Motions to stay income withholding orders issued by the Court Trustee shall be heard by the Hearing Officer or District Judge on the docket attended by the Court Trustee assigned to the particular case.
- b. **Self-Represented Litigants**: All motions filed in cases where both parties are self-represented shall be heard on Mondays at 9:30 a.m. by the assigned Family Law judge.
- c. **Represented Litigants**: All other motions in Family Law cases shall be heard on Mondays at 1:30 p.m., or Tuesdays at 9:30 a.m. or 1:30 p.m., by the assigned Family Law judge.
- d. **Notice requirements**: All motions shall be noticed for hearing in the courtroom of the Assigned Family Law Judge, Sedgwick County Courthouse, 525 N. Main, Wichita, Kansas. The moving party shall be responsible for providing notice of the time and date of the hearing to the non-moving party, and the motion shall include a certificate of service. The moving party may select any hearing date on the appropriate docket, without advance

permission from the Assigned Family Law Judge. The Court Trustee or the Department of Children and Families (hereinafter referred to as “DCF”) shall be given notice of all motions to modify child support in cases which they have entered appearances. All motions shall be served seven (7) days in advance of the hearing according to the time requirements of K.S.A. 60-206, unless the assigned Family Law judge, or another Family Law judge if the assigned judge is not available, approves an expedited (“Short Filed”) hearing.

- e. **Motions to modify temporary orders; documents required:** If a party files a Motion to Modify a Temporary Order, or a "Notice of Intent to Appear" to seek such a modification, or a Response to such a Motion or Notice
 1. The Motion, Notice, or Response must be accompanied all documents required by Supreme Court Rule 139 and K.S.A. § 23-2707 & 23-3212.
 2. A Motion to Modify Temporary Orders, or its functional equivalent, filed within 60 days of service, will be considered by the assigned Family Law judge *de novo*, on the merits, without any deference given to the contents of the Temporary Orders. If the support or maintenance amounts are modified at the hearing, the judge may make those amounts retroactive to the time of the filing of the Petition.
 3. If a motion seeking to modify a temporary custody or residency order is filed more than sixty (60) days after the temporary order was served, there shall be a presumption that the dispute pertaining to child custody, residency or parenting time, and any post-judgment disputes, shall be ordered into ADR unless leave of the Court has been obtained.

- f. **Duty to confer and exchange documents.** Any party who files a motion has a duty to attempt to confer with the other party prior to any hearing by the Court. Any documents that are going to be presented as exhibits to the Court must be exchanged by 5:00 p.m. Thursday before a Monday hearing or Friday before a Tuesday hearing. If one of the exchange days falls on a court holiday, the exchange must occur the day prior. Documents not so exchanged may not be presented to the Court at the hearing, and their contents may not be recited to the court, if the other party objects to their use. Documents containing hearsay evidence may be considered by the court at a motion hearing, but the court may weigh the evidence in whatever manner the court sees fit. The pleadings in the Court file can be viewed by the Court at any time.

- g. **Paystubs / Income Verification:** Documentation shall be produced to the other side upon request, at least two Court days before a hearing involving child support or spousal maintenance.

- h. **Domestic Conciliation Reports and Recommendations:** These reports contain personal information and shall NOT be attached to any pleadings (including Motions), except, the recommendation portion only may be attached to an Order or Journal Entry adopting it. The factual findings may be adopted by the court with agreement of the parties or following trial.

- i. **Motions to Withdraw:** An attorney wishing to withdraw from a family law case must inform the court, in the motion to withdraw, if the attorney has been assigned to complete a journal entry or other court document that is not yet complete.

1. The judge may deny the motion to withdraw if there is a journal entry or other court document previously assigned to the attorney that is not yet complete.
 2. In the event that an attorney has withdrawn from the case but has not completed a journal entry or other court document that was previously assigned, the judge may reappoint that attorney to the case to complete the journal entry or court document.
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RULE 407
MOTIONS TO CHANGE CUSTODY / RESIDENCY

- a. **Sworn testimony and specificity required.** A motion to change custody, residency or parenting time, including any proposed change either to or from shared residency, must be accompanied by a proposed parenting plan, as required by K.S.A. 23-2707(d). In addition to complying with the provisions of K.S.A. 23-3219(a), any affidavit or verified motion must specifically state all of the reasons which support the requested change. Failure to provide sworn testimony when required, and with the requisite specificity, will result in the motion being denied.
 - b. **Allegations in motion will be taken as true.** The factual allegations contained in the affidavit or verified motion will be construed in a light most favorable to the moving party when the Court is considering whether to grant a trial. The Court will decide whether those allegations, if true, constitute a prima facie showing, thus entitling the movant to a trial. The Court shall base its decision solely on the information contained in the affidavit or verified motion. If a trial takes place, and the trial judge finds that the facts contained in the affidavit or verified motion were untrue or willfully misleading, the trial judge may impose such sanctions as justice and equity may require.
 - c. **Scope of the trial on custody / residency.** At the trial, parties are limited to presenting evidence on any allegations contained in the Pre-Trial Conference order. At the trial, the trial judge can be advised of all relevant facts, but the parties shall not be allowed to re-litigate facts that were or could have been formerly adjudicated at the prior hearing.
 - d. **Emergency (ex parte) motions to change custody / residency.** An emergency or ex parte motion to change custody must comply with the provisions of K.S.A. 23-2707, 23-3218, and 23-3219, including notice provisions. Any judge considering an *ex parte* emergency order may require sworn, live testimony. At the review hearing per K.S.A. § 23-3219(b)(2) the Court shall consider the matter de novo, and the movant shall have the burden of proof. If the Court finds that factual allegations that were presented to the Court, and which resulted in the ex parte order being entered, were untrue or willfully misleading, the Court may impose such sanctions as justice and equity may require.
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RULE 408
PROTECTION FROM ABUSE / STALKING-SEXUAL ABUSE ORDERS

- a. Parties filing a Protection from Abuse or a Protection from Stalking or Sexual Abuse petition are required to disclose the existence of any existing Family Law order, pertaining to the parties, which is already in effect. Parties filing a Family Law case are required to disclose any existing PFA or PFSSA order, pertaining to the parties, which is already in effect.
 - b. If a temporary order is granted/entered in a PFA or PFSSA case which changes an existing Family Law order, the assigned Family Law Judge may assign the matter to the Family Law Department, on the assigned Family Law Judge's own docket.
 - c. Family law cases shall not be consolidated with PFA or PFSSA cases. However, factual findings in a PFA or PFSSA case may be adopted by the Family Law Judge for use in a family law case.
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**RULE 409
DISCOVERY CONFERENCES**

- a. Discovery conferences are not required for each case, but can be set upon request of either party or the Court.
 - b. Notwithstanding the above, if the parties wish to hold a discovery conference, they may schedule it with the assigned Family Law Judge, or the judge's designee, at a date and time approved by the Assigned Family Law judge.
 - c. If the parties wish to set interim dates, such as discovery deadlines or expert disclosure deadlines, they may do so in an agreed order without the filing of a motion. If one or both of the parties wish to set interim dates, but the parties cannot agree on what those dates should be, either party may file a motion on the regular motion docket and ask the Court to set such dates.
 - d. Any order, agreed to or otherwise, which sets deadlines must be e-filed or hand-delivered to the judge's aide.
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**RULE 410
CHILD CUSTODY INVESTIGATION REPORTS**

- a. The CCI reports will be made available for viewing per K.S.A. § 23-3210(c).
- b. The CCI reports will be kept and managed pursuant to policy set by the Presiding Family Law Judge.
- c. Upon request, the Assigned Family Law Judge may permit more access than is contemplated by statute, including allowing the parties to photocopy the report or parts thereof, or to view the exhibits.

- d. All new referrals to Family Court Services must be sent to the ADR coordinator immediately after an order initiating the CCI is issued.
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**RULE 411
PRE-TRIAL CONFERENCES**

- a. After a case or post-judgment motion has been on file for eighty (80) days, if a Pre-Trial Conference has not been scheduled, a Pre-Trial Conference may be set within the next sixty (60) days by the Court.
- b. No case shall proceed to trial without a Pre-Trial Conference being held, and a Pre-trial Conference Order being filed. These conferences shall be held Mondays at 8:45 a.m. with the Assigned Family Law judge.
- c. Attorneys/parties will not be required to attend the conference if a Family Law Judge approves a Pre-Trial or Pre-Hearing Conference Order, and that Order is in the court file on or before the date of the conference, unless the Assigned Family Law judge notifies the parties in advance that their attendance is required.
- d. Unless otherwise ordered by the Court, or agreed to by the parties, the Pre-Trial Conference Order shall be prepared by the Petitioner. In a post-divorce matter the Pre-Hearing Conference Order shall be prepared by the initial moving party. The party preparing said order shall send a proposed Pre-Trial or Pre-Hearing Conference Order to the responding party at least two weeks prior to the Pre-Trial or Pre-Hearing Conference. The responding party shall reply with a draft including the responding party's contentions in the Pre-Trial or Pre-Hearing Conference one week before the Pre-Trial Conference date.
- e. Any Pre-Trial conference order must include a) all information required by law and local rules, b) the date of the settlement conference, and c) the date of the trial. An initial list of witnesses, exhibits, and issues/contentions must be included. Witnesses and exhibits may be amended up to 10 days before trial. In any case where property division is an issue, the parties must include an initial list of proposed division of debts and assets. The list of property to be divided may be updated at will up to 10 days prior to trial. The proposed values and division of property may be updated until the time of trial.
- f. If no agreed conference order has been filed by the date of the conference, attendance at the Pretrial Conference Date is required, and the court may sanction any unexcused absence. If only one party appears on the date of the conference and that party has prepared its version of the Pre-Trial or Pre-Hearing Conference Order, that version shall become the order of the Court, until further order of the Court.
- g. No Pre-Trial Conference shall be held sooner than 60 days after the filing of the petition in the case, except by agreement of the parties or for good cause shown.

RULE 412

SETTLEMENT CONFERENCES

- a. No case can proceed to trial without a Mandatory Settlement Conference or a Judicial Settlement Conference being held, unless waived by the Court.
- b. Mandatory Settlement Conferences must be held in the courthouse, preferably on the 4th floor, and must be attended by all attorneys and parties, unless leave of the court is obtained. Written notice to the court must be provided if a Mandatory Settlement Conference is conducted outside the courthouse or at a time other than that scheduled by the court, certifying that such settlement conference took place.
- c. A Judicial Settlement Conference is a settlement conference that uses the assistance of a judge, other than the Assigned Family Law Judge, who can assist the parties by offering opinions as to the strength of the parties' claims, advisory opinions, or other guidance as may be helpful. The discussions in the Judicial Settlement Conference shall remain confidential. Upon request by the parties or upon the court's own motion, the case may be assigned to a Judicial Settlement Conference in lieu of or in addition to a Mandatory Settlement Conference. The Assigned Family Law Judge will select the Judicial Settlement Conference Judge with input from the parties, and may include as a possibility any District or Retired District Judge. The date and time of the Judicial Settlement Conference will be determined by the judge who presides over that conference, but the date must be after the Pretrial Conference, and there must be a Pretrial Conference Order on file.
- d. Failing to attend or being late to a scheduled settlement conference, without good cause, may be sanctioned as justice and equity require, and the Court may schedule an additional settlement conference.
- e. Parties who reside more than 100 miles away may appear via telephone to any settlement conference but must be available via telephone during the entire settlement conference.
- f. Mandatory Settlement Conferences shall be held approximately three weeks before the trial, on Mondays at 8:45 a.m. The exact date and time of the trial settlement conference shall be set in the Pre-Trial Conference Order. There must be a Pre-Trial Conference Order, including a proposed division of assets and debts when property division is an issue, on file by the time the Mandatory Settlement Conference begins.

RULE 413 SCHEDULING OF TRIALS

- a. Each Family Law Judge shall maintain a calendar for trials, which will be scheduled on a Wednesday, Thursday or Friday at 9:00 am.
- b. Trials should be scheduled by contacting the Assigned Family Law Judge's aide by telephone or by the Assigned Judge's Division Email. Counsel and/or the parties should select a date for the trial from available dates. Approval of the Assigned Family Law Judge is needed in order to schedule a trial requiring more than one day.

- c. A trial date shall be obtained on or before the filing of a Pre-Trial Conference Order. The Pre-Trial Conference Order shall set both the trial date and the date of the settlement conference.

**RULE 414
TRIALS**

- a. Attorneys set for trial shall be present at 8:30 am to discuss proposed stipulated admissions of evidence and for their assignment.
- b. Counsel shall exchange Exhibit Notebooks no later than noon Thursday the week prior to trial, in the same form that will be presented to the court, unless otherwise ordered by the Court.
- c. All parties are limited by the issues, contentions, witnesses, and exhibits as listed in the final Pre-Trial Conference Order.

**RULE 415
REMOTE HEARINGS**

- a. A court may schedule any hearing or trial for remote hearing, either in full or in part. Any remote hearing must comply with then-current state and local guidelines for remote hearings.
- b. The party issuing the Notice of Hearing will send all parties the information regarding how to attend and participate in the remote hearing. The Notice of Hearing will include the judge's aide's contact information so additional instructions can be obtained from the court. The family law department or individual judge may publish a model Notice of Hearing that contains the appropriate information.
- c. Exhibits for use in a remote hearing should be emailed in advance, at the email address designated by the Assigned Judge. If no email address is designated, the exhibits should be sent to the Division Email. Documents must be in pdf format. Individual documents should be page numbered and either saved as separate files or "bookmarked" so they can be accessed easily.

**RULE 416
CONTINUANCES**

- a. **Trials**

1. Regardless of whether the parties agree, a scheduled conference or trial shall not be continued unless the Assigned Family Law Judge grants the continuance.
2. If the parties cannot agree on whether there should be a continuance, or cannot agree on a new date, the parties shall immediately confer together and with the Assigned Family Law Judge, who shall make a decision regarding those issues. If the parties ask for guidance by email, each party's attorney, or if unrepresented, the party him/herself shall be copied on the email. The judge's Division Email address shall be copied on any email discussing dates.
3. Once a continuance has been approved by a Family Law Judge, any new date shall be obtained from the Assigned Family Law Judge.

b. Motions

1. One continuance shall be granted to an attorney or party, out of professional courtesy, unless an emergency exists.
2. Announcements for continuances on Motions must be made to the Assigned Judge's Division Email address.
 - A. Announcements on Motions that are made before 4:00 p.m. on the court day before the scheduled motion docket will be granted without an appearance, unless the Assigned Family Law Judge notifies that parties that an appearance will be necessary.
 - B. Announcements made after the cutoff time may still be granted, but the parties are required to appear until they receive a reply that the continuance was granted.
 - C. A judge's aide will be available 15 minutes prior to the start of the docket to take pre-docket announcements.

**RULE 417
PARENT EDUCATION CLASS**

In all divorce cases involving children, the Petitioner must pay for and attend the parent education class offered by the Judicial District, pursuant to K.S.A. § 23-3214. Payment must occur at the time of filing of the Petition. The Assigned Family Law Judge may approve an alternate class of comparable length and content. The divorce will not be finalized until the Petitioner's class is completed.

In all divorce cases involving children, the Respondent must pay for and attend the parent education class offered by the Judicial District. Payment must occur at the time of filing of the Respondent's initial document(s), such as an answer or motion. The Assigned Family Law Judge may approve an alternate class of comparable length and content. A Respondent may not seek relief from the court until such class is scheduled and paid.

In all cases other than a divorce where parenting is an issue, the court may order the participants to attend the parent education class offered by the Judicial District. Payment for the Workshop must be made as soon as is practical after such order. The Assigned Family Law Judge may approve an alternate class of comparable length and content. The court may refuse to

consider relief to a participant who was ordered to attend such a class but has not enrolled or paid for the class.

A separate Order for the parent education class must be filed. The Order must be the current one approved by the family law judges and maintained by the ADR coordinator.

**RULE 418
RECONCILIATION OF PARTIES**

Reconciliation of the parties in a divorce, annulment or separate maintenance case shall cause that case, upon proper Order, to be dismissed. In the event of reconciliation, it shall be the duty of counsel for Petitioner, or the Petitioner's duty if he or she is not represented by counsel, to promptly submit a Journal Entry of Dismissal.

**RULE 419
ALTERNATIVE DISPUTE RESOLUTION COORDINATOR**

- a. The Family Law Department will appoint an Alternative Dispute Resolution Coordinator (ADR Coordinator).
- b. The parties or their attorneys shall notify the ADR Coordinator in all cases referred to Alternative Dispute Resolution referenced in Rule 423. The ADR coordinator will ensure the following.
 - 1. There will be proper ADR information in the case court records;
 - 2. There can be proper monitoring and follow up by the ADR Coordinator,
 - 3. The ADR is assigned to someone who is available;
 - 4. The proposed ADR provider's needs, restraints and limits are considered, so that only available providers are assigned. The providers may update the ADR Coordinator with factors affecting their availability as needed.
- c. The parties shall notify the ADR coordinator in all of the following situations.
 - 1. Supervised visits
 - 2. Appointment of Guardian Ad Litem
 - 3. Requests for court security assistance, such as supervised property exchanges
 - 4. Drug or alcohol tests
 - 5. Child custody investigations, or any other referral to Family Court Services
 - 6. All other situations where court coordination with an outside agency is necessary

**RULE 420
ADMINISTRATIVE DISMISSAL OF CASES**

- a. All Family Law cases pending for 120 days or more where no trial or other setting has been obtained may be dismissed. The Clerk shall prepare a Notice of Intent to Dismiss (hereinafter referred to as "NID"), and a Journal Entry of Dismissal, and mail and/or email a copy thereof

to all parties at least eighteen (18) days prior to the dismissal date shown thereon. Family Law cases dismissed under this rule will be reinstated at the discretion of the Presiding Family Law Judge.

- b. Once an NID has been prepared and mailed, a request for an extension of time must be made through the Assigned Judge's Division Email address. A third request for additional time can only be granted by the Assigned Family Law Judge.
- c. In addition to the notice of intent to dismiss, a status conference may be called by the Assigned Family Law Judge. Separate notices to that effect will be mailed by the Assigned Family Law Judge. At that status conference, the cases may be dismissed for lack of prosecution, or bifurcated.

RULE 421

HEARING OFFICER & APPEAL OF HEARING OFFICER DECISIONS

- a. The Hearing Officer's jurisdiction is set forth in Kansas Supreme Court Rule 172. The Hearing Officer will hear all IVD matters related to the establishment, modification or enforcement of child support.
- b. The Hearing Officer will maintain a separate calendar for all matters assigned for hearing.
- c. Decisions of the Hearing Officer shall be subject to review per Supreme Court Rule 172(h).

RULE 422
COURT TRUSTEE

- a. The Office of the Court Trustee, as provided for in K.S.A. 20-377 and amendments thereto, is hereby established for the Eighteenth Judicial District effective July 1, 1985.
- b. All new and modified child support orders in the Eighteenth Judicial District, except temporary orders, shall be assigned to the Office of the District Court Trustee for monitoring and enforcement unless, pursuant to K.S.A. 20-383, a "good cause exception" is granted by the chief judge relieving the Office of the Court Trustee of the duty of enforcement of the order.
- c. If a new or modified final child support order is silent as to whether enforcement is assigned to the Court Trustee, the support order shall be assigned to the Office of the District Court Trustee for enforcement.
- d. Requests pursuant to K.S.A. 20-383, for an exemption from the Office of the Court Trustee's responsibility for collection of support shall be granted only after a motion is filed and hearing is held before the Chief Judge. The Office of the Court Trustee shall be given notice of the hearing.

- e. The Court Trustee shall have the additional powers and duties set out in K.S.A. 20-379 and K.S.A. § 75-5365.
- f. When the Court directs that an initial or modified income withholding order shall immediately issue and the duty to enforce the support order is assigned to the District Court Trustee, the Trustee shall prepare the income withholding order for filing with the Court and issue said Income Withholding Order to the employer or income payer. Subsequent income withholding orders transferred to a new or different payor of income for the same amounts as the immediately preceding income withholding order, which are created through the automatic income withholding order process of the Department for Children and Families, are not required to be filed with the court.
- g. For any orders that involve the custody or support of children of the parties, any initial, final or modified divorce decree, custody order, paternity order or support order shall order at least one of the parents/parties to obtain and maintain health insurance coverage for the minor children when such coverage is available to the party at an affordable cost pursuant to K.S.A. 23-3114 through 23-3117.
- h. Except as otherwise provided in K.S.A. 23-3103, each final order in the Eighteenth Judicial District containing orders of support that are assigned to the Office of the Court Trustee for enforcement shall include the following provisions:
 - 1. IT IS FURTHER ORDERED that an income withholding order shall be issued immediately as required by K.S.A. 23-4,105 *et seq.* The Office of the District Court Trustee shall immediately prepare the income withholding order, notice and answer forms for filing and service to the obligor's payer of income. Each party shall inform the Clerk of the District Court, in writing, of any change of name, residence and employer (with business address) within seven (7) days of a change.
 - 2. IT IS FURTHER ORDERED that, until the commencement of withholding by a payer/employer, the obligor shall pay all child support payments required by the support order. Payments shall be remitted by the obligor to the Kansas Payment Center on or before the due date specified in the order.
 - 3. IT IS FURTHER ORDERED that all support payments shall be paid to the Kansas Payment Center, P.O. Box 758599, Topeka, KS 66675 8599, and a fee shall be deducted there from by the Kansas Payment Center to defray the expense of the operation of the Office of the District Court Trustee. All support payments shall be payable to the order of the Kansas Payment Center.
 - 4. The following provision and subparagraph (c.) above shall be included in all final orders where only spousal support is ordered:

IT IS FURTHER ORDERED that, unless the parties have agreed in writing to the earlier issuance of an income withholding order, all maintenance payments shall be subject to

income withholding, but only if (a) there is an arrearage in payment of maintenance in an amount equal to or greater than the amount of maintenance payable for two months, (b) the obligee spouse or ex-spouse is not living with a child of the obligor for whom an order of support is also being enforced, and (c) there has been compliance with K.S.A. 23-4, 107(h) and amendments thereto.

- i. Any final support order providing for the support of a child, issued in a Court of the Eighteenth Judicial District, shall require immediate issuance of an income withholding order unless there is a written agreement among all interested parties providing for an alternative payment arrangement.
- j. Pursuant to K.S.A. 39-7,135 and Administrative Order No. 154 of the Kansas Supreme Court, the Kansas Payment Center shall receive and disburse payments for support and maintenance. The official payment history for support payments is that maintained by the Kansas Payment Center.
- k. If a party requests a good cause exception pursuant to K.S.A. 23-3004, after the party shall file a motion and set a hearing before the Assigned Family Law Judge. If the case has been assigned to the Court Trustee, the Office of the Court Trustee shall be given notice of the hearing.
- l. The Clerk of the District Court, Family Law Department, shall cooperate and coordinate his/her functions with the Office of the District Court Trustee to improve the enforcement of duties of support, and to promote judicial efficiency and the effective administration of justice.
- m. A party or attorney filing a "final" child support order with the Clerk shall also file a support information worksheet which will provide the Office of the Court Trustee with the current information necessary to perform its duties pursuant to this rule.
- n. All amounts charged and collected to defray the expenses of the Office of the District Court Trustee shall be withheld from support payments made to the Kansas Payment Center and shall be paid to the Court Trustee Operations Fund of the Eighteenth Judicial District of Kansas.
- o. Any action taken by the District Court Trustee to establish, enforce or modify a support order is undertaken on behalf of the Court. There is no attorney client relationship created between an obligee or obligor and the Office of the District Court Trustee or its staff.
- p. All parties maintain the right to employ private counsel, at their own expense, to enforce or modify orders of support.
- q. In every case which is monitored and enforced by the Office of the District Court Trustee, all notice, motions, and pleadings regarding all proceedings affecting support shall be furnished to the Office of the District Court Trustee.

- r. All pleadings filed by the Court Trustee shall be sent to all attorneys of record in that case.
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RULE 423
ALTERNATIVE DISPUTE RESOLUTION

- a. **Overview:** Alternative dispute resolution (ADR) is available to all parties. ADR includes mediation, Domestic Conciliation, Parenting Coordination, Case Management, Limited Case Management, Arbitration and Collaborative Family Law.
1. Mediation, Domestic Conciliation, Parenting Coordination, Case Management, or Limited Case Management can be ordered upon motion of a party, or upon the Court's own motion.
 2. Arbitration or collaborative family law can be entered into only with the approval of all parties.
 3. The Hearing Officer may enter an order for ADR in any contested issue over which the Hearing Officer has jurisdiction.
 4. The ADR program will be administered through the Dispute Resolution Coordinator. No case can be placed in any type of ADR without the Dispute Resolution Coordinator being notified.
- b. The following provisions shall all apply to Mediation, Domestic Conciliation, Parenting Coordination, Case Management, or Limited Case Management.
1. The mediator, domestic conciliator, parenting coordinator, case manager or limited case manager shall be selected by agreement of both parties, or their attorneys, unless otherwise ordered by the Court. If the parties and/or their attorneys are unable to agree upon a mediator, case manager or limited case manager, the moving party shall submit three proposed names to the non-moving party within 3 business days, who shall select one from the list of three within 3 business days. If the non-moving party does not want to select any of the three, the non-moving party shall select a different 3 names and submit them to the moving party, who shall select one name from the three within 3 business days. If none of the six total names are acceptable to both parties, the Dispute Resolution Coordinator or Assigned Family Law Judge will select one name that is not contained on either list.
 2. All people who wish to be considered to perform alternative dispute resolution services must provide to the ADR coordinator the total initial retainer fee, the number of hours or scope of work the initial fee will cover, and the subsequent hourly rate to be charged, so that information can be contained in the "Fees" portion of the appropriate order, as required by Supreme Court rule.
 3. All other requirements for fee agreements, billing practices, and procedures shall be followed pursuant to the relevant provisions of Supreme Court Rules 905 through 922.
 4. In the event that the Court finds that a party has willfully failed to pay an alternative dispute resolution professional, the Court may impose any sanction on that party as justice and equity requires, including a prohibition on filing any motion until the outstanding balance has been paid.

- c. **Mediation**: The Court may order mediation subject to and governed by the provisions in K.S.A. § 23-3501 through 23-3506.
- d. **Case Management**: The Court can order the parties into case management following a motion of a party, or on the Court's own motion, subject to the issues, circumstances, and procedures as outlined in K.S.A. § 23-3507-3509 and Supreme Court Rule 910, as well as any other issues the parties agree to submit to the case manager.
1. All Case Managers shall have the qualifications required by K.S.A. § 23-3508 (d). The Presiding Family Law Judge is responsible for approving people who wish to serve as a Case Manager. The ADR coordinator will keep a current list of all qualified Case Managers.
 2. During the case management process, communications between parties, or between a party and the case manager, are not privileged. The case manager may be required by report or testimony to disclose any or all matters from case management.
 3. Once assigned, and until further order of the Court, all issues related to custody, residency or parenting time, as well as any other issues the parties agree to submit, shall be presented to the case manager in writing for recommendation before any motion on those issues may be filed. Case Management recommendations become the order of the Court subject to the provisions of K.S.A. § 23-3509.
 4. Case management ends for a particular case when the case manager has terminated the assignment or when, upon motion of a party, or on the Court's own motion, the Court terminates the assignment.
 5. Limited case management (LCM) subject to all Supreme Court Rules and laws governing case management, but is restricted as to issue and duration under Supreme Court Rule 910(f).
- e. Domestic Conciliation (DC) is a non-confidential process in which a neutral person helps the parties reach a resolution and, if ordered, provides a report to the court. A domestic conciliator has no decision- making authority.
1. The Court will designate specific issues to the domestic conciliator. The domestic conciliator shall only address issues contained within the corresponding order. The costs of DC may be assigned to either party by the Court, in any manner that the Court decides. If the Court does not make a cost division designation, the costs will be split 50/50.
 2. All domestic conciliators shall have the same qualifications required by Supreme Court Rule 908. The ADR coordinator will keep a current list of all qualified domestic conciliators.
 3. The Domestic Conciliation process begins when Order for Domestic Conciliation is executed by the ADR Coordinator. At the time Domestic Conciliation is ordered, an approximately 60 day review hearing shall be set with the Assigned Family Law judge.
 4. At the 60 day review hearing, the judge will address:
 - A. If there is an agreement, whether the agreement should be adopted and whether that addresses all outstanding issues in front of the court.
 - B. If there is not an agreement,
 - i. Whether to adopt any temporary orders per K.S.A. § 23-3212(a), and
 - ii. When to set the matter for Pre-Trial Conference on the issues raised in the original motion that led to the Domestic Conciliation referral.

5. The assignment to Domestic Conciliation ends when:
 - A. a written agreement has been approved by the parties and the court, or
 - B. when the domestic conciliator files recommendations as to the issues specified in the Order, or
 - C. as stated in Rule 908(f).
 6. The domestic conciliator shall avoid *ex parte* communications with attorneys in the case, unless such communication is explicitly permitted in the referral Order.
 - A. Either party's counsel or pro se litigant may contact the domestic conciliator while the process is pending, but they must copy the other attorney (or pro se litigant if unrepresented) or include them in the communication on any substantive issue.
 - B. If either party submits documents to the domestic conciliator, they must also provide them to the other party. If documents are provided by one party's attorney, they shall also be provided to the other party, or if represented, to their counsel.
 7. Unless otherwise stated in the referring order, a written report is required per Supreme Court Rule 908(c)(2).
 8. Unless otherwise stated in the referring Order, communication with a nonparty is permitted at the discretion of the domestic conciliator. All parties shall sign the necessary releases authorizing this communication per Supreme Court Rule 908(c)(4).
 9. If legal custody, residency, or parenting time are at issue, the DC Report and Recommendation shall specifically address all statutory factors in K.S.A. § 23-3203. The Dispute Resolution Coordinator will keep an electronic list of the updated factors that the Domestic Conciliators may request and use to copy and paste in their reports.
 - A. If the matter proceeds to trial, the Domestic Conciliation Report and Recommendation is admissible without further foundation. The Report and Recommendation is given no presumptive weight, and the facts and conclusions therein will be evaluated by the fact-finder in the same manner as all other evidence.
 - B. Neither party is required to call the domestic conciliator to testify, however either party is permitted to call domestic conciliator. In the event that the domestic conciliator is called to testify, the party requesting such testimony shall pay the previous hourly rate, or any other agreed upon rate, for reasonable preparation and testimony time. The Court will make judicious use of the domestic conciliator's time, including taking the domestic conciliator out-of-order, unless good cause justifies not doing so.
 - C. At trial, the burden of proof remains the same as before the case was assigned to Domestic Conciliation, regardless of the recommendation, and no recommendation will have the effect of shifting the burden of proof.
 - D. A party who is challenging the Domestic Conciliation recommendation may use leading questions during the examination of the domestic conciliator on direct examination.
- f. Parenting Coordination is a process that helps the parties implement court orders and with daily parenting matters. A parenting coordinator must not make decisions that would change legal or physical custody from one parent to the other or substantially change the parenting plan.

1. A case for parenting coordination must meet the requirements of Supreme Court Rule 909. All rules regarding referrals and qualifications of a parenting coordinator must be followed consistent with Supreme Court Rule 909.
 2. Recommendations of the parenting coordinator are required to be followed unless an objection pursuant to Rule 909(f) is sustained by the court. The recommendations must be followed between the time of issuance and the court hearing. If an event has passed that makes the recommendation moot by the time of the objection hearing, the court may still hear the objection to provide guidance to the parenting coordinator for future disputes.
- g. **Arbitration:** The parties may agree to arbitrate any contested issues. Arbitration should be conducted as agreed to by the parties in a written agreement, and consistent with the provisions of K.S.A. 5-201, *et seq.*
1. No motion for arbitration need be filed with the Court. However, an agreement to arbitrate does not stay any other deadlines, and any continuance of a Court ordered appearance or deadline must be approved by the Court.
 2. Upon completion of arbitration, the parties shall journalize and file with the Court any orders necessary to implement the arbitrator's decision within 14 days.
 3. The arbitrator's decision takes effect as soon as it is disclosed to the parties.
 4. Arbitration ends when an arbitrator's decision has been journalized. Arbitration can be stayed, or an arbitrator's decision vacated or modified, only in a manner consistent with K.S.A. 5-201, *et seq.*
- h. **Collaborative Family Law:** Parties may agree to handle their case in a Collaborative Family Law (hereinafter referred to as “CFL”) format. CFL is a process by which parties negotiate a settlement of all issues in their case outside the court system. Consistent with the provisions of K.S.A. 23-606, including the exceptions described therein, a party who agrees to participate in the CFL process has a privilege to refuse to disclose, and to prevent a witness from disclosing, any communication made during the course of these negotiations. Essentially, the process provides that the parties and counsel focus on the interests of both parties, gather information sufficient to insure that decisions are made with full knowledge, create a full range of options, and then choose options that best meet the needs of the parties. The process is one which, along with the skill of counsel, is designed to create a problem-solving atmosphere.

The CFL process works best if both parties are represented by counsel trained in CFL. The parties and counsel enter into a Participation Agreement which sets forth the CFL process which the parties shall follow, requires full and complete disclosure of all financial information by both parties, and precludes both attorneys from representing their clients in subsequent proceedings in the event the negotiations reach an impasse, or in the event either party elects to withdraw from the CFL process. The CFL process can take place either before or after the case has been filed.

Inasmuch as CFL can be entered into only with the approval of all parties, no motion for CFL need be filed with the Court. However, a written agreement to handle a case through the CFL process does not stay any other deadlines, and any continuance of a Court-ordered appearance or deadline must be approved by the Court.

2. Neither party may harass the other party;
3. All current insurance coverage must be maintained and continued without change in coverage or beneficiary designation;
4. Neither party shall permanently remove the children from their current residence without the consent of the other;
5. Neither party shall incur debts for which the other is liable, except for necessities or in the ordinary course of business;
6. Each party will notify the other in advance of any extraordinary expenditure required to maintain the necessities of life or generate income.

No Domestic Relations Affidavit or Child Support Worksheet shall be required to be filed with this Temporary Order.

JUDGE OF THE DISTRICT COURT
FAMILY LAW DEPARTMENT

Approved:

Attorney for Petitioner

RULE 424
USE OF PERSONAL IDENTIFIERS IN DOCUMENTS FILED WITH THE COURT

Parties and attorneys are directed to comply with the redaction provisions in Supreme Court Rule 123. All documents are covered by this rule. The original IWO that is sent to the employer should still include personal identifiers, but that information should be redacted from any copies filed with the Court.

RULE 425
CHILD IN NEED OF CARE ORDERS TAKE PRECEDENCE

Any orders pertaining to child custody, parenting time, and child support entered as a result of a child in need of care proceeding, including custody resulting from police protective custody, shall take precedence over any other child custody, parenting time, and child support order entered in any other case as long as the child in need of care case remains open. When the child in need of care case closes, the last order of custody, parenting time and child support entered in

the child in need of care case shall remain binding as to all the parties in that case. These orders shall remain in effect until the parties appear before the court and such orders are amended by the court. The order of final custody parenting time, and child support in the child of need of care case shall also be filed in any related family law or probate case and all records pertaining to the child in need of care case, including the social file, shall be made available to the family law or probate department judge.