

# CHAPTER 12

## Forms

### § 12.1 Notice of Appeal—Supreme Court

IN THE [Insert Number] JUDICIAL DISTRICT DISTRICT COURT OF [Insert Name]  
COUNTY, KANSAS (CRIMINAL)(CIVIL) DEPARTMENT

[Insert Name],

Plaintiffs-Appellees,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendant-Appellant.

---

#### NOTICE OF APPEAL

[Name the appealing party or parties] appeal(s) from [designate the judgment or part of the judgment or other appealable order] to the Supreme Court of the State of Kansas.

This appeal is directly to the Supreme Court on the ground that [state the ground on which direct appeal is permitted, including citation to statutory authority. For example, that the district court declared K.S.A. 60-3701 *et seq.*, unconstitutional. See K.S.A. 60-2101(b)].

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Notice of Appeal was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** The notice of appeal to the Supreme Court, unlike the Court of Appeals, must state the ground on which appeal to the Supreme Court is permitted, including citation to the statutory authority which permits the direct appeal. See §§ 5.2 and 5.16, *supra*, for a discussion of the appellate jurisdiction of the Supreme Court.

Because appellate review is limited to the rulings specified in the notice of appeal, it is good practice to appeal from all adverse rulings. See Chapter 7, Part I, *supra*.

**§ 12.2 Notice of Appeal—Court of Appeals**

**IN THE [Insert Number] JUDICIAL DISTRICT DISTRICT COURT OF [Insert Name]  
COUNTY, KANSAS (CRIMINAL)(CIVIL) DEPARTMENT**

[Insert Name],

Plaintiffs-Appellees,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**NOTICE OF APPEAL**

[Name the appealing party or parties] appeal(s) from [designate the judgment or part of the judgment or other appealable order] to the Court of Appeals of the State of Kansas.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Appeal was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** See §§ 5.3 and 5.17, *supra*, for a discussion of the appellate jurisdiction of the Court of Appeals.

Because appellate review is limited to the rulings specified in the notice of appeal, it is good practice to appeal from all adverse rulings. See Chapter 7, Part I, *supra*.

**§ 12.3 Notice of Cross-Appeal**

**IN THE [Insert Number] JUDICIAL DISTRICT DISTRICT COURT OF [Insert Name]  
COUNTY, KANSAS (CRIMINAL)(CIVIL) DEPARTMENT**

[Insert Name],

Plaintiffs-Appellees,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**NOTICE OF CROSS-APPEAL**

[Name the cross-appealing party or parties] cross-appeal(s) from [designate the judgment or part of the judgment or other appealable order] to the Court of Appeals of the State of Kansas.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Cross-Appeal was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
\_\_\_\_\_  
Attorney's Name and Registration Number

## § 12.4 Docketing Statement—Civil

### IN THE (SUPREME COURT) (COURT OF APPEALS) OF THE STATE OF KANSAS

Case Caption: County Appealed From \_\_\_\_\_  
 District Court Case No(s): \_\_\_\_\_  
 Proceeding Under Chapter: \_\_\_\_\_  
 Party Filing Appeal: \_\_\_\_\_  
 Party or Parties who will Appear as Appellees:  
 \_\_\_\_\_

#### DOCKETING STATEMENT—CIVIL

The docketing statement is used by the court to determine jurisdiction and to make calendar assignments under Rules 7.01(c) and 7.02(c). This is not a brief and should not contain argument or procedural motions.

1. **Civil Classification:** From the list of civil topic sub-types listed at the end of this form, choose the **one** which best describes the **primary** issue in this appeal.
  
2. **Proceedings in the District Court:**
  - a. Trial Judge from whose decision this appeal is taken: \_\_\_\_\_
  
  - b. List any other judge who has signed orders or conducted hearings in this matter: \_\_\_\_\_
  
  - c. Was this case disposed of in the district court by:
    - \_\_\_\_\_ Jury trial
    - \_\_\_\_\_ Bench trial

\_\_\_\_\_ Summary Judgment

\_\_\_\_\_ Dismissal

\_\_\_\_\_ Other

d. Length of trial, measured in days (if applicable): \_\_\_\_\_

e. State the name of each court reporter or transcriptionist who has reported or transcribed any or all of the record for the case on appeal. (This is not a substitute for a request for transcript served on the individual reporter or transcriptionist under Rule 3.03.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

f. State the legal name of all entities that are NOT listed in the case caption (including corporations, associations, parent, subsidiary, or affiliate business entities) but are parties or have a direct involvement in the case on appeal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

g. State the name, address, telephone number, fax number, and e-mail address of every attorney who represented a party in district court if that attorney's name does NOT appear on the certificate of service attached to this docketing statement. Clearly identify each party represented.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Jurisdiction:
- a. Date journal entry, judgment form, or other appealable order filed: \_\_\_\_\_
  - b. Is the order appealed from a final order, *i.e.*, does it dispose of the action as to all claims by all parties? \_\_\_\_\_
  - c. If the order is not a final disposition as to all claims by all parties, did the district court direct the entry of judgment under K.S.A. 60-254(b)? If not, state the basis on which the order is appealable. \_\_\_\_\_
  - d. Date any posttrial motion filed \_\_\_\_\_
  - e. Date disposition of any posttrial motion filed: \_\_\_\_\_
  - f. Date notice of appeal filed in district court: \_\_\_\_\_
  - g. Other relevant dates necessary to establish this court's jurisdiction to hear the appeal, *i.e.*, decisions of administrative agencies or municipal courts and appeals therefrom:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  - h. Statutory authority for appeal: \_\_\_\_\_
  - i. Are there any proceedings in any other court or administrative agency, state or federal, which might impact this case or this court having jurisdiction (yes or no)?  
If "yes," identify the court or agency in which the related proceeding is pending. List the case captions and the case or docket numbers.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. **Constitutional Challenges to Statutes or Ordinances:**  
Was any statute or ordinance found to be unconstitutional by the district court (yes or no)? \_\_\_\_\_  
If "yes," what statute or ordinance? \_\_\_\_\_

5. Related Cases/Prior Appeals:
- a. Is there any case now pending or about to be filed in the Kansas appellate courts which:
- (1) Arises from substantially the same case as this appeal (yes or no)? \_\_\_\_\_  
If "yes," give case caption and docket number.  
\_\_\_\_\_
- (2) Involves an issue that is substantially the same as, similar to, or related to an issue in this appeal (yes or no)? \_\_\_\_\_  
If "yes," give case caption and docket number.  
\_\_\_\_\_
- b. Has there been a prior appeal involving this case or controversy (yes or no)? \_\_\_\_\_  
If "yes," give case caption and docket number.  
\_\_\_\_\_
6. Brief statement (less than one page), without argument, of the material facts. This is not intended to be a substitute for the factual statement that will appear in the brief.
7. Concise statement of the issues proposed to be raised. You will not be bound by this statement but should include issues now contemplated. Avoid general statements such as "the judgment is not supported by the law."

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Docketing Statement was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of all persons served and whom they represent.]

/s/  
Attorney's Name and Registration Number

CIVIL TOPIC SUB-TYPES: Select the one sub-type which best describes this appeal.

See Question 1 above.

Administrative — KS Corporation Commission	Governmental Immunity
Administrative — Licensing	Habeas — appeal from district court
Administrative — Public Utility Rate Case	Insurance
Administrative — Taxation	Jurisdiction
Administrative — Workers Compensation	Juvenile Offenders Code
Administrative — Other	K.S.A. 60-1507
Certified Question	Libel and Slander
Children — Adoption	Mandamus — appeal from district court
Children — CINC	Negligence
Children — Termination of Parental Rights	Oil and Gas
Conservators/Conservatorships	Personal Property
Constitutional Law	Probate
Contracts	Procedure
Creditors and Debtors	Quo Warranto — appeal from district court
Damages — Personal Injury	Real Property
Damages — Property	Statutory Interpretation or Construction
Damages — Punitive	Teacher Employment/Due Process
Divorce	Torts (specify sub-type)

## Forms

Election Contest

Eminent Domain

Employment

Wrongful Death

Zoning

Other (please specify):

**PRACTICE NOTE:** Docketing statement forms are available in a fillable pdf format in the online version of this handbook.

Remember that references to names of certain persons such as children and victims of sex crimes are subject to special rules. See Rule 7.043.

Although a docketing statement can be filed electronically, it cannot be served through the electronic filing system. Rather, it must be served by traditional means, including e-mail and fax. If the docketing statement is being served on someone as a courtesy, that should be noted in the certificate of service. Otherwise, any person mentioned in the certificate of service will be considered an appellee in the case.

**§ 12.5 Docketing Statement—Civil Cross-Appeal****IN THE (SUPREME COURT) (COURT OF APPEALS) OF THE STATE OF KANSAS**

Case Caption: County Appealed From \_\_\_\_\_  
 District Court Case No(s): \_\_\_\_\_  
 Proceeding Under Chapter: \_\_\_\_\_  
 Party Filing Appeal: \_\_\_\_\_  
 Party or Parties who will Appear as Appellees:  
 \_\_\_\_\_

**DOCKETING STATEMENT—CIVIL—CROSS-APPEAL**

The docketing statement is used by the court to make calendar assignments under Rules 7.01(c) and 7.02(c). This is not a brief and should not contain argument or procedural motions.

1. Date notice of cross-appeal filed in district court: \_\_\_\_\_
2. Brief statement (less than one page), without argument, of the facts material to the cross-appeal. This is not intended to be a substitute for the factual statement which will appear in the brief.
3. Concise statement of the issues proposed to be raised. You will not be bound by this statement but should include issues now contemplated. Avoid general statements such as “the judgment is not supported by the law.”

Attorney’s Signature

/s/ \_\_\_\_\_

Attorney’s Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Docketing Statement was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of all persons served and whom they represent.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** Docketing statement forms are available in a fillable pdf format in the online version of this handbook.

Remember that references to names of certain persons such as children and victims of sex crimes are subject to special rules. See Rule 7.043.

Although a docketing statement can be filed electronically, it cannot be served through the electronic filing system. Rather, it must be served by traditional means, including e-mail and fax. If the docketing statement is being served on someone only as a courtesy, that should be noted in the certificate of service.

## § 12.6 Docketing Statement—Criminal

### IN THE (SUPREME COURT) (COURT OF APPEALS) OF THE STATE OF KANSAS

Case Caption: \_\_\_\_\_  
 County Appealed From \_\_\_\_\_  
 District Court Case No(s).: \_\_\_\_\_  
 Proceeding Under Chapter: \_\_\_\_\_  
 Party Filing Appeal: \_\_\_\_\_  
 Party or Parties who will Appear as Appellees:  
 \_\_\_\_\_

### DOCKETING STATEMENT—CRIMINAL

The docketing statement is used by the court to determine jurisdiction and to make calendar assignments under Rules 7.01(c) and 7.02(c). This is not a brief and should not contain argument or procedural motions.

1. **Criminal Classification:**
  - a. Conviction of (offense[s], statute[s], and classification[s] of crime[s]):  
 \_\_\_\_\_
  - b. Date of offense(s) committed: \_\_\_\_\_
  
2. **Proceedings in the District Court:**
  - a. Trial judge from whose decision this appeal is taken:
  - b. List any other judge who has signed orders or conducted hearings in this matter:  
 \_\_\_\_\_

- c. Was this case disposed of in the district court by:
  - \_\_\_\_\_ Jury trial
  - \_\_\_\_\_ Bench trial
  - \_\_\_\_\_ Plea
  - \_\_\_\_\_ Dismissal
- d. Length of trial, measured in days (if applicable): \_\_\_\_\_
- e. State the name of each court reporter or transcriptionist who has reported or transcribed any or all of the record for the case on appeal. (This is not a substitute for a request for transcript served on the individual reporter or transcriptionist under Rule 3.03.)  
\_\_\_\_\_  
\_\_\_\_\_
- f. State the name, address, telephone number, fax number, and e-mail address of any attorney who represented a party in the district court if that attorney's name does NOT appear on the certificate of service attached to this docketing statement. Clearly identify each party represented.  
\_\_\_\_\_  
\_\_\_\_\_

3. **Jurisdiction:**

- a. Date sentence was pronounced from the bench: \_\_\_\_\_
- b. Date notice of appeal filed in district court: \_\_\_\_\_
- c. Custodial status:
  - (1) Is the defendant subject to appeal bond or incarcerated? \_\_\_\_\_
  - (2) Earliest possible release date, if incarcerated: If sentencing is challenged on appeal, it is the State's obligation to notify the clerk of the appellate courts in writing of any change in the custodial status of the defendant during the pendency of the appeal. See Rule 2.042. \_\_\_\_\_
- d. Statutory authority for appeal: \_\_\_\_\_
- e. Are there any co-defendants (yes or no): \_\_\_\_\_  
If "yes," what are their names? \_\_\_\_\_  
\_\_\_\_\_

- f. Are there any proceedings in any other court or administrative agency, state or federal, which might impact this case or this court having jurisdiction (yes or no)? \_\_\_\_\_

If "yes," identify the court or agency in which the related proceeding is pending.

List the case captions and the case or docket numbers.

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4. **Constitutional Challenges to Statutes or Ordinances:**

Was any statute or ordinance found to be unconstitutional by the district court (yes or no)? \_\_\_\_\_

If "yes," what statute or ordinance? \_\_\_\_\_

5. **Related Cases/Prior Appeals:**

- a. Is there any case now pending or about to be filed in the Kansas appellate courts which:

(1) Arises from substantially the same case as this appeal (yes or no)? \_\_\_\_\_

If "yes," give case caption and docket number.

---

(2) Involves an issue that is substantially the same as, similar to, or related to an issue in this appeal (yes or no)? \_\_\_\_\_

If "yes," give case caption and docket number.

---

- b. Has there been a prior appeal involving this case or controversy (yes or no)? \_\_\_\_\_

If "yes," give caption and docket number.

---

6. Brief statement (less than one page), without argument, of the material facts. This is not intended to be a substitute for the factual statement which will appear in the brief.

7. Concise statement of the issues proposed to be raised. You will not be bound by this statement but should include issues now contemplated. Avoid general statements such as "the judgment is not supported by the law."

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Docketing Statement was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of all persons served and whom they represent.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** Docketing statement forms are available in a fillable pdf format in the online version of this handbook.

Remember that references to names of certain persons such as children and victims of sex crimes are subject to special rules. See Rule 7.043.

Although a docketing statement can be filed electronically, it cannot be served through the electronic filing system. Rather, it must be served by traditional means, including e-mail and fax. If the docketing statement is being served on someone only as a courtesy, that should be noted in the certificate of service.

**§ 12.7 Answer to Docketing Statement****IN THE (SUPREME COURT) (COURT OF APPEALS) OF THE STATE OF KANSAS**

Case Caption:

Appellate Court No.: \_\_\_\_\_

**DOCKETING STATEMENT—ANSWER**

The docketing statement is used by the court to determine jurisdiction and to make calendar assignments under Rules 7.01(c) and 7.02(c). The docketing statement and answer are not briefs. The answer to the docketing statement should consist only of a concise statement of additional facts or clarification of issues which the appellee or cross-appellee believes are necessary to provide the court a fair summary of the case. If the statement of facts and issues in the docketing statement is sufficient, there is no need to file an answer. **THE ANSWER SHOULD NOT CONTAIN ARGUMENT OR PROCEDURAL MOTIONS.**

1. Brief statement (less than one page), without argument, of any material facts not set forth in the docketing statement. This is not intended to be a substitute for the factual statement that will appear in the brief.
2. Concise statement of clarification of any issues set forth in the docketing statement.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

Date: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Docketing Statement – Answer was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of all persons served and whom they represent.]

/s/  
Attorney's Name and Registration Number

**§ 12.8 Motion to Docket Appeal Out of Time**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellees,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**MOTION TO DOCKET APPEAL OUT OF TIME**

**Appellant asks to docket this appeal out of time because she has now secured all supporting documents that are needed to accompany the docketing statement.**

1. *Background.* Jane Pleader is the appellant in this appeal from the trial and jury verdict in the District Court of [Insert Name] County, Kansas. Notice of Appeal of this matter was filed in that court on [Insert Date.] More than 60 days have expired since the filing of the Notice of Appeal.
2. *Authority.* Supreme Court Rule 2.04.
3. *Reasons.* Appellant's counsel has received a telephone call from a clerk in the office of the clerk of the appellate courts advising her that she failed to include file-stamped, certified copies of the journal entries of judgment and the notice of appeal, as required by the appellate rules. Counsel has now obtained certified copies of the journal entries of judgment and the notice of appeal. These are included with this submission for filing with the remainder of the materials required for docketing this appeal. These combined documents complete the requirements for docketing the appeal.

For these reasons, appellant asks permission to docket the appeal today.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Docket Appeal Out of Time was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** This motion should accompany the docketing statement and certified file-stamped copies of all documents required under Rule 2.04. The motion should cite specific reasons that constitute good cause for late docketing. A mere allegation of "excusable neglect" is insufficient. If counsel believes excusable neglect exists, the basis for that belief should be stated in the motion.

A motion to docket an appeal out of time can be filed electronically but cannot be served through the electronic filing system; rather, it must be served by traditional means, including e-mail and fax.

**§ 12.9 Application to Reinstate Appeal**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellees,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**APPLICATION TO REINSTATE APPEAL**

**Appellant asks the Court to reinstate her appeal.**

1. *Background.* Jane Pleader is the appellant in this appeal from the jury verdict and sentence in the District Court of [Insert Name] County, Kansas. Notice of Appeal of this matter was timely filed in that court on [Insert Date.] When the appeal was not docketed in a timely manner, the district court dismissed the appeal on [Insert Date.]
2. *Authority.* Supreme Court Rule 5.051.
3. *Reasons.* Jane Pleader was represented by different counsel at trial. Because of a delay in the appointment of appellate counsel, appellate counsel did not become aware of the appointment until after the deadline for timely docketing the appeal had passed.
4. Appellant is submitting the necessary documents to docket the appeal and the docket fee along with this motion.

For these reasons, appellant asks that her appeal be reinstated.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Application to Reinstate Appeal was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**§ 12.10 Attorney's Certification of Indigency**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellees,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**ATTORNEY'S CERTIFICATION OF INDIGENCY**

[Insert name], appointed counsel for the appellant, certifies that the appellant is indigent and unable to pay the docketing fee. Counsel was appointed for the appellant by the District Court due to indigency, and the appellant remains indigent. Appellant asks that the docketing fee be excused pursuant to Supreme Court Rule 2.04(d)(2)(A).

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Attorney's Certification of Indigency was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

§ 12.11 Appellant’s Verification in a CINC case

VERIFICATION

STATE OF KANSAS )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

I, [Insert name], am the appellant in this case. I swear or affirm that the statements made in this [notice of appeal, docketing statement, brief] are true.

Signed and sworn to (or affirmed) before me on [Insert date] by [Insert name].

\_\_\_\_\_  
Appellant’s Signature

\_\_\_\_\_  
(Signature of notarial officer)

(Seal, if any)

\_\_\_\_\_  
Title (and Rank)  
[My appointment expires: \_\_\_\_\_]

**PRACTICE NOTE:** K.S.A. 38-2273(e) requires that any notice of appeal, docketing statement or brief filed in a CINC case be verified by the appellant if the appellant has been personally served at any time during the proceedings.



## § 12.12 Application to Take a Civil Interlocutory Appeal Under K.S.A. 60-2102(c)

### IN THE COURT OF APPEALS OF THE STATE OF KANSAS

[Insert Name],

Plaintiffs,

vs.

[Insert District Court Case Number]

[Insert Name],

Defendants.

---

### APPLICATION TO TAKE A CIVIL INTERLOCUTORY APPEAL UNDER K.S.A. 60-2102(c)

**The defendant in this action, arising from an automobile collision, seeks an interlocutory appeal because the district court misinterpreted the statute of limitations.**

1. *Background.* An automobile accident occurred between the plaintiff, Wilma Driver, and the defendant, Betty B. Good. Driver has sued Good in the district court of [Insert Name] County, Kansas.
2. *Authority.* Supreme Court Rule 4.01 and K.S.A. 60-2102(c).
3. *Argument.*

The defendant Good moved to dismiss Driver's claim for failure to state a claim upon which relief could be granted, alleging Driver failed to file her claim within the two-year statute of limitations of K.S.A. 60-513. Driver alleged that K.S.A. 60-206(a) controlled and that she had filed her petition within the statute of limitations.

The Court on [Insert Date] denied Good's Motion to Dismiss. The Court held that K.S.A. 60-206(a) controlled the calculation of the statute of limitations under K.S.A. 60-513 and found the plaintiff had filed her petition within the allowed time.

The Court made all findings required by K.S.A. 60-2102(b) and stayed the proceedings until such time as the Kansas Court of Appeals accepts or denies an interlocutory appeal. A certified, file-stamped copy of the Journal Entry is attached as Exhibit "A".

4. The controlling questions of law are:
  - A. Whether K.S.A. 60-206(a) applies in calculating the statute of limitations under K.S.A. 60-513?
  - B. Whether a calendar year, an anniversary year, or a 365-day period is used in calculating the statute of limitations under K.S.A. 60-513?
5. Good contends that K.S.A. 60-206(a) does not apply to calculating the statute of limitations under K.S.A. 60-513.
6. Driver contends that K.S.A. 60-206(a) controls and that an anniversary year must be used in calculating the statute of limitations under K.S.A. 60-513.
7. Resolution of the controlling questions of law would determine whether Driver's claims were barred by the statute of limitations under K.S.A. 60-513 and, therefore, an immediate appeal would materially advance the ultimate termination of the litigation.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Application was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** Most applications will be more factually complex than the form and require citation to case law as well as statutory authority, but the format remains the same. The application must be accompanied by a certified copy of the district court order from which appeal is sought to be taken, and that order must include the findings required by K.S.A. 60-2102(c). See Rule 4.01. If the person seeking an interlocutory appeal filed a motion with the district court to include the findings required by K.S.A.

60-2102(c), the application must be accompanied by certified copies of the initial order, the motion, and the order containing the findings.

A similar format should be adopted for the civil interlocutory appeal under Rule 4.01A.



## § 12.13 Petition for Judicial Review of an Order of the Board of Tax Appeals

### IN THE COURT OF APPEALS OF THE STATE OF KANSAS

In the Matter of the Application of

XYZ Corp. for Exemption from

[Insert BOTD Docket Number]

Ad Valorem Taxation.

### PETITION FOR JUDICIAL REVIEW OF AN ORDER OF THE BOARD OF TAX APPEALS

**XYZ Corporation asks the Court of Appeals for judicial review of all adverse rulings made by the Board of Tax Appeals in that Board's order, dated [Insert Date], and that Board's subsequent order denying reconsideration, dated [Insert Date].**

The petitioner states:

1. Name and mailing address of the petitioner.  
[Insert information]
2. Name and mailing address of the agency whose action is at issue.  
[Insert information]
3. *Authority.* K.S.A. 74-2426, K.S.A. 77-614, and Kansas Supreme Court Rule 9.03.
4. *Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action.*

XYZ Corp. requested ad valorem taxation exemption for certain real property under K.S.A. 79-201b Sixth. XYZ Corp. claimed that the subject property satisfied the statutory requirements, which require the operator to be a not-for-profit corporation and that the property be used exclusively for the housing of mentally ill, retarded, or other handicapped persons.

On [Insert Date], the Board of Tax Appeals ruled that the operator of the subject property could not meet the statutory requirement of being a not-for-profit corporation and that the subject property was not being used exclusively for an exempt purpose because XYX Corp. was receiving a benefit in the form of Internal Revenue Code Section 42 low income housing tax credits. XYZ Corp. moved for reconsideration

on [Insert Date]. The Board of Tax Appeals on [Insert Date] denied the motion for reconsideration. The Board of Tax Appeals reversed the ruling as to the operator, determining the project was operated by a not-for-profit entity as contemplated by K.S.A. 79-201b Sixth. However, the Board of Tax Appeals reaffirmed its prior decision that the subject property was not being used exclusively for an exempt purpose.

Certified copies of the order of the Board of Tax Appeals, the petition for reconsideration, and the Board's order on the petition for reconsideration are attached.

5. *Identification of persons who were parties in any adjudicative proceedings that led to the agency action.*

[Insert Information]

6. *Facts to demonstrate that the petitioner is entitled to obtain judicial review.*

This is a final order of the Board of Tax Appeals and constitutes final agency action. Any party choosing to appeal this order must do so by filing a petition for judicial review within 30 days from the date of certification of this order. See K.S.A. 77-613(c). The petition for judicial review must be filed with the Kansas Court of Appeals. K.S.A. 7426(c)(2).

7. *Reasons why relief should be granted.*

The Board of Tax Appeals erroneously ruled, as a matter of law, that the subject property was not entitled to exemption under K.S.A. 79-201b Sixth by virtue of the property owner receiving Internal Revenue Code Section 42 low income housing tax credits in respect of certain construction and other acquisition costs attached to the property.

8. *The type and extent of relief petitioner requests.*

A determination that the subject property is entitled to exemption under K.S.A. 79-201b Sixth.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Petition for Judicial Review was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** See § 12.15, *infra*, to request certification of the record.

The petition for judicial review must be in compliance with K.S.A. 77-614. Some petitions may be more factually complex than the form and require citation to case law as well as statutory authority, but the format remains the same.



**§ 12.14 Petition for Judicial Review—Workers Compensation Cases**

**IN THE COURT OF APPEALS OF THE STATE OF KANSAS**

[Insert Name],

Claimant/  
[ Insert Appellate Designation],

vs. [Insert Workers Comp Docket Number]

[Insert Name],

Respondent/  
[Insert Appellate Designation],

and

[Insert Name],

Insurance Carrier/[Insert Appellate Designation].

---

**PETITION FOR JUDICIAL REVIEW OF A DECISION OF THE WORKERS  
COMPENSATION APPEALS BOARD**

**[Insert Name of Petitioner] asks the Court of Appeals for judicial review of  
the decision of the Workers Compensation Appeals Board.**

The petitioner states:

1. *Name and mailing address of the petitioner.*

[Insert information]

2. *Name and mailing address of the agency whose action is at issue.*

[Insert information]

3. *Authority.* K.S.A. 44-556, K.S.A. 77-614, and Supreme Court Rule 9.04.
4. *Identification of the agency action at issue, together with a duplicate copy, summary, or brief description of the agency action.*

The Workers Compensation Appeals Board on [Insert date] awarded workers compensation benefits to claimant, finding that his injury on [Insert date] while riding a go-cart at a recreational event fell within the course and scope of his employment with respondent.

Certified copies of the order of the administrative law judge, the request for Board review, and the order of the Board are attached.

5. *Identification of persons who were parties in any adjudicative proceedings that led to the agency action.*

[Insert information]

6. *Facts to demonstrate that the petitioner is entitled to obtain judicial review.*

The administrative law judge on [Insert date] granted claimant benefits and ruled that his injury did fall within the scope of employment as an exception to K.S.A. 44-508(f). Thereafter, petitioner filed a notice of appeal dated [Insert date] with the Workers Compensation Appeals Board, completed briefs, and orally argued the matter. The Board affirmed the ruling of the administrative law judge on [Insert date]. Under K.S.A. 44-556, petitioner is allowed to appeal the decision of the Board to the Court of Appeals.

7. *Reasons why relief should be granted.*

Petitioner states that the Workers Compensation Appeals Board erred in finding that the injury of claimant was compensable. Among other things, the Board failed to follow the strict statutory language of K.S.A. 44-508(f). The Board considered other factors in making its determination not included in the language of K.S.A. 44-508(f). The Board found an implied duty where the greater and overwhelming weight of the evidence would not allow such conclusion. In addition, there was insufficient evidence to support the finding of the Board that an implied duty existed for claimant to attend the recreational/social event where he was injured.

8. *The type and extent of relief petitioner requests.*

Petitioner requests the Court of Appeals enter an order finding that the Workers Compensation Appeals Board erred as a matter of law in finding that the injury to claimant was work-related and that benefits should be awarded for the injury.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Petition for Judicial Review was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** See § 12.15, *infra*, to request certification of the record.

The petition for judicial review in workers compensation cases is filed in the Court of Appeals. See K.S.A. 44-556(a) and Rule 9.04.

The petition for judicial review must be in compliance with K.S.A. 77-614. Some petitions may be more factually complex than the form and require citation to case law as well as statutory authority, but the format remains the same.



**§ 12.15 Request for Certification of Record—Workers Compensation Cases**

**BEFORE THE DIVISION OF WORKERS COMPENSATION FOR THE STATE OF KANSAS**

[Insert Name],

Claimant/ [ Insert Appellate Designation],

vs.

Docket No. [Insert Number]

[Insert Name],

Respondent/ [Insert Appellate Designation],

and

[Insert Name],

Insurance Carrier/[Insert Appellate Designation].

---

**REQUEST FOR CERTIFICATION OF RECORD**

[Insert Name], Petitioner, requests the Workers Compensation Appeals Board to certify the record of the proceedings in this matter and transmit the record to the clerk of the appellate courts.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Request for Certification of Record was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/

\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** A separate request should be made for preparation of a transcript of any hearing before the Board. The Board will not transmit the record to the clerk of the appellate courts until all transcripts are complete.

When appeals are taken from the Board of Tax Appeals to the Court of Appeals under Rule 9.03, a similar procedure applies, and this form can be adapted to those appeals.

**§ 12.16 Motion for Release After Conviction**

**IN THE (SUPREME COURT) (COURT OF APPEALS) OF THE STATE OF KANSAS**

STATE OF KANSAS,

Plaintiff/Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

**MOTION FOR RELEASE AFTER CONVICTION**

The defendant seeks an order setting an appeal bond.

1. *Background.* Defendant was convicted of: Aggravated robbery, K.S.A. 21-3427. Defendant was sentenced to: 61 months in prison with 36 months' postrelease supervision.
2. *Authority.* K.S.A. 22-2804 and Supreme Court Rule 5.06.
3. The district court has denied defendant's request for an appeal bond (see attached journal entry filed [Insert Date]). [Briefly describe the district court's reasons for denying the bond.]
4. The Court should consider the defendant's family ties, employment possibilities, financial resources, length of residence in the community, prior convictions, and record of appearance during trial (including failure to appear). [Give specific information about this defendant for each factor mentioned.]
5. [Note whether any previous bonds have been set in the case, including the amount.]

The Defendant asks the Court to set an appropriate appeal bond pending a decision in this case.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion for Release After Conviction was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** The district court's order denying the defendant's request for an appeal bond should be attached to the motion.

§ 12.17 Fax Transmission Sheet

FAX TRANSMISSION SHEET

DATE: \_\_\_\_\_

TO: Clerk of the Appellate Courts  
FAX Number: (785 ) 296-1028

FROM: Attorney or Party Without Attorney (Name and Address)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Kansas Attorney Registration Number: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_ - \_\_\_\_\_

FAX Number: ( ) \_\_\_\_ - \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Attorney for (Name): \_\_\_\_\_

RE: Appellate Case Number:

Caption: \_\_\_\_\_

vs

\_\_\_\_\_  
Name of the Document Being Transmitted:

\_\_\_\_\_  
Number of fax pages excluding this cover page:

\_\_\_\_\_  
OTHER INSTRUCTIONS:

**PRACTICE NOTE:** A Kansas licensed attorney in good standing must file documents electronically and may not use fax filing. Rules 1.08 and 1.14. Thus, this fax filing cover sheet will be used primarily by pro se litigants.

Routine motions, pleadings, or correspondence that do not require a filing fee will be accepted by the appellate courts for filing by fax if the document, together with any supporting documentation, does not exceed ten (10) pages. Briefs and petitions for review may not be filed by fax. The fax transmission sheet and the certificate of service are not included in the 10-page limitation.

Fax only one copy; the clerk of the appellate courts will provide any additional copies required. Do not mail the original or any additional copies. See Rule 1.08.

**§ 12.18 Admission *Pro Hac Vice* of Out-of-State Attorney:  
Kansas Attorney's Motion**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**MOTION FOR ADMISSION  
*PRO HAC VICE***

**A Kansas attorney of record seeks the admission of an out-of-state attorney to practice law in this appeal.**

1. *Background.* Jane Pleader, an attorney in this case, admitted to practice law in Kansas, and in good standing, asks this court to admit [Insert name of out-of-state attorney] to practice law in Kansas for this particular appeal.
2. *Authority.* Supreme Court Rule 1.10.
3. *Reasons.* [Insert name of out-of-state attorney], already admitted to practice law in Washington, D.C., Virginia, Maryland, and the D.C. United States Circuit Court of Appeals is needed to assist in this case. She is in good standing under the rules of the highest appellate courts in all of the jurisdictions in which she regularly appears.
4. Jane Pleader will remain actively engaged in this case, will sign all pleadings, documents, motions and briefs, and will be present during oral argument if scheduled.

5. The verified application of [Insert name of out-of-state attorney] and the \$100 non-refundable fee are being submitted electronically.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion For Admission *Pro Hac Vice* was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** The Kansas attorney is required to be in good standing and "regularly engaged in the practice of law in Kansas." Effective July 1, 2005, the Kansas attorney is, however, not required to be a Kansas resident.

The Kansas attorney's motion and the out-of-state attorney's verified application are required to be served on all counsel of record and on the out-of-state attorney's client. See Rule 1.10.

**§ 12.19 Admission *Pro Hac Vice* of Out-of-State Attorney:  
Out-of-State Attorney's Verified Application**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE***

**An out-of-state attorney seeks admission to practice law in Kansas in this particular appeal.**

1. *Background.* My name is: [Insert Name]. I am regularly engaged in the practice of law and in good standing in [Insert name of all states, territories of the United States, or the District of Columbia] according to the rules of the highest appellate court in that jurisdiction.
2. *Authority.* Supreme Court Rule 1.10(e).

I am aware that, if this application is granted, I will be subject to the order of, and amenable to disciplinary action by, the Kansas appellate courts. In support of my application I state the following:

1. [Identify the party or parties represented]
2. The Kansas attorney of record is [Insert name of Kansas attorney], Supreme Court registration [Insert number], and conducts business from [Insert business address, email address, phone number, and fax number].
3. My residential address is [Insert residential address], my business address is [Insert business address]. My business phone number, fax

Forms

number and e-mail address are [Insert business phone number, fax number, and e-mail address].

4. I am admitted to the following bar(s): [Insert bar(s), date(s) of admission, registration number(s)]
5. I am a member in good standing of each of the above bar(s).
6. I have not been the subject of prior public discipline, including but not limited to suspension or disbarment, in any jurisdiction.
7. No disciplinary action or investigation is currently pending against me in any jurisdiction [or if an action is pending, so state, and provide a detailed description of the nature and status of the action/investigation as well as the address of the disciplinary authority in charge].
8. Within the preceding 12 months, I have been admitted pro hac vice in Kansas in the following case(s): [Insert case name(s), case number(s), and court(s) in which admitted].
9. I understand that I remain under a continuing obligation to notify the clerk of the appellate courts if a change occurs in any of the information provided.
10. The required non-refundable \$100 fee, payable to the clerk of the appellate courts is included with this application.

I swear or affirm that all of this information is true and correct to the best of my knowledge.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

~seal~

Notary:

Expiration Date of Notary:

County & State:

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Verified Application was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** The out-of-state attorney's verified application and the Kansas attorney's motion are required to be served on all counsel of record and on the out-of-state attorney's client. See Rule 1.10(d)(1)(D).



**§ 12.20 Entry of Appearance**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**ENTRY OF APPEARANCE**

Jane Pleader now represents [name of client as well as party designation] as counsel of record in this appeal.

Attorney's Signature

/s/

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Entry of Appearance was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** The most important part of an entry of appearance is the clear statement by name and party designation of the client on whose behalf the attorney enters an appearance. If a party is represented by only one attorney, it is sufficient to enter an appearance as “counsel of record.” If a party is represented by more than one attorney, the entry of appearance must also indicate whether the attorney is entering the case as lead counsel or as co-counsel.

## § 12.21 Motion to Withdraw as Appointed Counsel

### IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

#### MOTION TO WITHDRAW AS APPOINTED COUNSEL

**Appointed appellate counsel asks to withdraw because of a conflict of interest.**

1. *Background.* This is an appeal from the district court's denial of relief sought in a K.S.A. 60-1507 motion. Notice of Appeal was filed on [Insert Date]; the case was docketed on [Insert Date].
2. *Authority.* Kansas Rule of Professional Conduct 1.7(a) and Supreme Court Rule 1.09.
3. *Reasons.* Counsel has just learned that [Insert Name] is a co-defendant in this case. Counsel has in the past and does currently represent [Insert Name]. If counsel continues to represent the appellant, she will be required to argue a position, stemming from the same set of facts and circumstances that is in conflict with the interests of [Insert Name.] Thus, a conflict of interest has arisen, and counsel cannot ethically represent both.
4. Counsel also requests this court to remand to the district court for appointment of new appellate counsel. [In the alternative, if substitute counsel has already entered an appearance, give the name of substitute counsel.]

For these reasons, counsel asks the court to allow her to withdraw.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Withdraw was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** A motion to withdraw should be accompanied by an entry of appearance filed by new counsel if possible.

The motion to withdraw must be served on the client, even when the client has requested the attorney to withdraw from the case. The motion must also be served on opposing counsel.

Rule 1.09 sets out separate procedures for withdrawal, depending on the client's circumstances:

- Withdrawal of Attorney When Client Will Be Left Without Counsel
- Withdrawal of Attorney When Client Continues to Be Represented by Other Counsel of Record
- Withdrawal of Attorney When Client Will Be Represented by Substituted Counsel
- Withdrawal of Attorney When Client is Represented by Appointed Counsel

The motion should be drafted to address the specific requirements for the type of withdrawal.

**§ 12.22 Request for Transcript**

**IN THE [Insert Number] JUDICIAL DISTRICT DISTRICT COURT OF [Insert Name]  
COUNTY, KANSAS (CRIMINAL)(CIVIL) DEPARTMENT**

[Insert Name],

Plaintiff-Appellees,

vs.

[Insert District Court Case Number  
and Division Number, if applicable]

[Insert Name],

Defendant-Appellant.

---

**REQUEST FOR TRANSCRIPT**

**[Insert Name] asks for the following transcripts to be prepared for the appeal of this case: [Insert a list of the specific transcripts or portions of transcripts needed, including the date of the hearing.]**

1. Transcript of Jury Trial [Insert Date] through [Insert Date] except this request does not include the jury voir dire.
2. Transcript of hearing on defendant's motion to suppress. [Insert Date].
3. *Authority.* Supreme Court Rule 3.03.

Attorney's Signature

/s/

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Request for Transcript was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.

The court reporter who took the transcript MUST be served.]

/s/  
\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** If you are unsure which court reporter should be served, contact the district court clerk. Rule 354 requires the trial judge to enter on the appearance/trial docket the name of the court reporter taking proceedings. If the proceedings were electronically recorded, service is made on the clerk of the district court and the managing court reporter or court reporter designated by the clerk. Rule 365.

It is critical that the request state the transcript is for appeal because the court reporter's time begins to run upon service of the request. See Rule 3.03(e).

Court reporters cannot be served through the electronic filing system; rather, they must be served by traditional means. When serving more than one court reporter, the attorney should upload this request once for each court reporter served, i.e., if three court reporters are served, the request should be uploaded three times.

**§ 12.23 Notice of Service of Order for Transcript**

**IN THE [Insert Number] JUDICIAL DISTRICT DISTRICT COURT OF [Insert Name]  
COUNTY, KANSAS (CRIMINAL)(CIVIL) DEPARTMENT**

[Insert Name],

Plaintiff,

vs.

[Insert District Court Case Number  
and Division Number, if applicable]

[Insert Name],

Defendant.

---

**NOTICE OF SERVICE OF ORDER FOR TRANSCRIPT**

[Insert Name] gives notice that the attached Order for Transcript was served on [Insert name of court reporter and any other party or attorney on whom service was made] on [Insert date] by [Insert method of service].

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Service of Order for Transcript was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** This form is for use when an Order for Transcript was not served on the court reporter.

**§ 12.24 Notice That No Transcript Is Required**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**NOTICE THAT NO TRANSCRIPT IS REQUIRED**

The appellant notifies the Court that no transcript has been or will be requested in this appeal.

Attorney's Signature

/s/

\_\_\_\_\_  
Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**§ 12.25 Request for Additions to the Record on Appeal After the Record has been Transmitted**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**REQUEST FOR ADDITIONS TO THE RECORD ON APPEAL**

**Appellant asks that several documents be added to the record on appeal.**

1. *Background.* The record on appeal in this case is now in the possession of the clerk of the appellate courts.
2. *Authority.* Supreme Court Rule 3.02(d)(4).
3. The following exhibits, depositions, and transcripts must be added to the record on appeal: [Enumerate and describe each exhibit, deposition, instruction, or transcript.] [Briefly explain the reason for the addition.]

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Request was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made, including the court reporter if he or she has custody of the requested exhibits.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** This form should be used when the record has been transmitted to the clerk of the appellate courts.

If the record is still in the district court, a request simply listing the additions can be served on the clerk of the district court if the additions are part of the entire record in this case. No court order is required. See Rule 3.02. A court order will be required if the additions are not part of the entire record in this case. For example, they are part of the record in another case.

A request for additions to the record is not a substitute for a request for transcript under Rule 3.03. See § 12.22, *supra*.

§ 12.26 Motion to Consolidate Appeals

IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**MOTION TO CONSOLIDATE APPEALS**

**[Name of Party] asks the court to consolidate this case with Appellate Case No. \_\_\_\_\_.**

1. *Background.* The issues on appeal in this case are: [Give a brief synopsis of all issues.]
2. *Authority.* Supreme Court Rule 2.06.
3. *Reasons.* The parties, the facts, the issues, and the law pertaining to both cases are identical.
4. Both cases pertain to [briefly describe the facts underlying the appeals].
5. A ruling from this Court in either case would dispose of the other.

[Briefly explain.] Because of this, [name of party] asks the court to consolidate the two cases for appeal.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Consolidate Appeals was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** Motions to consolidate appeals should be filed early in the appellate process before briefing occurs.

A separate motion to consolidate must be filed in each of the cases suggested for consolidation. A motion to consolidate may request consolidation of two or more appeals.

**§ 12.27 Motion to Transfer to Supreme Court**

**IN THE SUPREME COURT OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellees.

---

**MOTION TO TRANSFER TO SUPREME COURT**

Appellant asks that this appeal be transferred to the Supreme Court because the subject matter of the case has significant public interest.

1. *Background.* This motion to transfer has been filed with the clerk of the appellate courts within 30 days after the service of the appellant's notice of appeal.
2. *Authority.* Supreme Court Rule 8.02 and K.S.A. 20-3017.
3. *Nature of the case:* This is an appeal [insert the full nature of the case.]
4. This case is within the authority of the Supreme Court according to [demonstrate how the case is within the jurisdiction of the Supreme Court.]
5. *Reasons for transfer.* [Specify grounds found in Supreme Court Rule 8.02(b)(3)(A) through (D).]

For these reasons, appellant asks the Supreme Court to transfer this case for determination.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Transfer was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** Even though the statutory thirty days from service of the notice of appeal may have passed [See K.S.A. 20-3017 and Rule 8.02], a party who files a motion to transfer will have called the case to the attention of the Supreme Court which may exercise its discretion and transfer the case on its own motion. K.S.A. 20-3018(c). The motion is filed in the Supreme Court, not the Court of Appeals.

## § 12.28 Motion for Extension of Time to File Brief

### IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

#### MOTION FOR EXTENSION OF TIME TO FILE BRIEF

**[Insert name] asks for an additional 30 days to file the [state type of brief- e.g. appellant, appellee] brief.**

1. *Background.* The appellant's brief is now due on July 5, 2018. Two prior extensions of time have been requested and granted.
2. *Authority.* Supreme Court Rule 5.02.
3. *Reasons.* [State with particularity the reason for the extension. For example: the appellant's counsel has just received the last volume of the 2,000 page trial transcript and needs more time to read, analyze and make cross-references from this large record in the brief.]

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

## CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion for Extension of Time was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/

\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** A motion for extension of time will be held seven business days, plus three calendar days depending on how service was made, for response from opposing counsel. Rule 5.01(b). A motion which requests twenty days or less will be acted upon immediately. See Rule 5.02(d). An adverse party's consent will be considered but is not controlling. See Rule 5.02(b).

Motions for extension of time to file brief are perhaps the most common motion received by the clerk of the appellate courts. Even though they are common, there are still pitfalls to avoid when requesting a little bit more time to finish up a brief. First, every effort should be made to proofread the document for internal consistency. If the motion requests 30 days at the beginning, it should also request 30 days at the end. Second, it is a good idea to check Supreme Court Rule 5.02 to see if additional information is required; for example, the attorney must give "reasons constituting excusable neglect" if the motion is filed after the expiration of the existing brief due date. And finally, practitioners should know that motions for time are generally given in 30-day increments. An attorney is free to request fewer than 30 days. However, he or she should be aware that the request will still count as an extension given by the court, even if all 30 days were not used.

**§ 12.29 Motion to Immediately File Out-of-Time Brief**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**MOTION TO IMMEDIATELY FILE OUT-OF-TIME BRIEF**

1. *Background.* The appellee's brief was due on July 5, 2018, and that day has passed. The appellee has asked for and received one prior extension of time to file the brief.
2. *Authority.* Supreme Court Rule 5.02.
3. *Reasons.* [State with particularity the reasons constituting excusable neglect. For example: A portion of a transcript of a pretrial hearing, needed to support appellee's argument on one issue, has recently been found. Briefing was delayed while steps were taken to add the transcript to the record on appeal.]

Because of this, appellee asks for permission to file the brief immediately.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Immediately File Out-of-Time Brief was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** A motion to efile a brief out-of-time should not be accompanied by the completed brief in a single submission; rather, the motion and the brief should be transmitted separately. If a pro se litigant is filing the motion, the paper brief should accompany the motion.

**§ 12.30 Motion to Exceed Page Limitations**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendants-Appellees.

---

**MOTION TO EXCEED PAGE LIMITATIONS**

**The Appellant asks permission to file a brief that is 60 pages in length.**

1. *Background.* The appellant's brief is due July 5, 2018.
2. *Authority.* Supreme Court Rule 6.07(d).
3. *Reasons:*
  - a. The record on appeal in this case consists of 30 volumes and several thousand pages of exhibits;
  - b. The trial lasted nearly a month and there were several other hearings on motions and other matters which are the subjects of this appeal;
  - c. This case involves numerous complex and significant legal issues, including the constitutionality of K.S.A. 60-3701 *et seq.* and the interpretation of the wrongful death statute, K.S.A. 60-1901;
  - d. Because of the complex facts and issues, it has been impossible for counsel to condense the brief to the 50-page limit and still address properly all the issues before this Court;
  - e. Counsel was able to condense the brief to 60 pages, not counting the table of contents and appendices.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** A motion to exceed page limitations must be submitted prior to submission of the brief and must include a specific total page request. See Rule 6.07(d).

§ 12.31 Notice of Filing Under K.S.A. 75-764

IN THE APPELLATE COURTS OF KANSAS

SUPREME COURT    COURT OF APPEALS

\_\_\_\_\_  
Appellee

v.

Appellate Court Case No.: \_\_\_\_\_

District Court Case. No.: \_\_\_\_\_

County Appealed From: \_\_\_\_\_

\_\_\_\_\_  
Appellant

**NOTICE OF FILING UNDER K.S.A. 75-764**

TO THE ATTORNEY GENERAL OF THE STATE OF KANSAS:

Please be advised that I am serving you with (PETITION/MOTION/BRIEF/OTHER PAPER), which contests or calls into doubt the validity of a Kansas statute or constitutional provision on grounds that the law violates the state constitution, federal constitution, or a federal law. The law I am challenging is \_\_\_\_\_  
\_\_\_\_\_. This notice is served as required by K.S.A. 75-764 and Kansas Supreme Court Rule 11.01.

\_\_\_\_\_  
Party or Party's Attorney

Name (Print): \_\_\_\_\_

[Supreme Court Number]: \_\_\_\_\_

Address 1: \_\_\_\_\_

Address 2: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

[Fax Number]: \_\_\_\_\_

[E-mail Address]: \_\_\_\_\_

(Attach certificate of service in compliance with K.S.A. 60-205 listing all parties served, including name, address, and who they represent. The petition/motion/brief/ other paper referenced in this notice should only be filed once with the appellate court. See Supreme Court Rule 11.01. The Office of the Attorney General will accept electronic service of this notice at the following email address: [Solicitors@ag.ks.gov](mailto:Solicitors@ag.ks.gov).)

## § 12.32 Motion to Substitute Corrected Brief

### IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellee.

---

### MOTION TO SUBSTITUTE CORRECTED BRIEF

**Appellant asks permission to withdraw a brief containing errors and replace it with a corrected brief.**

1. *Background.* The appellant timely filed a brief on [Insert Date]. This case has not yet been set for argument.
2. *Reasons.* After the brief was filed, appellant's counsel discovered errors in two case citations on pages 2 and 14 of the brief. In addition, counsel discovered that pages 7 through 27 of the brief are in random, nonsequential order. Appellant's counsel discovered this mistake after the original brief had been filed with the clerk of the appellate courts.

Attorney's Signature

/s/

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Motion to Substitute Corrected Brief was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** This motion addresses technical corrections only, and the established briefing schedule is not affected by the motion.

**§ 12.33 Notice of Additional Authority**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendants-Appellees.

---

**NOTICE OF ADDITIONAL AUTHORITY**

To the Court:

This letter is notice of additional (persuasive/controlling) authority that has come to the appellee's attention after our brief has been filed.

In our brief, on page 22 in our discussion of the requirements to obtain a search warrant, we criticize *State v. Smith*, 123 Kan. App. 2d 123, 456, 789 P.3d 123 (2015). The Kansas Supreme Court, in its opinion *State v. Smith*, 456 Kan. 789, 79, has recently expressly *overturned* the ruling of the Court of Appeals.

In our view, this is controlling authority that supports our argument that the appellant has failed to show any legal authority for its position on this issue.

Attorney's Signature

/s/

\_\_\_\_\_  
Attorney's Name (typed or printed)  
Kansas Attorney Registration Number  
Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Additional Authority was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** Supreme Court Rule 6.09 sets out how and when additional authority may be cited to an appellate court. Attorneys should pay close attention to the timing, service, and content restrictions found in the rule. The notice may not exceed 350 words.

## § 12.34 Motion to Substitute Parties

### IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellee.

---

### MOTION TO SUBSTITUTE PARTIES

**A special administrator of a probate estate brought this appeal on behalf of the estate. She has now died and her daughter, who has been appointed by the district court as the special administrator of the estate, asks to be substituted as the named appellant.**

1. *Background.* Jane Pleader, was appointed by the District Court of [insert name] County as Special Administrator of the Estate of John Pleader, her husband. As special administrator she was to investigate and possibly pursue a claim against Dr. Richard Roe and others for medical malpractice.
2. *Authority.* K.S.A. 60-225(a).
3. *Reasons.* Jane Pleader filed a medical malpractice lawsuit against defendant Roe on [insert date], in the [insert name] County District Court.
4. Ultimately, by summary judgment and directed verdict, the district court dismissed the various claims of negligence the estate made against Dr. Richard Roe.
5. Jane Pleader brought this appeal on behalf of the probate estate.
6. Jane Pleader died on [insert date]. At that time, this appeal was still pending.

7. After the death of Jane Pleader, the [insert name] District Court appointed Betty Pleader as Special Administrator of the Estate of John Pleader to continue this lawsuit and other purposes. Betty Pleader, Special Administrator of the Estate of John Pleader now asks this court to substitute her as the appellant in this appeal in the place of Jane Pleader, so she can continue with this appeal.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion to Substitute Parties was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** A motion to substitute parties should contain enough detail to demonstrate that the substitution is proper.

**§ 12.35 Notice of Change in Custodial Status Under Rule 2.042**

**IN THE (SUPREME COURT) (COURT OF APPEALS) OF THE STATE OF KANSAS**

State of Kansas,

Appellee,

vs.

[Insert Appellate Court Case Number]

John Pleader,

Appellant.

---

**NOTICE OF CHANGE IN CUSTODIAL STATUS**

The State of Kansas, through \_\_\_\_\_ (district/county attorney/assistant attorney general), hereby notifies the appellate courts that John Pleader has been released from custody [and is now subject to post-release supervision].

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Change of Custodial Status was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**PRACTICE NOTE:** This notice should only be filed when the change in the defendant's custodial status raises a question about mootness of the appeal. It is not necessary to notify the court of a defendant's transfer between facilities.

§ 12.36 Notice of Death

IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

State of Kansas,

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

J.B. Good

Defendant-Appellant.

---

**NOTICE OF DEATH OF THE DEFENDANT-APPELLANT**

1. *Background.* J.B. Good, the defendant-appellant in this appeal died on May 1, 2020, in Lansing, Kansas. He is represented in this matter by Jane Pleader, his attorney. The appeal should continue.
2. *Authority.* K.S.A. 60–225.
3. *Reasons.* Both parties have briefed the issues raised in this case and argued their cause before the court. They await the court’s opinion resolving them. The controversy raised in these issues survives the appellant. Several of the issues are unique and would serve as precedents for future appeals. The interests of the law would be well served by not dismissing this case and allowing the court to rule.

For these reasons, counsel asks that this case not be dismissed.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Death of the Defendant-Appellant was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**§ 12.37 Notice of Voluntary Dismissal**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellee.

---

**NOTICE OF VOLUNTARY DISMISSAL**

**The parties have settled and ask the court to dismiss this appeal.**

1. *Background.* During the pendency of this appeal, the parties entered into negotiations regarding the possible settlement of all claims in this case.
2. *Authority.* Supreme Court Rule 5.04.
3. *Reasons.* The parties arrived at a settlement of all claims in this case and have agreed to dismiss this appeal as a condition of their settlement agreement. Each party has agreed to bear their own costs and expenses, including costs of this appeal.

Attorney's Signature

/s/

---

Attorney's Name (typed or printed)  
Kansas Attorney Registration Number  
Address  
Telephone Number  
Fax Number  
E-mail Address  
Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Notice of Voluntary Dismissal was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/

\_\_\_\_\_  
Attorney's Name and Registration Number

**PRACTICE NOTE:** Only an appellant or cross-appellant can file a voluntary dismissal. If there is more than one appellant, the notice should clearly state if one or all of the appellants are dismissing the appeal. The notice should also indicate whether it is intended to dismiss any cross-appeals. If so, the notice must be signed by both parties. The notice should also indicate whether dismissal is with or without prejudice and should allocate costs.

## § 12.38 Motion for Involuntary Dismissal

### IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiff-Appellant,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendants-Appellees.

---

#### MOTION FOR INVOLUNTARY DISMISSAL

**[Insert name] asks the Court to dismiss this appeal without prejudice so the parties can obtain a district court order certifying this case is a controlling question of law.**

1. *Background.* James Doe commenced an action against John Doe and ABC, Inc., claiming that John Doe committed tortious acts and demanding compensation for his injury and damages.
2. *Authority.* Supreme Court Rule 4.01 and K.S.A. 60-2102(c).
3. *Reasons.* Defendant, John Doe, notified his insurance carrier and demanded the insurance carrier, under the terms of its policy, provide a defense and pay any lawful claims.
4. Plaintiff agreed to provide a defense and then commenced a declaratory judgment action requesting the trial court to interpret a policy of insurance issued to the defendant, John Doe.
5. Plaintiff in this action attempted to discover facts in controversy in the underlying tort suit between James Roe and John Doe and further requested the trial court in this declaratory judgment action to construe the underlying facts and interpret the subject insurance policy.

6. The trial court entered an order staying this action until the facts in the underlying tort action were determined or until the underlying tort action was concluded based upon the legal principle enunciated in *State Farm Fire & Casualty Company v. Finney*, 244 Kan. 545, 770 P.2d 460 (1989); *State Farm Fire & Casualty Company v. T.G.B., Inc.*, 760 F. Supp. 178 (D. Kan. 1991); and *U.S. Fidelity and Guaranty Co. v. Continental Insurance Company*, 216 Kan. 5, 531 Pac. 9 (1975).
7. The plaintiff appeals from the Stay Order which is not a final Order, and the plaintiff did not secure an Order from the district judge under K.S.A. 60-2102(c) to enable the Court of Appeals to exercise its discretion whether or not to permit the appeal herein. Accordingly, plaintiff's appeal is premature.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### **CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Motion for Involuntary Dismissal was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

§ 12.39 Application to File *Amicus* Brief

IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendants-Appellees.

---

**APPLICATION TO FILE *AMICUS* BRIEF**

**A trade association seeks to file a friend of the court brief because this appeal deals with a subject that could profoundly affect the business of the entire association.**

1. *Background.* This appeal involves the interpretation and application of K.S.A. 16-205 concerning interest rates on promissory notes. It also presents the question of whether the parties to a commercial transaction may agree to an increased interest rate upon occurrence of a non-monetary event of default.
2. *Authority.* Supreme Court Rule 6.06.
3. *Reasons.* The Kansas Bankers Association is a Kansas not-for-profit corporation and the primary trade association for the Kansas Commercial Banking Industry; 360 of the 362 state and national commercial banks in the State are members of the association.
4. Both of the issues in this appeal are subjects of profound interest to Kansas banks. The decision in this appeal will affect not only the parties to this action, but most commercial loans of all Kansas banks.
5. All parties have been served with a copy of this application.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Application to File *Amicus* Brief was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** An *amicus* brief must be filed not less than thirty days prior to oral argument. The application should be filed as early in the appeal as possible. See Rule 6.06.

An application to file an *amicus* brief must be filed with each appellate court separately, *i.e.*, just because an application to file an *amicus* brief was granted by the Court of Appeals does not mean that an *amicus* brief will automatically be permitted in the Supreme Court.

**§ 12.40 Suggestion for Place of Hearing**

**IN THE COURT OF APPEALS OF THE STATE OF KANSAS**

[Insert Name],

Plaintiffs-Appellants,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellee.

---

**SUGGESTION FOR PLACE OF HEARING**

**Jane Pleader, appellant, suggests that the oral arguments in this case be held in Hays, Kansas.**

1. *Authority.* Supreme Court Rule 7.02(d)(3).
2. *Reasons.* All parties to this civil appeal live in Ellis County, Kansas. If the oral arguments in this case were held in Hays, all parties would be able to attend the hearing.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of this Suggestion for Place of Hearing was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/  
Attorney's Name and Registration Number

**§ 12.41 Motion for Rehearing or Modification**

**IN THE [COURT OF APPEALS] [SUPREME COURT] OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**MOTION FOR REHEARING OR MODIFICATION**

**The appellee asks the court to rehear this case or modify its holding because of an incorrect interpretation of the applicable statute.**

1. *Background.* The court filed its opinion on [Insert Date.] This motion has been filed within [14 days for Court of Appeals, 21 days for Supreme Court] of the court filing its decision.
2. *Authority.* Supreme Court Rule 7.05 for Court of Appeals, 7.06 for Supreme Court.
3. *Reasons.* The court has ignored precedent and misinterpreted the statute that controls the issue of this case. [Insert specific argument in support of modification.]

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion for Rehearing or Modification was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** A copy of the Court's opinion must be attached to the motion. Note that the time to file is calculated from the date of decision, not a service date.

**§ 12.42 Motion for Attorney Fees and Costs**

**IN THE (SUPREME COURT)(COURT OF APPEALS) OF THE STATE OF KANSAS**

[Insert Name],

Plaintiff-Appellee,

vs.

[Insert Appellate Court Case Number]

[Insert Name],

Defendant-Appellant.

---

**MOTION FOR ATTORNEY FEES AND COSTS**

**Appellee asks for attorney fees and costs because (the district court had authority to award fees) (this appeal is frivolous).**

1. *Background.* This appeal was argued to the court on [Insert Date]. This motion was filed within 14 days of the date of oral argument.
2. *Authority.* Supreme Court Rules 5.01, 7.07(b) and 7.07(c).
3. *Reasons.* [Insert Argument]
4. *Amount requested.* Appellee has incurred attorney fees in the amount of \$12,005.25 and costs in the amount of \$599.29 as evidenced by Exhibits A and B. The affidavit of counsel is Exhibit A. The itemization of fees and costs incurred in conjunction with the appeal is attached as Exhibit B.

For these reasons, Appellee asks this court to award attorney fees and direct the mandate from this court to reflect this assessment so that execution can issue according to law.

Attorney's Signature

/s/ \_\_\_\_\_

Attorney's Name (typed or printed)

Kansas Attorney Registration Number

Address

Telephone Number

Fax Number

E-mail Address

Name of the Party Represented

### CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Motion for Attorney Fees and Costs was sent by [Insert Method] on [Insert Date] to:

[Insert names and addresses of those on whom service is made.]

/s/ \_\_\_\_\_

Attorney's Name and Registration Number

**PRACTICE NOTE:** If oral argument is waived, this motion must be filed not later than 14 days after the day argument is waived or the date of the letter assigning the case to a non-argument calendar, whichever is later. An affidavit must be attached to the motion specifying: (A) the nature and extent of the services rendered; (B) the time expended on the appeal; and (C) the factors considered in determining the reasonableness of the fee. Kansas Rule of Professional Conduct 1.5 regarding fees should be followed. According to Supreme Court Rule 7.07(b)(1), an appellate court can award attorney fees for the appeal in a case in which the district court had authority to award attorney fees. Attorney fees may also be awarded in a frivolous appeal. Rule 7.07(c). Costs for preparation of unnecessary transcripts may be recovered under Rule 7.07(d).

## § 12.43 Complaint Form: Attorney Discipline

OFFICE OF THE DISCIPLINARY ADMINISTRATOR  
 701 SW Jackson Street, First Floor  
 Topeka, Kansas 66603-3729  
 Telephone: (785) 435-8200  
 Fax: (785) 783-8385

### COMPLAINT FORM

**Requirements.** A complaint must be in writing, contain the complainant's name and address, and be signed by the complainant. Each complaint must be against only one attorney. If you wish to file a complaint against more than one attorney, fully complete separate complaint forms for each attorney. Each applicable question must be completed in detail.

**Fee Disputes.** Please be advised that we do not settle fee disputes. Currently, there are two fee dispute committees which assist attorneys and clients in resolving fee disputes which arise only in their respective locations. There is no state-wide fee dispute committee.

- Sedgwick County Fee Dispute Committee (316) 263-2251 (Sedgwick Co. only)
- Topeka Bar Association Fee Dispute Committee (785)-233-3945 (Shawnee Co. only)

**Procedure.** After the materials are received by the Office of the Disciplinary Administrator, an attorney will be assigned to review the documents and supervise the investigation of the complaint. You will be kept informed when action occurs regarding your complaint.

1. **Who is filing the complaint?**

Your Full Name: \_\_\_\_\_

Your Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Fax No.: \_\_\_\_\_

E-mail: \_\_\_\_\_

2. **Who are you complaining about?**

Attorney's Full Name: \_\_\_\_\_

Attorney's Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

3. **Did you hire the attorney (or did someone hire the attorney on your behalf)?**

Yes \_\_\_\_\_ No \_\_\_\_\_

a. If no, explain your connection with the attorney.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. If yes, proceed to question 4.

4. **When was the attorney hired?** \_\_\_\_\_

5. **What was the attorney to do?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **When did you first meet with the attorney?** \_\_\_\_\_

7. **Did you (or someone on your behalf) enter an agreement with the attorney regarding the attorney's fee?**

Yes \_\_\_\_\_ No \_\_\_\_\_

a. If yes, please attach a copy of the fee agreement or engagement letter as well as a copy of all receipts, cancelled checks, and other proof of payment to the attorney.

b. If no, what was your understanding of what you were to pay the attorney?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. **How much did you (or someone on your behalf) pay the attorney in total for attorney fees, expenses, and courts costs?**

\_\_\_\_\_

9. **If someone else hired the attorney or paid the attorney on your behalf, please provide:**

Full Name: \_\_\_\_\_

Address, City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

10. When was the last time you met with or heard from the attorney?

\_\_\_\_\_  
\_\_\_\_\_

11. Does your complaint involve a civil or criminal case? Yes \_\_\_\_\_ No \_\_\_\_\_

If no, what does your complaint involve? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

a. If yes, provide the following information:

i) The name of the court. For example: *the District Court of Shawnee County, Kansas or the Municipal Court of Topeka, Kansas*

\_\_\_\_\_

ii) The title of the case. For example: *Jane Smith v. John Doe or State v. John Doe*

\_\_\_\_\_

iii) Case number \_\_\_\_\_

iv) Approximately when the case was filed \_\_\_\_\_

v) What court settings have happened so far in the case? For example: *initial appearance, pretrial, documents filed with the court etc.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

vi) If you are not a party to the lawsuit or the defendant in the criminal case, explain your connection with it. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. **Did you hire a new attorney to replace the attorney against whom this complaint is made?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, please provide:

New Attorney's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

13. **List persons who have personal knowledge and information/facts relevant to your complaint and provide a brief description of what you think they would say.**

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

What would they say: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

What would they say: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Full Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

What would they say: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**14. What is your complaint with this attorney?**

Please describe the attorney's misconduct by providing a detailed factual statement. If you believe that the attorney engaged in misconduct in more than one way, please describe all the misconduct. State the facts as you understand them.

Our authority is limited to investigating and prosecuting violations of the Kansas Rules of Professional Conduct. Thus, please detail only the facts that establish the attorney's misconduct. Do not include opinions, arguments, or broad general statements of wrongdoing.

If you decide to attach a document relevant to your complaint, please reference and cite the relevant portion of the document in your response. Be sure and identify the portion of the document that is relevant and describe how the document is relevant to your complaint of misconduct. (For example: "this is the quoted part from the document," found on page 2, paragraph 3 of the document I have attached as Exhibit A.)

It may not be necessary to attach the entire document. Please do not attach documents that are not referenced in this section. As noted, it is critically important to state facts. **If your complaint fails to state sufficient facts concerning a rules violation your complaint may be dismissed without further investigation.**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**§ 12.44 Surrender Letter—Voluntary Surrender of License to Practice Law when Attorney is under Disciplinary Investigation**

[Insert Date]

Mr. Douglas T. Shima  
Clerk of the Appellate Courts  
Kansas Judicial Center  
301 SW 10th Avenue  
Topeka, Kansas 66612

Dear Mr. Shima:

Pursuant to Rule 230 of the Kansas Supreme Court Rules relating to the Discipline of Attorneys, I hereby voluntarily surrender my license to practice law in Kansas. Enclosed please find my license together with my annual certificate of attorney registration.\*

I am fully aware of Rule 230 and understand that by surrendering my license the court will duly enter an order disbarring me and terminating all pending disciplinary matters. I understand that other jurisdictions will be notified of the court's action.

I have read Rule 231 and have or will appropriately and timely comply with court's directions contained therein.

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Respondent	Kansas Bar Number	Date
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Respondent's Attorney	Date
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cc: Gayle B. Larkin  
Disciplinary Administrator



## § 12.45 Complaint Form: Judicial Discipline

### KANSAS COMMISSION ON JUDICIAL CONDUCT



KANSAS JUDICIAL CENTER  
301 SW 10<sup>TH</sup> AVE., ROOM 115  
TOPEKA, KANSAS 66612  
785-296-2913 ♦ judgeconduct@kscourts.org

### ◆ COMPLAINT AGAINST A JUDGE ◆

The Commission only has authority to investigate allegations of judicial misconduct or disability by persons holding state judicial positions. The Commission has no jurisdiction over and does not consider complaints against federal judges, lawyers, law enforcement and detention center officers, district court clerks, and court personnel.

The Commission does not act as an appellate court and cannot review, reverse, or modify a legal decision made by a judge in a court proceeding. Please review the accompanying brochure which describes the functions of the Commission. Note in particular the examples of functions which the Commission cannot perform.

Please Note: Complaint form must be typed or legibly hand-printed, dated, and signed before it will be considered. Complaint forms may be submitted by U.S. Mail or scanned and submitted by e-mail.

#### I. PERSON MAKING THE COMPLAINT

\_\_\_\_\_  
Full Name Inmate Number, if applicable

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City, State Zip Code Telephone Number

\_\_\_\_\_  
E-mail address Preferred Method of Communication:  U.S. Mail  E-Mail

#### II. JUDGE AGAINST WHOM COMPLAINT IS MADE

\_\_\_\_\_  
Full Name County or City

Type of Judge<sub>(check one)</sub>:  Supreme Court Justice  Court of Appeals Judge  
 District  District Magistrate  Municipal  
 Pro Tempore  Other \_\_\_\_\_

### III. COURT CASE INFORMATION

If the complaint involves a court case, please provide:

- Case Title: \_\_\_\_\_ Case Number: \_\_\_\_\_
- Your Relationship to the Case: \_\_\_\_\_ Plaintiff/Petitioner \_\_\_\_\_ Defendant/Respondent  
\_\_\_\_\_ Other \_\_\_\_\_

### IV. STATEMENT OF FACTS

In the following section, please provide all specific facts and circumstances which you believe constitute judicial misconduct or disability. Include names, dates and places which may assist the Commission in its evaluation and investigation of this complaint.

If additional space is required, attach and number additional pages.

## V. ATTACHMENTS

Relevant documents: Please attach any relevant documents which you believe directly support your claim that the judge has engaged in judicial misconduct or has a disability. Highlight or otherwise identify those sections that you rely on to support your claim. Do not include documents which do not directly support your complaint, for example, a copy of your complete court case.

\*Keep a copy of all documents submitted for your records as they become the property of the Commission and will not be returned.\*

**In filing this complaint, I understand that:**

- **The Commission's rules provide that all proceedings of the Commission, including complaints filed with the Commission, shall be kept confidential unless formal proceedings are filed. The confidentiality rule does not apply to the complainant or the judge against whom a complaint is filed.**
- **The Commission may find it necessary to disclose my identity and the existence of this complaint to the involved judge. By filing this complaint, I expressly consent to any such disclosure.**

## VI. SIGNATURE

I declare that to the best of my knowledge and belief, the above information is true, correct and complete and submitted of my own free will.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

