

# CHAPTER 1

## History and Personnel of the Appellate Courts

### § 1.1 History

Even prior to the advent of statehood, appellate justice in Kansas was administered by three justices of a Supreme Court. With statehood and an increasing population, the volume of litigation and the number of appeals grew. Several separate revisions of the appellate court system have taken place over the years in an effort to meet the citizens' growing demands on the appellate judiciary.

The first revision was the addition of three commissioners in the late 1880's to assist the three justices. Then, in 1893, the commissioner system was abolished and, in 1895, the first Court of Appeals of Kansas came into being. There were actually two such courts, a northern department and a southern department, each with three judges. Each department had three divisions—an eastern, a central, and a western. In the northern department the eastern division sat at Topeka, the central division at Concordia, and the western at Colby. In the southern department the eastern division of the court sat at Fort Scott, the central at Wichita, and the western at Garden City. The decisions of those courts may be found in the *Kansas Appeals Reports*, Volumes 1 through 10.

The third revision occurred in 1901, when the Court of Appeals was abolished and the Supreme Court was enlarged to seven justices.

By 1963 the volume of cases in the Supreme Court had substantially increased and the legislature again authorized the appointment of a commissioner to aid the court in disposition of appeals and writing of opinions. The fifth revision was the creation of a second commissioner position in 1965.

Effective January 10, 1977, the present Court of Appeals was established consisting of seven judges. At the same time the two commissioner positions on the Supreme Court were abolished, reducing that court to its present complement of seven justices. The two commissioners, then in office, by statute became the first members of the newly-created Court of Appeals. Other members were appointed by the Governor.

On July 1, 1987, the Court of Appeals was expanded from seven to ten members. On January 1, 2003, an eleventh position was created, on January 1, 2005, a twelfth, on January 1, 2008, a thirteenth, and on July 1, 2013, a fourteenth position was created. The modern Court of Appeals has no geographical divisions but is authorized to sit in any courthouse in the state. The Supreme Court sits in Topeka.

For a more detailed history of the Kansas Appellate Courts, see *Requisite Learning and Good Moral Character: A History of the Kansas Bench and Bar*, Robert W. Richmond, editor, Kansas Bar Association (1982).

A list of the justices of the Supreme Court since statehood, its commissioners, and the judges of the Court of Appeals appears at Appendix A.

## **§ 1.2 Supreme Court Justices and Staff**

The Supreme Court consists of seven justices who serve six-year terms, subject to retention by the voters. The justice who is senior in continuous tenure serves as Chief Justice. In the event more than one have the same tenure, the oldest is deemed the senior. Kan. Const. art. 3, § 2.

The Chief Justice has general administrative supervision over the affairs of the court and of the unified judicial department of the state. In the latter function, the Chief Justice is assisted by

the judicial administrator and by the departmental justice of each of the six judicial departments. See Judicial Department Reform Act of 1965, K.S.A. 20-318 *et seq.*

Each justice is assisted by two research attorneys who must be admitted to practice law in this state. Their primary function is to prepare memoranda for their respective justices and generally assist on cases assigned to their justice for opinion writing. A central core of attorneys performs case management functions, prepares memoranda on petitions for review, and conducts individual research projects as directed.

Shared executive assistants aid the justices in the preparation of opinions, orders, correspondence, and memoranda; maintain the justices' files; work with the court clerk and reporter of decisions; compile and index volumes of the justices' opinions; and generally assist the justices in handling the administrative duties of the office. The Chief Justice employs a single executive assistant.

### **§ 1.3 Court of Appeals Judges and Staff**

The Court of Appeals consists of fourteen judges who serve four-year terms, subject to retention by the voters. One of the judges is appointed by the Supreme Court to serve as Chief Judge. The court normally sits in panels of three judges, with panel members assigned on a rotating, random basis by the Chief Judge. By statute the Chief Judge presides over panels on which he or she sits and designates the presiding judge on other panels.

Each judge employs two research attorneys and an executive assistant who perform essentially the same functions as their counterparts with the Supreme Court. The Court of Appeals also has a central core of attorneys who perform case management functions and conduct research as directed.

### **§ 1.4 Clerk of the Appellate Courts**

The clerk of the Supreme Court is a constitutional officer who, by statute, is also clerk of the Court of Appeals. The clerk is, therefore, referred to as the clerk of the appellate courts. Rule 1.01(c).

The office of the clerk of the appellate courts is located in the Kansas Judicial Center, Room 108, 301 S.W. 10th Avenue, Topeka, Kansas 66612-1507. The office is open Monday through Friday from 8:00 a.m. to 5:00 p.m.

In addition to processing cases in the two appellate courts, the clerk's office is responsible for a wide variety of activities including the conduct of bar examinations, record-keeping of admissions to the Kansas bar, and annual attorney registration. The clerk is also secretary for the Judicial Qualifications Commission, the Client Protection Fund Commission, the Board of Law Examiners, the Board of Examiners of Court Reporters, and the Supreme Court Nominating Commission. The clerk conducts elections for the lawyer members of the Supreme Court Nominating Commission and also conducts elections in seventeen of the thirty-one judicial districts to elect lawyer members of the District Judicial Nominating Commissions.

### **§ 1.5 Appellate Reporter**

The reporter of the Supreme Court is a constitutional officer and, by statute, also serves as reporter of the Court of Appeals. This position is generally referred to as the reporter of decisions. The reporter's primary function is to publish the official reports of those opinions that each court has designated for publication.

Opinions of the Supreme Court designated by the court for publication are published in an advance sheet. Court of Appeals opinions that are ready for publication form a separate section of each advance sheet. For each court a bound volume is printed when the advance sheets exceed 750 pages. Pagination in the bound volumes will conform to that in the advance sheets.

In a formal opinion the reporter adds the “catch-line,” which appears in the published opinion in italics at the beginning of each paragraph of the syllabus. This language is added for indexing purposes only and is not part of the syllabus approved by the court.

All opinions of the appellate courts, whether or not designated for publication, are submitted to the reporter before filing. Personnel in the reporter’s office make a source check on all authorities cited; proofread all quotations; check dates and other references to the record for accuracy; and check for typographical errors, punctuation, grammar, and usage.

### **§ 1.6 Judicial Administrator**

The judicial administrator, a statutory officer, implements the policies of the Supreme Court in the exercise of its general administrative authority over all courts in this state. The judicial administrator’s duties include assistance in the management of fiscal affairs in the unified judicial system, presentation of educational programs for judges and other court personnel, the collection and reporting of judicial statistical information, and assistance in the assignment of district judges beyond their districts and of retired judges.

### **§ 1.7 Law Librarian**

The law librarian, a statutory officer, is responsible for the staffing and operation of the Kansas Supreme Court Law Library. The library supports the research needs of the judicial branch but also numbers among its users employees of state agencies and the state legislature, attorneys from across the state, and the public. The library’s extensive collection includes relevant statutes and reports for all state and federal entities.

The library staff is also responsible for the sale and distribution of *Kansas Reports* and *Kansas Court of Appeals Reports*.

### **§ 1.8 Disciplinary Administrator**

The disciplinary administrator, an officer of the Supreme Court appointed pursuant to statutory authority, reviews complaints of misconduct against lawyers, conducts investigations, holds public hearings when appropriate, and recommends discipline to the Supreme Court in serious matters.