

# TABLE OF CONTENTS

## Chapter 1 HISTORY AND PERSONNEL OF THE APPELLATE COURTS

§ 1.1	History.....	1-1
§ 1.2	Supreme Court Justices and Staff .....	1-2
§ 1.3	Court of Appeals Judges and Staff .....	1-3
§ 1.4	Clerk of the Appellate Courts .....	1-4
§ 1.5	Appellate Reporter .....	1-4
§ 1.6	Judicial Administrator .....	1-5
§ 1.7	Law Librarian .....	1-5
§ 1.8	Disciplinary Administrator .....	1-6

## Chapter 2 ELECTRONIC FILING

### I. INTRODUCTION

§ 2.1	Who May File Electronically.....	2-1
§ 2.2	Register to eFile.....	2-2
§ 2.3	Your eFiling Account .....	2-3

### II. TECHNICAL STANDARDS

§ 2.4	Electronic Filing and Transmission .....	2-3
§ 2.5	Document and File Format Standards.....	2-3
§ 2.6	Authorization of Electronic Filers .....	2-5
§ 2.7	Signatures.....	2-5
§ 2.8	Notarial Acts, Electronic Notarization, and Unsworn Declarations.....	2-7
§ 2.9	Electronic Filing and Transmission Process Standards.....	2-7
§ 2.10	Pro Se Filings .....	2-8
§ 2.11	Possession of Documents .....	2-9
§ 2.12	Service by Electronic Means .....	2-9

### III. ADDITIONAL INFORMATION

§ 2.13	Training.....	2-10
§ 2.14	Support.....	2-10

§ 2.15	Docketing.....	2-10
§ 2.16	Entering an Appearance.....	2-12

Chapter 3  
APPELLATE COURT PRACTICES

I. SUPREME COURT

§ 3.1	Hearings .....	3-1
§ 3.2	Decision .....	3-2
§ 3.3	Opinions.....	3-2
§ 3.4	Motions and Original Actions .....	3-3
§ 3.5	Petitions for Review .....	3-3
§ 3.6	Disqualification and Recusal.....	3-4

II. COURT OF APPEALS

§ 3.7	Prehearing .....	3-4
§ 3.8	Decision .....	3-6
§ 3.9	Opinions.....	3-6
§ 3.10	Motions.....	3-7
§ 3.11	Disqualification.....	3-7

III. CONFIDENTIALITY

§ 3.12	Confidentiality in the Appellate Courts.....	3-8
--------	--	-----

Chapter 4  
ORIGINAL ACTIONS IN THE APPELLATE COURTS

§ 4.1	Exercise of Concurrent Jurisdiction .....	4-1
§ 4.2	Procedure upon Filing an Original Action .....	4-2
§ 4.3	Docket Fees.....	4-3
§ 4.4	Disposition .....	4-4
§ 4.5	The Record .....	4-5
§ 4.6	Quo Warranto .....	4-6
§ 4.7	Mandamus .....	4-6
§ 4.8	Habeas Corpus.....	4-8

Chapter 5  
APPELLATE JURISDICTION

I.	CREATION OF THE KANSAS APPELLATE COURTS	
§ 5.1	Constitutional and Statutory Authority.....	5-1
II.	APPELLATE JURISDICTION OF THE SUPREME COURT IN CRIMINAL CASES	
§ 5.2	Direct Appeals.....	5-2
III.	APPELLATE JURISDICTION OF THE COURT OF APPEALS IN CRIMINAL CASES	
	A. Appeals by the Defendant	
§ 5.3	Generally .....	5-4
§ 5.4	Following Final Judgment .....	5-5
§ 5.5	Following a Plea of Guilty or No Contest .....	5-8
	B. Appeals by the Prosecution	
§ 5.6	Generally .....	5-10
§ 5.7	From an Order Dismissing a Complaint, Information or Indictment: K.S.A. 22-3602(b)(1).....	5-12
§ 5.8	From an Order Arresting Judgment: K.S.A. 22-3602(b)(2)	5-14
§ 5.9	Upon a Question Reserved by the Prosecution: K.S.A. 22-3602(b)(3) .....	5-14
§ 5.10	Upon an Order Granting a New Trial in Any Case Involving an Off-Grid Crime: K.S.A. 22-3602(b)(4).....	5-18
§ 5.11	Interlocutory Appeals: K.S.A. 22-3603.....	5-18
	C. Sentencing Guidelines Appeals	
§ 5.12	Appeals Under the Kansas Sentencing Guidelines Act.....	5-21
IV.	APPELLATE JURISDICTION IN JUVENILE OFFENDER CASES	
§ 5.13	Appeals by the Juvenile Offender .....	5-24
§ 5.14	Appeals by the Prosecution .....	5-26
§ 5.15	Sentencing Guidelines Appeals - Juvenile .....	5-27
V.	APPELLATE JURISDICTION IN CIVIL CASES	
§ 5.16	Supreme Court .....	5-28
§ 5.17	Court of Appeals .....	5-30

VI. APPEALABLE ORDERS IN CIVIL CASES	
§ 5.18	Final Orders .....5-31
§ 5.19	Interlocutory Orders that are Appealable as a Matter of Right .....5-38
§ 5.20	Interlocutory Orders that are Appealable in the Court’s Discretion .....5-39
§ 5.21	K.S.A. 60-254(b) – Entry of Final Judgment as to One or More but Fewer than all Claims or Parties .....5-41
§ 5.22	Probate Proceedings .....5-43
§ 5.23	Juvenile Proceedings .....5-47
VII. TRANSFER OF CASES BETWEEN THE APPELLATE COURTS	
§ 5.24	General.....5-47
§ 5.25	Upon Motion of a Party .....5-47
§ 5.26	Upon Motion of the Supreme Court.....5-48
§ 5.27	Upon Motion of the Court of Appeals.....5-49
§ 5.28	Appeal of Right from Court of Appeals to Supreme Court ..5-49
§ 5.29	Petitions for Review by Supreme Court of Court of Appeals Decisions .....5-50
VIII. MULTI-LEVEL APPEALS	
§ 5.30	General.....5-51
§ 5.31	Appeals from Decisions of Non-Law-Trained District Magistrate Judges in Criminal Cases .....5-51
§ 5.32	Appeals from Decisions of Non-Law-Trained District Magistrate Judges in Civil Cases .....5-52
§ 5.33	Appeals from Municipal Court to District Court in Criminal Cases .....5-53
§ 5.34	Appeals from Municipal Court to District Court in Civil Cases .....5-55
§ 5.35	Appeals from Decisions in Small Claims Court .....5-55
§ 5.36	Certified Questions .....5-55

Chapter 6  
JUDICIAL REVIEW OF AGENCY DECISIONS

§ 6.1	Introduction .....6-1
§ 6.2	Scope of KJRA.....6-2
§ 6.3	Persons Entitled to Review.....6-3
§ 6.4	Standing.....6-4

§ 6.5	Exhaustion of Remedies .....	6-4
§ 6.6	Primary Jurisdiction .....	6-5
§ 6.7	Initiating Review — Where to File.....	6-6
§ 6.8	Timely Filing and Service.....	6-7
§ 6.9	Pleading Requirements of Petition for Judicial Review .....	6-9
§ 6.10	Stays and Other Remedies .....	6-10
§ 6.11	Preserving Issues for Review Under KJRA .....	6-11
§ 6.12	The Agency Record .....	6-12
§ 6.13	Scope of Review.....	6-13
§ 6.14	Remedies .....	6-17
§ 6.15	Appeals Outside of the KJRA .....	6-18
§ 6.16	Workers Compensation Cases.....	6-19
§ 6.17	Checklist for Review of Agency Action .....	6-21

Chapter 7  
APPELLATE PROCEDURE

I. NOTICE OF APPEAL

§ 7.1	Generally .....	7-1
§ 7.2	Criminal Appeals.....	7-1
§ 7.3	Civil Appeals - Chapter 60 .....	7-4
§ 7.4	Civil Appeals - Chapter 61 Limited Actions .....	7-8
§ 7.5	Juvenile Appeals.....	7-9
§ 7.6	Probate Appeals .....	7-10
§ 7.7	Mortgage Foreclosure Appeals.....	7-11
§ 7.8	Cross-Appeals .....	7-11

II. FILING OR SERVICE OF PAPERS: TIME COMPUTATIONS

§ 7.9	Generally .....	7-12
-------	-----------------	------

III. STAYS PENDING APPEAL

§ 7.10	Generally .....	7-14
§ 7.11	Criminal Appeals.....	7-14
§ 7.12	Civil Appeals - Chapter 60 .....	7-15
§ 7.13	Civil Appeals - Chapter 61 Limited Actions .....	7-16
§ 7.14	Juvenile Appeals.....	7-16
§ 7.15	Probate Appeals .....	7-17

IV. DOCKETING THE APPEAL	
§ 7.16	Generally .....7-17
§ 7.17	Parental Notice Waiver Requirements — Rule 10.01.....7-21
V. APPEARANCE AND WITHDRAWAL	
§ 7.18	Appearance .....7-22
§ 7.19	Withdrawal.....7-23
VI. RECORD ON APPEAL	
§ 7.20	Record of Proceedings Before the Trial Court.....7-24
§ 7.21	Transcript of Proceedings.....7-25
§ 7.22	Filing of Transcripts .....7-27
§ 7.23	Unavailability of Transcripts or Exhibits .....7-27
§ 7.24	Appeal on Agreed Statement.....7-28
§ 7.25	District Court Clerk’s Preparation of the Record on Appeal7-28
§ 7.26	Request for Additions to the Record on Appeal.....7-29
§ 7.27	Transmission of the Record on Appeal.....7-31
§ 7.28	Pro Se Litigants .....7-32
VII. CONSOLIDATION OF APPEALS	
§ 7.29	Generally .....7-32
VIII. MOTIONS	
§ 7.30	Generally .....7-34
§ 7.31	Motion for Additional Time .....7-36
§ 7.32	Motions Relating to Corrections in Briefs .....7-36
§ 7.33	Motion to Substitute Parties.....7-37
§ 7.34	Motion for Permission to File Amicus Curiae Brief .....7-37
§ 7.35	Motion to Consolidate Appeals .....7-37
§ 7.36	Motion to Transfer an Appeal to the Supreme Court .....7-38
IX. VOLUNTARY AND INVOLUNTARY DISMISSALS	
§ 7.37	Voluntary Dismissal .....7-38
§ 7.38	Involuntary Dismissal.....7-39
X. APPEALS PLACED ON SUMMARY CALENDAR	
7.39	Summary Calendar Screening and Procedure.....7-39

XI. APPEALS SCHEDULED FOR ORAL ARGUMENT	
§ 7.40	Requesting Additional Oral Argument Time ..... 7-40
§ 7.41	Suggesting a Hearing Location Before the Court of Appeals ..... 7-40
§ 7.42	Notice of Hearing Date ..... 7-40
§ 7.43	Procedure at Oral Argument..... 7-41
XII. APPELLATE COURT DECISIONS AND POST-DECISION PROCEDURE	
§ 7.44	Decisions of the Appellate Courts..... 7-42
§ 7.45	Summary Disposition..... 7-44
§ 7.46	Motion for Rehearing or Modification..... 7-44
§ 7.47	Appeal as a Matter of Right from Court of Appeals ..... 7-45
§ 7.48	Petition for Review..... 7-46
§ 7.49	Timing of Petition for Review ..... 7-46
§ 7.50	Content of Petition for Review ..... 7-46
§ 7.51	Grant or Denial of Petition for Review ..... 7-47
§ 7.52	Cross-Petitions and Responses ..... 7-48
§ 7.53	Page Limits..... 7-49
§ 7.54	Procedures Following Granting of Review ..... 7-49
§ 7.55	Oral Argument ..... 7-49
§ 7.56	Effect on Mandate ..... 7-49
§ 7.57	Other Dispositions ..... 7-50
§ 7.58	Denial of Review..... 7-50
§ 7.59	Summary Petition for Review ..... 7-50
§ 7.60	Exhaustion..... 7-51
XIII. COSTS AND ATTORNEY FEES	
§ 7.61	Costs ..... 7-51
§ 7.62	Attorney Fees ..... 7-52
XIV. MANDATE	
§ 7.63	Generally ..... 7-54
§ 7.64	Supreme Court ..... 7-54
§ 7.65	Court of Appeals ..... 7-54
§ 7.66	Stays After Decision ..... 7-55

Chapter 8  
STANDARDS AND SCOPE OF APPELLATE REVIEW

I.	INTRODUCTION .....	8-1
II.	REVIEWABILITY.....	8-2
§ 8.1	Error Preservation .....	8-2
§ 8.2	Other Mistakes Affecting Reviewability .....	8-3
III.	STANDARD OF REVIEW GENERALLY.....	8-5
§ 8.3	What is a “Standard of Review”?.....	8-6
§ 8.4	Strategic and Practical Considerations .....	8-6
IV.	BASIC STANDARDS OF REVIEW.....	8-8
§ 8.5	Legal Questions: Unlimited Review.....	8-8
§ 8.6	Questions Left to the Trial Court’s Discretion: Abuse of Discretion Review .....	8-8
§ 8.7	Questions of Fact .....	8-10
V.	STANDARD OF REVIEW: SPECIFIC EXAMPLES .....	8-12
§ 8.8	When a Party Failed to Meet Its Burden of Proof: Arbitrary Disregard or Extrinsic Consideration .....	8-12
§ 8.9	Facts Undisputed or Decided on Documents Only .....	8-13
§ 8.10	Admissibility of Evidence .....	8-13
§ 8.11	Jury Instructions.....	8-13
§ 8.12	Ineffective Assistance of Counsel.....	8-15
§ 8.13	Motions to Dismiss – Civil.....	8-15
§ 8.14	Summary Judgment .....	8-16
§ 8.15	Motions for Judgment as a Matter of Law .....	8-17
§ 8.16	Motions to Dismiss – Criminal .....	8-17
§ 8.17	Motions to Arrest Judgment.....	8-17
§ 8.18	Prosecutorial Error.....	8-19
VI.	REVERSIBILITY .....	8-19
§ 8.19	Clear Error .....	8-20
§ 8.20	Harmless Error .....	8-20
§ 8.21	Cumulative Error.....	8-21



Chapter 9  
BRIEF WRITING

§ 9.1	Time Schedule for Briefs—Rule 6.01 .....	9-1
§ 9.2	Content of Appellant’s Brief—Rule 6.02 .....	9-4
§ 9.3	Content of Appellee’s Brief—Rule 6.03 .....	9-7
§ 9.4	Content of Cross-Appellee’s Brief—Rule 6.04 .....	9-9
§ 9.5	Reply Brief—Rule 6.05 .....	9-9
§ 9.6	Briefs of <i>Amicus Curiae</i> —Rule 6.06 .....	9-10
§ 9.7	Format for Briefs—Rule 6.07 .....	9-10
§ 9.8	Reference Within Brief—Rule 6.08 .....	9-15
§ 9.9	Service of Brief .....	9-16
§ 9.10	Notification Letter of Additional Authority Under Rule 6.09 .....	9-16
§ 9.11	Some Tips for Crafting an Effective Brief .....	9-17

Chapter 10  
ORAL ARGUMENT

§ 10.1	Introduction .....	10-1
§ 10.2	Preparation .....	10-1
§ 10.3	Format of Hearings in the Supreme Court.....	10-4
§ 10.4	Format of Hearings Before the Court of Appeals.....	10-5
§ 10.5	Introductory Phase of Argument .....	10-6
§ 10.6	Body of Argument .....	10-7
§ 10.7	Delivery and Style.....	10-9
§ 10.8	Conclusion.....	10-10
§ 10.9	Rebuttal .....	10-11
§ 10.10	Final Thoughts.....	10-11
§ 10.11	Suggestions for Further Reading.....	10-12

Chapter 11  
DISCIPLINARY PROCEEDINGS

I. ATTORNEY DISCIPLINE

§ 11.1	History.....	11-1
§ 11.2	Jurisdiction.....	11-1
§ 11.3	Kansas Disciplinary Administrator .....	11-2
§ 11.4	Kansas Board for Discipline of Attorneys.....	11-2

§ 11.5	Complaints.....	11-2
§ 11.6	Disciplinary Investigations – Duties of the Bar and Judiciary.....	11-3
§ 11.7	Disciplinary Procedure.....	11-5
§ 11.8	Temporary Suspension.....	11-7
§ 11.9	Attorney Diversion Program.....	11-7
§ 11.10	Informal Admonition.....	11-8
§ 11.11	Formal Hearing and Procedural Rules of the Kansas Board for Discipline of Attorneys.....	11-9
§ 11.12	Probation.....	11-12
§ 11.13	ABA Standards for Imposing Lawyer Sanctions.....	11-12
§ 11.14	Summary Submission.....	11-15
§ 11.15	Disabled Attorneys.....	11-16
§ 11.16	Proceedings Before the Supreme Court.....	11-18
§ 11.17	Scope of Review and Standard of Review.....	11-19
§ 11.18	Oral Argument.....	11-19
§ 11.19	Supreme Court Opinions.....	11-20
§ 11.20	Additional Procedural Rules.....	11-22
§ 11.21	Voluntary Surrender of License to Practice Law.....	11-22
§ 11.22	Reinstatement.....	11-23
§ 11.23	Lawyers’ Fund for Client Protection.....	11-24

## II. JUDICIAL DISCIPLINE

§ 11.24	History.....	11-24
§ 11.25	Jurisdiction/Governing Rules.....	11-25
§ 11.26	Staff.....	11-25
§ 11.27	Initiating a Complaint.....	11-26
§ 11.28	Complaint Receipt; Initial Review.....	11-26
§ 11.29	Procedures of an Inquiry Panels.....	11-27
§ 11.30	Confidentiality.....	11-28
§ 11.31	Formal Proceedings.....	11-28

## Chapter 12 FORMS

§ 12.1	Notice of Appeal—Supreme Court.....	12-1
§ 12.2	Notice of Appeal—Court of Appeals.....	12-3
§ 12.3	Notice of Cross-Appeal.....	12-5
§ 12.4	Docketing Statement—Civil Appeal.....	12-7
§ 12.5	Docketing Statement—Civil Cross-Appeal.....	12-13

§ 12.6	Docketing Statement—Criminal .....	12-15
§ 12.7	Answer to Docketing Statement .....	12-19
§ 12.8	Motion to Docket Appeal Out of Time .....	12-21
§ 12.9	Application to Reinstate Appeal .....	12-23
§ 12.10	Attorney’s Certification of Indigency .....	12-25
§ 12.11	Appellant’s Verification in CINC Case .....	12-27
§ 12.12	Application to Take a Civil Interlocutory Appeal Under K.S.A. 60-2102(c).....	12-29
§ 12.13	Petition for Judicial Review of an Order of the Board of Tax Appeals .....	12-33
§ 12.14	Petition for Judicial Review — Workers Compensation Cases .....	12-37
§ 12.15	Request for Certification of Record — Workers Compensation Cases .....	12-41
§ 12.16	Motion for Release After Conviction.....	12-43
§ 12.17	Fax Transmission Sheet .....	12-45
§ 12.18	Admission <i>Pro Hac Vice</i> of Out-of-State Attorney: Kansas Attorney’s Motion .....	12-47
§ 12.19	Admission <i>Pro Hac Vice</i> of Out-of-State Attorney: Out-of-State Attorney’s Verified Application .....	12-49
§ 12.20	Entry of Appearance .....	12-53
§ 12.21	Motion to Withdraw as Appointed Counsel .....	12-55
§ 12.22	Request for Transcript.....	12-57
§ 12.23	Notice of Service of Order for Transcript .....	12-59
§ 12.24	Notice That No Transcript Is Required .....	12-61
§ 12.25	Request for Additions to the Record on Appeal .....	12-63
§ 12.26	Motion to Consolidate Appeals .....	12-65
§ 12.27	Motion to Transfer to Supreme Court.....	12-67
§ 12.28	Motion for Extension of Time to File Brief .....	12-69
§ 12.29	Motion to Immediately File Out-of-Time Brief.....	12-71
§ 12.30	Motion to Exceed Page Limitations.....	12-73
§ 12.31	Notice of Filing Under K.S.A. 75-764 .....	12-75
§ 12.32	Motion to Substitute Corrected Brief .....	12-77
§ 12.33	Notice of Additional Authority .....	12-79
§ 12.34	Motion to Substitute Parties .....	12-81
§ 12.35	Notice of Change in Custodial Status .....	12-83
§ 12.36	Notice of Death .....	12-85
§ 12.37	Notice of Voluntary Dismissal .....	12-87
§ 12.38	Motion for Involuntary Dismissal .....	12-89
§ 12.39	Application to File <i>Amicus</i> Brief.....	12-91
§ 12.40	Suggestion for Place of Hearing .....	12-93

§ 12.41	Motion for Rehearing or Modification .....	12-95
§ 12.42	Motion for Attorney Fees and Costs.....	12-97
§ 12.43	Complaint Form: Attorney Discipline.....	12-99
§ 12.44	Surrender Letter—Voluntary Surrender of Law License when Attorney is under Disciplinary Investigation.....	12-105
§ 12.45	Complaint Form: Judicial Discipline .....	12-107

Appendix A	JUSTICES AND JUDGES OF THE APPELLATE COURTS.....	A-1
------------	---	-----

Appendix B	TIMETABLE, CHECKLISTS AND EXAMPLES	
	Timetable For Steps In An Appeal .....	B-1
	Briefing Checklist .....	B-7
	Petition for Review Checklist .....	B-11
	Sample Brief .....	B-15
	Sample Petition for Review .....	B-49

Appendix C	CITATION GUIDE .....	C-1
------------	----------------------	-----

## INDEXES

General .....	I-1
Authorities .....	I-21
Cases .....	I-23
Rules .....	I-33
Statutes.....	I-39