

May 5, 2023

DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS

IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order

2023-RL-017

Temporary Rule for Filing in a District Court by a Self-Represented Litigant

The attached updated Temporary Rule for Filing in a District Court by a Self-Represented Litigant is hereby adopted, effective May 5, 2023.

This temporary rule supersedes and rescinds 2020-RL-115.

Dated this 5th day of May 2023.

FOR THE COURT



MARLA LUCKERT
Chief Justice

Temporary Rule

FILING IN A DISTRICT COURT BY A SELF-REPRESENTED LITIGANT

- (a) **Purpose.** The following temporary procedures are adopted to increase access to justice by expanding the options for a self-represented litigant to file a document in district court. A self-represented litigant may file a document in person, by mail, or by fax in all district courts. Other filing options may be available depending on local resources.
- (b) **Definitions.**
 - (1) "Clerk" means a clerk of the district court in any Kansas county.
 - (2) "Document" means any paper filing, including, but not limited to, a petition or the filings necessary to initiate a case.
 - (3) "Drop box" means a secure, locked container that is accessible to the public for purposes of document delivery and only used for district court business.
 - (4) "Sealed" means that access to a case or document is limited by statute, Supreme Court rule, or court order.
 - (5) "Self-represented litigant" means a person not represented by an attorney authorized to practice law before the court.
- (c) **Drop Box.** Every district court must have a drop box available to self-represented litigants unless the chief judge receives an exemption from the Office of Judicial Administration. The drop box must be accessible to the public during hours when the clerk's office is closed to the public.
- (d) **Ways to File.**
 - (1) **A self-represented litigant may file a document as follows.**
 - (A) **In Person.** A self-represented litigant may file a document in person by submitting the document at the district court clerk's office;
 - (B) **By Mail.** A self-represented litigant may file a document by mailing the document to the district court clerk's office;
 - (C) **By Fax.** A self-represented litigant may file a document by faxing the document to the district court clerk's office; or

- (D) **By Drop Box, if available.** A self-represented litigant may file a document by placing the document in a securely closed envelope and depositing it in a drop box, if available in the county.

- (2) **Small Claim.** Under this rule, a self-represented litigant may file a small claim, as defined in K.S.A. 61-2703, using any of the available methods in subsections (d)(1), including by fax.

- (e) **Filing Date.**
 - (1) **In Person or By Mail.** When a self-represented litigant files a document in person or by mail, the clerk's office will consider the document filed with the court on the date the clerk's office receives the document.

 - (2) **Fax.** When a self-represented litigant files a document by fax, the clerk's office will consider the document filed with the court as provided in Rule 119.

 - (3) **Drop Box.** When a self-represented litigant deposits a document in a drop box by 4:00 p.m. local time in the county where the document is to be filed, the clerk's office will consider the document filed with the court on that day. If the self-represented litigant deposits the document in the drop box after 4:00 p.m., on a Saturday or Sunday, or on a Supreme Court holiday, the clerk's office will consider the document filed with the court on the next day that is not a Saturday, Sunday, or Supreme Court holiday.

 - (4) **Clerk's Office Not Open.** If a clerk's office is closed by order of the chief judge of the judicial district on a day that is not a Saturday, Sunday, or a Supreme Court holiday, the clerk's office will consider the document filed with the court on the next day that the clerk's office is open. During the time a clerk's office is considered inaccessible, the requirements of K.S.A. 60-206 and amendments thereto will apply to compute any time period.

- (f) **Payment of Fees.** Any filing fee, or other fee required to file a document is due when the document is filed with the court.

- (1) **Payment Method.** A self-represented litigant must pay any required fee according to the following provisions.
 - (A) **Mail and Drop Box.** When filing a document by mail or drop box, the self-represented litigant must pay by check or money order.
 - (B) **In Person.** When filing the document in person at the clerk's office, the self-represented litigant must pay by check, credit or debit card, money order, or cash.
 - (C) **By Fax.** When filing the document by fax, the self-represented litigant must pay by credit or debit card as provided in Rule 119. The Rule 119 Fax Transmission Sheet form is available at <https://www.kansasjudicialcouncil.org/legal-forms/forms-use-under-supreme-court-rules/forms-use-under-rules-relating-district-courts-16>.
- (2) **Use of Credit or Debit Card.** When paying by credit or debit card, the self-represented litigant may use only the credit or debit card systems designated by the judicial administrator.
- (3) **Rejected Credit or Debit Card.** If the company that issued the credit or debit card rejects the transaction, the clerk's office will not consider the document filed under K.S.A. 60-203 and amendments thereto or K.S.A. 60-2001 and amendments thereto.
- (4) **Confidential Information.** Credit or debit card information is not subject to disclosure under the Kansas Open Records Act. The information is confidential, must be secured by the clerk until the clerk processes the transaction, must not be retained in the case file, and must be destroyed after the clerk processes the transaction.
- (g) **Poverty Affidavit.** A self-represented litigant who cannot afford to pay a required filing fee may file a poverty affidavit to excuse the fee if allowed for the case type. The court may later charge the fee if the judge determines the self-represented litigant's statement of poverty is untrue. If the self-represented litigant is an inmate, the clerk will assess an initial \$3 filing fee.
 - (1) A poverty affidavit form for most civil actions, including small claims and evictions, is available at <https://www.kansasjudicialcouncil.org/legal-forms/civil-actions/chapter-60/poverty-affidavit>.

- (2) A poverty affidavit form for a case filed under K.S.A. 60-1507 is available at <https://www.kansasjudicialcouncil.org/legal-forms/forms-use-under-supreme-court-rules/forms-use-under-rules-relating-district-courts-9>.
- (h) **Service.** A self-represented litigant must serve a copy of any document on any other named party as required by applicable statutes and rules.
- (i) **Filing Under Seal; Request to Seal Document.**
- (1) If a self-represented litigant files a document under a seal order previously entered by the court, the self-represented litigant must certify that such an order exists.
- (2) If at the time of filing a self-represented litigant believes that a document not covered by a seal order should be sealed, the self-represented litigant must file a motion to seal that includes a general description of the document. The self-represented litigant must certify that the motion complies with subsection (j) of this rule, which protects personally identifiable information.
- (3) A self-represented litigant may file a motion to seal a document already in the case file. The motion must specify the document that is proposed to be sealed. When a motion to seal is filed, the identified document will be removed from public view until the court rules on the motion to seal. A court employee is not required to search for a document that is not described in detail in a motion to seal.
- (j) **Protection of Personally Identifiable Information.**
- (1) **Obligation to Redact Personally Identifiable Information.** A self-represented litigant who files a document in a county that is operating under the Kansas eCourt rules must comply with the requirements of [Rule 24](#) regarding the protection of personally identifiable information and is subject to sanctions for failure to comply under Rule 24(f). All other self-represented litigants must comply with the requirements of [Rule 123](#) regarding the exclusion of personal identifiers when filing a document.

- (2) **Administrative Information Required.** When a self-represented litigant files a new case, the self-represented litigant must submit a cover sheet that substantially complies with the form located on the judicial council website, <https://www.kansasjudicialcouncil.org/legal-forms/case-filing-cover-sheets>. The following rules apply.
- (A) Personally identifiable information gathered for administrative purposes using a cover sheet:
- (i) must not be retained in the case file;
 - (ii) is not subject to reproduction and disposition of court records under Rule 108; and
 - (iii) may be shredded or otherwise destroyed within a reasonable time after the case is entered electronically into the case management system.
- (B) In an action for divorce, child custody, child support, or maintenance, the administrative information provided must include, to the extent known, the following information:
- (i) the parties' Social Security numbers;
 - (ii) the parties' birthdates; and
 - (iii) the parties' child's full name or pseudonym, Social Security number, and birthdate.
- (3) **Certification.** Each document a self-represented litigant submits to a court in a county that is operating under the Kansas eCourt Rules must be accompanied by a certification of the following information:
- (A) the self-represented litigant has signed the document and provided the self-represented litigant's name, address, email address (if available), telephone number, and fax number (if available); and
- (B) the document has been reviewed and is submitted under seal or complies with subsection (j).

A form to assist the self-represented litigant with this certification is available from the Office of Judicial Administration at <https://www.kscourts.org/KSCourts/media/KsCourts/Public/Court%20Forms/SelfRepresentedLitigantFormOJA218.pdf>.

- (4) **Motions Not Restricted.** This rule does not restrict a self-represented litigant's right to request a protective order or to move to file a document under seal or to request the court seal a document.
- (5) **Application.** This rule does not affect the application of constitutional provisions, statutes, or rules regarding confidential information or access to public information.

(k) **Clerk Processing.**

- (1) **Document Review.** Upon receipt of a document filed by a self-represented litigant, a clerk is authorized to return the document only for the following reasons:
 - (A) the document is illegible;
 - (B) the document does not leave a margin large enough to add a file stamp, as required by Rule 111;
 - (C) the document does not have the correct county designation, case number, or case caption; or
 - (D) the applicable fee has not been paid or no poverty affidavit is submitted with the document or already on file in the case.
- (2) **Return of Document.** If a clerk determines that the document must be returned for any of the reasons listed in subsection (k)(1), the clerk must designate the reason for its return.
- (3) **Approval of Document.** If the document is not rejected under subsection (k)(1), a clerk must approve the document for filing. The clerk may flag the document for further review as authorized by the standard operating procedures adopted by the judicial administrator.

- (4) **Timeline for a Clerk to Process a Document.** A clerk must process a document for filing as quickly as possible but not more than four business hours after the clerk receives the document for filing.
- (1) **Conflict.** This rule should be read in conjunction with other applicable rules and statutes, including the prison mailbox rule.¹ But this rule controls if any provision of a Supreme Court rule or district court rule conflicts with this rule.

¹ See *Wahl v. State*, 301 Kan. 610 (2015).