

**NOTICE OF AMENDMENT OF
LOCAL RULES OF PRACTICE OF
THE UNITED STATES DISTRICT COURT**

The United States District Court for the District of Kansas gives notice of the amendment of local rules 83.5.3, 83.5.4, 83.6.5, and District of Kansas Patent Rule 4.5.

A redline version of the amendments is available to the bar and the public on the District of Kansas website at www.ksd.uscourts.gov. Printed copies are available at the division offices of the Clerk at Kansas City, Topeka, and Wichita. The offices are open from 9:00 a.m. to 4:30 p.m. (closed for lunch from noon – 12:30 p.m. in Wichita and Topeka) on all days except Saturdays, Sundays, and federal legal holidays.

Interested persons, whether or not members of the bar, may submit comments on the amendments to the Clerk at any of the division offices or by email at ksd_RulesComments@ksd.uscourts.gov. All comments must be in writing and, to receive consideration by the Court, must be received by the Clerk **on or before 5:00 p.m., April 17, 2023.**

- To amend the language in D. Kan. Rules 83.5.3, 83.5.4, and 83.6.5 to broaden an attorney's duty to report certain types of crimes with which the attorney has been charged, along with other minor amendments.

RULE 83.5.3

REGISTRATION OF ATTORNEYS

(a) Annual Registration.

- (1) *In General.* All attorneys admitted to the practice of law before this court, except as set out in paragraphs (b) and (c) below, must annually –on or before the first day of July – register with the clerk on such forms as the clerk prescribes.
- (2) *CLE Certification, Local Rules Familiarization, and Pro Bono.* As a part of the registration form, the registrant must certify that,
 - (A) in the preceding 12-month period, he or she has earned at least the minimum number of credit hours required by the Rules of the Supreme Court of Kansas relating to continuing legal education;
 - (B) he or she has read and is familiar with the District of Kansas Local Rules; and
 - (C) he or she acknowledges the obligation to render pro bono services as set forth in [Kansas Rules of Professional Conduct 6.1](#) and [6.2](#) .
- (3) *Reciprocal Admission.* If admitted to practice before this court solely because of admission to the United States District Court for the Western District of Missouri, the registrant must certify that he or she has earned the minimum number of credit hours required by the rules of the Missouri Supreme Court and the Western District of Missouri related to continuing legal education.
- (4) *Annual Fees.* At the time of each registration, the registrant, if not excused by these rules from payment, must pay an annual fee in such amount as the court orders for the ensuing 12-month period. Any fee received after July 31 shall be accompanied by the \$100 re-registration fee.
- (5) *Registration Card.* The clerk will issue to each attorney duly registered hereunder a registration card on a form approved by the court.

(b) Exemption from Fees.

- (1) *State Court Judges and Federal Court Employees.* State court judges who are barred by law or rule from the practice of law and federal court employees who do not actively practice before the court are exempt from payment of the registration fee.
- (2) *Attorneys Appearing Pro Hac Vice.* Attorneys appearing pro hac vice are not required to pay the annual registration fee.
- (3) *Newly-Admitted Attorneys.* No registration fee will be charged to any attorney newly admitted to this court after January 1 for the first registration period following such admission. Where an attorney newly admitted to the court pays the registration fee for the period in which the attorney is exempt and wishes to be refunded, the attorney must initiate a refund by requesting it in writing.

- (c) **Retired and Inactive Attorneys.** An attorney who has retired from or is no longer engaged in the practice of law in this court may so notify the clerk in writing. An attorney filing such notice is thereafter ineligible to practice in this court until reinstated under such terms as the court directs. During any period of retirement or inactive status under this rule, the retired or inactive attorney need not pay the annual registration fee.
- (d) **Non-Appropriated Fund.** The court maintains a non-appropriated fund derived from attorney registration fees in accordance with Volume 4, Chapter 6, of the Guide to Judiciary Policies and Procedures and in accordance with the Rules of Practice and Procedure for District and Bankruptcy Court for the District of Kansas.
- (1) *Fund Custodian.* The clerk of the court is appointed as the fund custodian. The custodian will receive, safeguard, deposit, disburse, and account for all funds. The custodian will ensure the financial statements and reports are prepared in a timely manner to meet the needs of the court.
 - (2) *Fund Management.* All receipts will be deposited in federally insured banks or savings institutions and whenever feasible, will be placed in interest-bearing accounts. Funds must be segregated from all other monies in the court's custody, including other non-appropriated funds.
 - (3) *Audits.* The Administrative Office of the U.S. Courts or court-appointed outside auditors may perform audits. The written results of the audits will be provided to the court. Costs for outside audits will be paid by the fund. Annual audits will be performed for the fiscal year, October 1 through September 30.
 - (4) *Budget.* At the beginning of each fiscal year, the court will approve a budget for the year that forecasts fund income and expenses. The court-approved budget will serve as authorization for the custodian to spend monies for categories listed on the budget. The custodian is allowed to exceed budgeted amounts by no more than 10%. A majority of the judges must approve expenditures beyond the 10% variance.
 - (5) *Items Outside the Budget.* For items not covered by the annual budget, the chief judge may issue an order of approval that disburses funds for expenditures not exceeding \$1,000. For items exceeding \$1,000 not covered by the annual budget, a majority of the judges must approve the order of approval issued by the chief judge.
 - (6) *Calculation of Registration Fee.* During the first three months of each calendar year, the judges will examine the accounts of the trustee of the fund and fix the registration fee for the next annual registration of attorneys. In fixing the fee, the judges will consider the amount on hand, the projected earnings from investments, and the probable expense of pending and anticipated proceedings.
- (e) **Disbursements.** Disbursements from the Bar Registration and Disciplinary Fund are permitted only for the following purposes:
- (1) To defray the expense of administering the registration and bar disciplinary procedures.
 - (2) As set forth in paragraph (f) of this rule, to reimburse court-appointed attorneys in civil cases for out-of-pocket expenditures that the attorneys are

reasonably compelled to incur, that the client is not able to pay, and that are not otherwise recovered in the action.

- (3) To reimburse members of official committees appointed by the court, who may not be otherwise reimbursed, for their expenses incurred in attending meetings and performing the duties required of committee members. Applications for such reimbursements must be made on forms supplied by the clerk. The clerk may approve applications for amounts not to exceed \$300. The chief judge must also approve reimbursement for expenses exceeding \$300. Travel expenses will be paid from the fund in an amount not to exceed the same rates as official travel for federal employees. Claims will be allowed for actual expenses, not to exceed the rates in effect at the time of travel.
- (4) To make such other expenditures the judges consider to be for the benefit of the court and bar.

(f) Reimbursement Procedures for Court-Appointed Counsel in Civil Cases.

- (1) *Allowable Expenses.* Allowable expenses include items set out in [28 U.S.C. § 1920](#), fees for expert witnesses and other out-of-pocket expenditures that the attorneys are reasonably compelled to incur, that the client is not able to pay, and that are not otherwise recovered in the action. Reimbursements must not include general office overhead or items and services of a personal nature.
- (2) *Reimbursement Procedure.* To qualify for reimbursement, all expenditures in excess of \$500 for investigative expenses — for example, retrieval of medical records, employment records, and the like — must be approved in advance by the court. Before incurring any reimbursable expense, the attorney must:
 - (A) complete a reimbursement form, which is available from the clerk; and
 - (B) secure the requisite prior approval, in writing, by the judge to whom the case is assigned and, where required, by the chief judge.
- (3) *Who Must Approve Expenditures.* The presiding judge may approve expenditures that total less than \$3,000 for the entire case. The chief judge must approve expenditures that reach or exceed \$3,000.
- (4) *Ex Parte Requests.* Attorneys may request approval on an ex parte basis.
- (5) *Amount of Reimbursement.* The clerk will reimburse attorneys such amount as the court approves.
- (6) Any reimbursements paid from the Bar Fund must be repaid if money is recovered in the case, unless waived by the court.

(g) Suspension. The clerk will issue an order of suspension to any attorney who has failed to register as of August 1 of the registration year. Any attorney who continues to practice in this court while suspended will be subject to disciplinary procedures.

(h) Reinstatement. The court may reinstate an attorney who was suspended solely because of his or her failure to register or pay the annual registration fee upon:

- (1) application;

- (2) payment of a \$100 re-registration fee (except that the court may waive the fee for good cause); and
 - (3) payment of such additional amount as the court requires.
- (i) **Criminal Charges, Potential Criminal Charges, and Disciplinary Proceedings.** Any member of the bar of this court who is charged in any court of the United States or of any state, territory, district, commonwealth, or possession of the United States with:
- (1) ~~the commission of a felony serious crime; or~~
 - (2) the commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; or
 - (3) ~~with~~ unprofessional conduct
- must notify the clerk in writing within 14 days after service of process or notice to him or her of such charge. This subsection also applies to diversion agreements relating to criminal charges, potential criminal charges, or disciplinary proceedings. Rule 83.6.5 defines "serious crime."

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As amended 3/17/19, 3/17/16, 3/17/13, 10/17/13, 3/17/11, 12/01/09, 3/17/09, 5/03, 9/00.

RULE 83.5.4

APPEARANCE FOR A PARTICULAR CASE

- (a) **Requirements for Pro Hac Vice Admission.** An attorney who is not admitted to practice in this court may be admitted for the purposes of a particular case only, if the following conditions are met:
- (1) The attorney must be a member in good standing of the bar of another state or federal court;
 - (2) A member in good standing of the bar of this court must move for his or her admission;
 - (3) The motion must be in writing;
 - (4) The motion must be accompanied by an affidavit on the form prescribed by court rule (see website); and
 - (5) The attorney seeking admission must pay a registration fee of \$50 per case. An attorney's admission is subject to [28 U.S.C. § 515](#), [517](#), and similar provisions of the United States Code. Attorneys employed by any department or agency of the United States government are not required to pay a pro hac vice registration fee.
- (b) **~~Criminal Felony~~ Charges and Charges of Unprofessional Conduct.** An attorney admitted pro hac vice who, while practicing in this court under such admission, is charged in any court of the United States or of any state, territory or possession of the United States with:
- ~~(1) the commission of a serious crime; or~~
 - (2) the commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;~~felony~~ or
 - (3) ~~with~~ unprofessional conduct, must notify the clerk in writing within 14 days after service of process or notice to him or her of such charge. Rule 83.6.5 defines "serious crime."

- (c) **Signatures.** All pleadings or other papers signed by an attorney admitted pro hac vice must also be signed by a member of the bar of this court in good standing, who must participate meaningfully in the preparation and trial of the case or proceedings to the extent the court requires.
- (d) **Consent to Disciplinary Jurisdiction.** An attorney who applies for admission pro hac vice by doing so consents to the exercise of disciplinary jurisdiction by this court over any alleged misconduct that occurs during the progress of the case in which the attorney so admitted participates. An attorney of record in an action transferred under [28 U.S.C. § 1407](#) may continue to represent his or her client in the District of Kansas. Parties in such actions need not obtain local counsel in this district.
- (e) **Preclusion from Practice.** An attorney who has been permitted to appear pursuant to this rule who is found guilty of a serious crime or is publicly disciplined by ~~any another~~ court may be precluded from continuing that special appearance and from appearing at the bar of this court in any other case.
- (f) **Refusal of Admission.** In the event disciplinary or grievance proceedings or sanctions are pending, the court may refuse admission pending disposition of such proceedings.
- (g) **Appearance Pro Se.** Any party appearing on his or her own behalf without an attorney is expected to read and be familiar with the Rules of Practice and Procedure of this court; the relevant [Federal Rules of Civil Procedure](#), of [Criminal Procedure](#), or the [Bankruptcy Rules](#); and the pertinent [Federal Rules of Evidence](#); and to proceed in accordance with them.

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As amended 3/17/19, 12/01/09, 8/21/06, 9/00, 6/18/97, 10/20/93.

RULE 83.6.5

ATTORNEYS ~~CONVICTED OF~~ CHARGED WITH CRIMES

- (a) **Attorney's Duty.** Any attorney practicing before this court regularly or pro hac vice must notify the clerk in writing within 14 days after service of process or notice to him or her of:
 - (1) a charge of commission of a ~~felony~~ serious crime, or a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects; or
 - (2) a grievance such as would subject the attorney to discipline in this court, in any other court of the United States, or the District of Columbia, or in any state, territory, commonwealth, or possession of the United States.
- (b) **Interim Suspension.** The Disciplinary Panel must enter an order immediately suspending an attorney admitted to practice before this court when:
 - (1) a certified copy of a judgment of conviction is filed with the clerk of this court;
 - (2) the judgment shows that the attorney has been convicted of a serious crime as hereinafter defined;

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- (3) the conviction is in any ~~other~~ court of the United States, or the District of Columbia, or in any state, territory, commonwealth, or possession of the United States; and
 - (4) the conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after a trial or otherwise.

The suspension must occur regardless of whether an appeal is pending and must last until final disposition of a disciplinary proceeding based upon such conviction. A copy of such order must immediately be served upon the attorney. Service may be made personally or by certified mail, return receipt requested, addressed to the attorney at his or her most current address on file with the clerk of this court. For good cause, the Disciplinary Panel may set aside such order in the interests of justice.

- (c) **Serious Crime.** The term “serious crime” includes any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy of solicitation of another to commit a “serious crime.”
- (d) **Evidence of Crime.** A certificate of a conviction of an attorney for any crime is conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against said attorney based upon the conviction. A diversion agreement, for the purpose of any disciplinary proceeding, constitutes a conviction of the crime originally charged.
- (e) **Reinstatement.** An attorney suspended under this rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a crime has been reversed. But the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which must be determined on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

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As amended 12/01/09, 3/17/04, 11/16/90.

- To amend the language in D. Kan. Pat. Rule 4.5 to change the page limits on claim construction briefs to be the same as set forth in D. Kan. Rule 7.1(d)(2).

4.5 Claim Construction Briefs

- (a) Not later than 42 days after serving and filing the Joint Claim Construction Statement, the party opposing infringement (or the party asserting invalidity if there is no infringement issue present in the case) must serve and file an opening brief and any evidence supporting its claim construction. ~~Consistent with D. Kan. Rule 7.1, the argument and authorities section of the brief must not exceed 30 pages absent court order.~~
- (b) Not later than 28 days after service upon it of an opening brief, the opposing party must serve and file its responsive brief and supporting evidence. ~~Consistent with D. Kan. Rule 7.1, the argument and authorities section of the brief must not exceed 30 pages absent court order.~~
- (c) Not later than 14 days after service upon it of a responsive brief, the party opposing infringement (or the party asserting invalidity if there is no infringement issue present in the case) must serve and file any reply brief and any evidence directly rebutting the supporting evidence contained in an opposing party's response. ~~The argument and authorities section of the brief must not exceed 10 pages absent court order.~~
- ~~(e)~~(d) The page limits set forth in D. Kan. R. 7.1(d)(2) govern claim construction briefs.