

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

ADMINISTRATIVE ORDER NO. 20-20

**Order Affecting Probate Proceedings and Notice During  
COVID-19 Pandemic**

WHEREAS, Kansas Supreme Court Administrative Order 2020-PR-16, issued March 18, 2020, impacts virtually all cases pending in every district court in Kansas; and

The Order restricts the courts to a defined set of “emergency operations” that are defined in Paragraph 5 of the Order. The final bullet point of the final section of Paragraph 5 permits the courts to address “Any other matters that would require expeditious handling.”; and

Probate matters frequently involve time-sensitive matters. Not just the care and well-being of individuals exemplified by guardianship/conservatorship proceedings, but preservation of assets that may be the product of a lifetime of work or provide needed resolution (and sometimes financial necessity) to heirs and legatees. Probate proceedings can impact the operation of charitable organizations, some of who provide invaluable and necessary services in the context of the current pandemic. Without belaboring the point, probate matters sometimes require expeditious handling; and

In combination with recent administrative orders of this district restricting access to the courthouse, and the Douglas County Health Department shut-in order, and the statewide executive shut-in order issued by Governor Kelly, the net effect of all these orders and the Kansas Supreme Court Administrative Order (collectively herein “the Pandemic Orders”) causes this Court to have concerns that the statutory manner of proceeding in probate cases, especially given the fact that parties (both represented and pro so) not infrequently hold their objections until they appear for the scheduled hearing, (i.e., there is no requirement that written objections be presented before a hearing date), may result in parties losing the opportunity to present objections; and

Rather than pushing those issues down the road hoping either they fade away or recognizing they can become fantastically more difficult and impactful as the result of delay, this Court finds that an administrative order addressing these concerns should issue.

WHEREFORE, until further order from the Kansas Supreme Court, or as modified by administrative order of this Court:

- 1) A party may receive a hearing date on any new probate matter filed in this district wherein a request is made in the petition, and the Court finds, that the matter requires expeditious handling. Parties should include such a finding in any proposed order submitted for approval.
- 2) Any notice of hearing for any new case to be set for hearing, including publication notice, should include the following language:

You are hereby notified that in consideration of Kansas Supreme Court Administrative Order 2020-PR-16, which temporarily affects district court proceedings as a result of the COVID-19 pandemic,

you are required to file a written objection or response not less than 3 business days prior to the hearing date.

You may wish to consult with an attorney regarding these matters. Pro Se litigants may fax file their objections at: 785-832-5174.

If you file a written objection or response, you must, on the same day as any objection is filed, or the next business day, contact the Division 4 administrative assistant via e-mail ([twade@douglascountyks.org](mailto:twade@douglascountyks.org)) or via telephone (785-832-5124) to notify the court of the filing and to get instructions on how to appear via telephone at the date and time of the hearing.

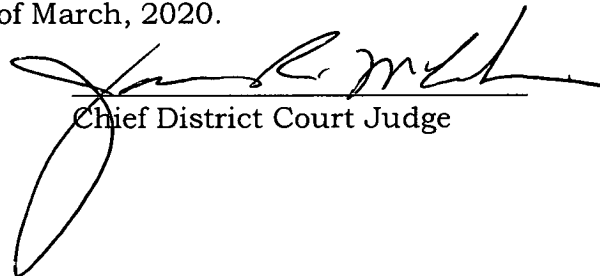
Only phone appearances will be permitted at this initial hearing. No appearances will be permitted to occur at the courthouse. If no objections are filed, or you fail to notify the Division 4 administrative assistant of your filing, the Court will proceed to consider the merits of the requested action and may enter such orders as it deems appropriate.

- 3) Any party filing an objection must, on the same day as the objection is filed, or the next business day, contact Division 4 administrative assistant via e-mail ([twade@douglascountyks.org](mailto:twade@douglascountyks.org)) or via telephone (785-832-5124) to notify the court of the filing and to get instructions on how to appear via telephone at the date and time of the hearing.
- 4) Only phone appearances will be permitted at the initial hearing. No appearances will be permitted to occur at the courthouse. If no objections are filed, or a party fails to notify the Division 4 administrative assistant of the filing, the Court will proceed to consider the merits of the requested action and may enter such orders as it deems appropriate without the appearance of the objecting party.
- 5) When the petition requests, and the Court finds, the matter requires expeditious handling, the court will still grant immediate hearings and orders when otherwise permitted by the Probate Code.
- 6) If a party has a case pending before the Court wherein the hearing date was scheduled as the result of an order entered on or before March 18, 2020, but not set to occur until on or after March 19, 2020, a request for expeditious handling and a new date and new notice conforming to the above requirements will be required. In that case, the notice should reflect "The hearing that is herein noticed is a new date for hearing on the same subject matter that was previously scheduled."
- 7) Where parties are able to submit agreed orders, and all required statutory or other notice is waived or otherwise satisfied, and the statutes otherwise permit proceeding in that fashion, the Court will consider such orders, provided the request is made, and the Court finds, the matter requires expeditious handling.
- 8) Where appropriate, and the circumstances make plain that a matter deserves expeditious handling, the Court may make the finding that the matter requires expeditious handling unilaterally and act on a petition or other request. In that

event, the Court will include a 10-day period for a party to object to the Court's finding and the objection can be scheduled for hearing.

- 9) All initial hearings where parties request to or are required to appear will be conducted by phone only. Requests for waiving the appearance of parties will be liberally considered. For any subsequent hearings, the Court will give consideration to other means of appearing, not limited to video appearances and, in proper circumstances, personal appearances with proper safeguards in place (vis-à-vis COVID-19).
- 10) Jury trials, to the extent permitted (such as in Guardianship cases), will be considered on a case-by-case basis but may be delayed until such time as the Court finds that the health and safety of any venire/jury member, attorneys, court staff, clients, witnesses and others are not jeopardized by such proceedings.
- 11) To the extent they do not conflict with the provisions of this administrative order, the provisions of the Kansas Probate Code shall continue to apply to the processing of cases filed thereunder.
- 12) In any given case, parties remain free to argue why the circumstances of their case should not be subject to the requirements of this administrative order and the Court may so find.

IT IS SO ORDERED this 31<sup>st</sup> day of March, 2020.

  
Chief District Court Judge