

Initial Civil Appeals: Kansas

MIRIAM E. C. BAILEY, POLSINELLI PC, WITH PRACTICAL LAW LITIGATION

Search the [Resource ID numbers in blue](#) on Westlaw for more.

A Q&A guide to appealing from a trial court of general jurisdiction in Kansas. This Q&A addresses starting an appeal (as of right or by permission), obtaining a stay pending appeal, completing preliminary requirements (like mediation), submitting a factual record or appendix, briefing the appeal, arguing the appeal, and requesting rehearing. Answers to questions can be compared across a number of jurisdictions (see [Initial Civil Appeals: State Q&A Tool](#)).

OVERVIEW OF STATE APPEALS

1. What types of rulings can a party appeal as of right (for example, final judgments, preliminary injunctions, interlocutory orders)?

In Kansas, parties appeal decisions by the state district courts (Kansas' trial courts of general jurisdiction) to either the Court of Appeals or the Supreme Court depending on the type of case.

APPEALS TO THE COURT OF APPEALS

In Kansas, a party can appeal as of right to the Court of Appeals from any of the following:

- A final decision in any action, except in an action where a direct appeal to the Supreme Court is required by law.
- An order that discharges, vacates, or modifies a provisional remedy.
- An order that grants, continues, modifies, refuses, or dissolves an injunction, or that grants or refuses relief in the form of mandamus, quo warranto, or habeas corpus.

- An order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes of a receivership.
- An order involving the tax or revenue laws.
- An order involving title to real estate.
- An order involving the state constitution or the federal constitution, laws, or treaties.

(K.S.A. 60-2102(a).)

Appeals relating to an arbitration action are taken in the same manner and to the same extent as appeals from an order or a judgment in a civil action. A party can appeal from:

- An order denying a motion or application to compel arbitration.
- An order granting a motion or application to stay arbitration.
- An order confirming or denying confirmation of an award.
- An order modifying or correcting an award.
- An order vacating an award without directing a rehearing.
- A final judgment entered under the Uniform Arbitration Act.

(2018 Kan. Laws Ch. 90, § 28 (H.B. 2571).)

Any party in an undetermined case pending in the Court of Appeals may file a motion requesting that the case be transferred to the Supreme Court. The motion must be filed within 30 days after the notice of appeal has been served on the appellee. (K.S.A. 20-3017; Kan. Sup. Ct. R. 8.02(a).)

The Court of Appeals, before final determination of any case before it, may request that the case be transferred to the Supreme Court (K.S.A. 20-3016(a); Kan. Sup. Ct. R. 8.01(a)).

On its own motion, the Supreme Court may order the Court of Appeals to transfer any case before the Court of Appeals to the Supreme Court (K.S.A. 20-3018(c)).

APPEALS TO THE SUPREME COURT

A party must appeal the following orders and decisions directly to the Supreme Court:

- A final judgment holding a Kansas or federal statute unconstitutional (K.S.A. 60-2101(b)).
- A preliminary or final decision holding a Kansas statute unconstitutional relating to school finance litigation (K.S.A. 60-2102(b)(1)).
- A final decision made in an action challenging the constitutionality of or arising out of any provision of the Kansas Expanded Lottery Act, any lottery gaming facility management contract or any racetrack gaming facility management contract entered into under the Kansas Expanded Lottery Act (K.S.A. 60-2102(b)(2)).
- A final order entered under the Eminent Domain Procedure Act (K.S.A. 26-504).
- An action of the Kansas Corporation Commission under the Kansas Natural Gas Pricing Act (K.S.A. 55-1410).
- A determination of the district court in certain election contests (K.S.A. 25-1450).
- An order granting or denying either an original organization license by the Kansas Racing Commission or an original facility owner license or facility manager license (K.S.A. 74-8813(v) and 74-8815(n)).
- Any decision of the district court by a person or taxpayer aggrieved by airport zoning regulations (K.S.A. 3-709(2)).
- Any judgment or order regarding petitions for drainage (K.S.A. 24-702(f)).
- An action of the Kansas Secretary of Human Resources concerning the regulation of labor and industry (K.S.A. 44-612).

2. What types of rulings, if any, can a party appeal by permission (for example, interlocutory orders)?

For interlocutory orders that are not otherwise appealable as of right, a party may appeal to the Court of Appeals if the issuing district court judge states in the order that:

- The order involves a controlling question of law for which there is substantial ground for difference of opinion.
- Immediate appeal from the order could materially advance the termination of the litigation.

(K.S.A. 60-2102(c); Kan. Sup. Ct. R. 4.01(d)(3).) The Court of Appeals may allow an appeal taken from such an order if a party applies to do so with the Court of Appeals within 14 days after the order is entered.

A party may appeal from an order granting or denying class action certification if it applies to do so with the Court of Appeals within 14 days after the order is entered (K.S.A. 60-223(f); Kan. Sup. Ct. R. 4.01A(a)).

3. Are there any restrictions on the types of issues the appellate court can consider (for example, only questions of law)?

Questions of law are subject to unlimited review in both the Court of Appeals and the Supreme Court. The Court of Appeals and the Supreme Court limit appellate review of questions of fact to determining whether a fact is supported by substantial competent evidence, which is a question of law. (K.S.A. 60-2101(a), (b); *Mudd v. Neosho Mem'l Reg'l Med. Ctr.*, 62 P.3d 236, 241 (Kan. 2003).)

STARTING AN APPEAL

4. When must a party start an appeal?

The appellant generally must file an appeal from the district court within 30 days after entry of the judgment (2018 Kan. Laws Ch. 90, § 28 (H.B. 2571); K.S.A. 60-2103(a), and 61-3902(a)).

An appellant appealing from an order appointing or refusing to appoint a receiver must file an appeal within 14 days after entry of the order, and may file without waiting for final determination of the proceeding (K.S.A. 60-1305).

An appellant appealing from an order by permission or an order granting or denying class action certification must file within 14 days after entry of the order (K.S.A. 60-223(f) and 60-2102(c); Kan. Sup. Ct. R. 4.01(a) and Kan. Sup. Ct. R. 4.01A(a); see Question 7).

A party may file a notice of a cross-appeal within 21 days after the notice of the appeal has been served and filed (K.S.A. 60-2103(h)).

5. How, if at all, can a party extend the time to start an appeal?

A party may request an extension of time to start an appeal by filing a motion showing excusable neglect based on failure to learn of the entry of judgment. A district court may extend the time to appeal up to 30 days from the expiration of the originally prescribed time. (K.S.A. 60-2103(a).)

6. How does a party start an appeal as of right (for example, notice of appeal, petition)?

A party starts an appeal as of right by filing a notice of appeal with the district court clerk and serving the notice on all other parties to the judgment (K.S.A. 60-2103(a), (b)). The notice of appeal must:

- Specify the parties taking the appeal.
- Designate the judgment being appealed.
- Name the court to which the appeal is taken.

(K.S.A. 60-2103(b).)

7. How does a party start an appeal by permission (for example, motion to the appellate court, motion to the trial court)?

INTERLOCUTORY ORDERS APPEALABLE BY PERMISSION

A party may seek permission to appeal certain interlocutory orders that are not ordinarily appealable as of right to the Court of Appeals if the issuing district court judge states in the order that:

- The order involves a controlling question of law for which there is substantial ground for difference of opinion.
- Immediate appeal from the order could materially advance the termination of the litigation.

(K.S.A. 60-2102(c); Kan. Sup. Ct. R. 4.01(d)(3).)

Within 14 days after the order's entry, the appellant must:

- File an application for permission to take an appeal with the appellate court clerk that includes the required docket fee.

- Serve the application for permission to take an appeal on all attorneys of record and unrepresented parties.

(K.S.A. 60-2102(c); Kan. Sup. Ct. R. 4.01(a).)

The application for permission to take an appeal must:

- State the relevant facts, including:
 - the facts necessary to understand the question presented;
 - the question itself;
 - the relief sought;
 - the nature of the district court proceedings; and
 - a brief history of the proceedings, including all important dates.
- State briefly:
 - the controlling question of law;
 - the substantial ground for difference of opinion about the controlling question of law; and
 - the basis for belief that an immediate appeal from the order may materially advance the termination of the litigation.
- Include a file-stamped certified copy of the order being appealed.
- If an order has been amended, include file-stamped certified copies of the motion to amend and the amended order.

(K.S.A. 60-2102(c); Kan. Sup. Ct. R. 4.01(d).)

CLASS ACTION CERTIFICATIONS

For an interlocutory appeal by permission from an order granting or denying class action certification, a party must, within 14 days after the order's entry:

- File an application to take the appeal with the appellate court clerk that includes the required docket fee.
- Serve the application to take the appeal on all other parties to the district court action.

(K.S.A. 60-223(f); Kan. Sup. Ct. R. 4.01A(a).)

The application for permission to take an appeal must:

- State the relevant facts, including:
 - the facts necessary to understand the question presented;
 - the question itself;
 - the relief sought;
 - the reasons why the appeal should be allowed;
 - the nature of the district court proceedings; and
 - a brief history of the proceedings, including all important dates.
- Include a file-stamped certified copy of the order being appealed.

(K.S.A. 60-223(f); Kan. Sup. Ct. R. 4.01A(c).)

STAYS PENDING APPEAL

8. How, if at all, can a party stay the lower court's ruling pending appeal (for example, posting a bond, making a motion, automatically by appealing)?

AUTOMATIC STAYS

In most cases, the district court's judgment or order is automatically stayed for 14 days after its entry. The automatic stay does not apply to:

- Injunctions.
- Receiverships.

(K.S.A. 60-262(a).)

DISCRETIONARY STAYS

Appellate Courts

Appellate courts have unlimited power to:

- Stay proceedings.
- Suspend, modify, restore, or grant an injunction while an appeal is pending.
- Issue an order to preserve the status quo or the effectiveness of the judgment to be entered.

(K.S.A. 60-262(f).)

An application for an appeal from interlocutory orders does not stay proceedings in the district court unless the district judge or an appellate court or judge orders a stay (K.S.A. 60-2102(c)).

An appeal from an order granting or denying class action certification does not stay proceedings in the district court unless the district judge or the Court of Appeals orders a stay (K.S.A. 60-223(f)).

District Courts

To secure the opposing party's rights, the district court may stay the execution of a judgment or any proceedings to enforce it, pending disposition of any of the following motions:

- Motion for judgment as a matter of law (K.S.A. 60-250).
- Motion to amend the findings or for additional findings (K.S.A. 60-252(b)).
- Motion for a new trial or to alter or amend a judgment (K.S.A. 60-259).
- Motion for relief from a judgment or order (K.S.A. 60-260).

(K.S.A. 60-262(b).)

While an appeal is pending from an interlocutory order or final judgment that grants, dissolves, or denies an injunction, the district court may suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights (K.S.A. 60-262(c)). Unless the court orders otherwise:

- For orders discharging, vacating, or modifying a provisional remedy, or modifying or dissolving an injunction, an aggrieved party is entitled to have the order suspended for up to 14 days on condition that the party files a notice of appeal and obtains the approval of a supersedeas bond during the *suspension* period (K.S.A. 60-2103(d)).
- For orders appointing or refusing to appoint a receiver, an aggrieved party may appeal within 14 days without waiting for final determination of the proceeding. If a receiver has been appointed and the appellant files an appeal bond with the judge's terms and conditions, the appointment is suspended and the property will remain in the appellant's possession pending the final determination of the appeal. (K.S.A. 60-1305.)

An appellant may obtain a stay by *supersedeas* bond both in appeals of regular actions and limited actions. The bond may be given on or after the appellant files the notice of appeal and the stay takes effect when the court approves the bond. (K.S.A. 60-262(a), (d) and 61-3905(a).)

PRELIMINARY MATTERS

9. What, if any, preliminary matters are required before the parties brief the appeal (for example, filing informational forms, participating in mediation or settlement conferences)?

Within 21 days after filing a notice of appeal in the district court, the appellant must file with the appellate court clerk:

- The docketing statement on the applicable judicial council form (Kan. Sup. Ct. R. 2.041(a), (e)).
- A file-stamped certified copy of the notice of appeal.
- A file-stamped certified copy of the journal entry, judgment form, or other appealable order or decision.
- A file-stamped certified copy of any post-trial motion and any ruling on the motion.
- A file-stamped certified copy of any certification that “there is no just reason for delay” (K.S.A. 60-254(b)).
- A copy of any request for transcript under Kansas Supreme Court Rule 3.03, a statement that no transcript will be requested, or a certificate of completion if a transcript has been requested and completed. This transcript-request filing must be:
 - made within the 21-day period immediately following the filing of a notice of appeal;
 - clearly designated “for appeal purposes”;
 - filed in the district court; and
 - served on the court reporter and all parties.

(Kan. Sup. Ct. R. 2.04(a), 2.041 and 3.03(a), (d).)

The appellant must pay a docket fee of \$145 in addition to any applicable surcharge. The following parties are exempt from the docket fee:

- Indigent appellants.
- The state of Kansas, including its agencies, cities, and counties.

(Kan. Sup. Ct. R. 2.04(d).)

COURT SUBMISSIONS

10. What factual materials are submitted to the court (for example, the trial court record, excerpts of the record, an appendix)? When and by whom?

FACTUAL MATERIAL

The record on appeal generally consists of portions of the entire record.

The entire record consists of:

- All original papers and exhibits filed in the district court.
- The court reporter’s notes and transcripts of all proceedings.

- Any other court-authorized record of the proceedings, including an electronic recording.
- The entries on the appearance docket in the district court clerk’s office.

(Kan. Sup. Ct. R. 3.01.)

At minimum, the record on appeal in a civil case consists of:

- A certified copy of the appearance docket.
- The following original documents:
 - the petition or amended petition;
 - the answer or amended answer;
 - any reply or amended reply;
 - the pretrial orders;
 - the district court’s opinion, findings, and conclusions;
 - any jury verdict;
 - the judgment; and
 - the notice of appeal.
- All reporters’ transcripts of proceedings before the district court that are properly requested by a party and available when the district court clerk compiles the record on appeal.
- Any other paper or exhibit that is added to the record on appeal by a party’s request (Kan. Sup. Ct. R. 3.02(d)).
- The table of contents showing the volume and page number of each paper or exhibit in the record as prepared and included by the district court clerk. A copy of the table of contents must be distributed to each party.

(Kan. Sup. Ct. R. 3.02(c).)

The appellate court can order the inclusion of additional materials from the entire record (Kan. Sup. Ct. R. 3.01(b)(2)).

A party can request the inclusion of additional materials from the entire record if the addition is specified with particularity and the party requesting the addition:

- Serves the request on the district court clerk, if the record on appeal has not been transmitted to the appellate court clerk. If the requested material is in the reporter’s custody, the request also must be served on the reporter. The reporter must then deliver the exhibit to the district court clerk. The district court must add any materials properly requested.
- Files a motion in the relevant appellate court, if the record on appeal has been transmitted to the appellate court clerk. Additions to the record on appeal after it has been transmitted are only made by an order of the appellate court clerk or an appellate justice or judge. If the requested addition is an exhibit in the reporter’s custody, a copy of the order granting the motion must be served on the reporter. The reporter must then deliver it to the district court clerk.

(Kan. Sup. Ct. R. 3.02(d).) Nondocumentary evidence or exhibits may not be added to the record on appeal (Kan. Sup. Ct. R. 3.02(d)(2)).

Agreed Statement

Instead of a record on appeal composed of portions of the entire record, the parties may submit an agreed statement showing how

the issues presented on appeal arose and were decided in the district court. An agreed statement must:

- Be signed by the parties.
- State only the facts asserted and proved or sought to be proved that are essential to the appellate court's resolution of the issues.
- Include a:
 - copy of the judgment being appealed;
 - copy of the notice of appeal with its filing date; and
 - concise statement of the issues raised.

(Kan. Sup. Ct. R. 3.05.)

If an agreed statement is truthful, the district court must approve it. The district court may include any additions it considers necessary to a full presentation of the issues on appeal. (Kan. Sup. Ct. R. 3.05.)

Transcripts

The appellant can request the inclusion of a hearing transcript if necessary to properly present the appeal. The request must be:

- Clearly designated "for appeal purposes."
- For a complete transcript of the hearing, unless all affected parties stipulate that specific portions are unnecessary for the appeal.

(Kan. Sup. Ct. R. 3.03(a).)

Jury voir dire, opening statements, and closing arguments of counsel are not transcribed unless specifically requested (Kan. Sup. Ct. R. 3.03(a)).

The appellee can request transcripts for jury voir dire, opening statements, closing arguments, or any other hearing not requested by appellant (Kan. Sup. Ct. R. 3.03(c)).

Unavailable Transcripts or Exhibits

If a transcript is unavailable, a party may prepare a statement of the evidence or proceedings from the best available means, including the party's own recollection (Kan. Sup. Ct. R. 3.04(a)). If an exhibit offered, admitted, or excluded in a hearing or trial is unavailable, a party may prepare a photocopy or facsimile that accurately duplicates the original exhibit (Kan. Sup. Ct. R. 3.04(b)).

The statement or substitute exhibit must be:

- Served on all parties.
- Submitted to the district court for settlement and approval, along with any objection or proposed amendment.
- Included by the district court clerk in the record on appeal.

(Kan. Sup. Ct. R. 3.04.)

Appendix

A party's briefs may contain an appendix consisting of limited extracts from the record on appeal that the party considers to be of critical importance to the issues to be decided. The appendix is for the court's convenience and is not a substitute for the record itself. When an appendix is included, the statement of the case and the brief may make references to it, but the references are supplementary to the required references to the volume and page number of the record itself. (Kan. Sup. Ct. R. 6.02(b) and 6.03(b).)

TIMING

The district court clerk must compile the record on appeal within 14 days of notice from the appellate court clerk that an appeal has been docketed (Kan. Sup. Ct. R. 3.02(a)).

Agreed Statement

If proceeding on an agreed statement in lieu of the record specified in Rule 3.02, the parties must submit an agreed statement within 21 days after the notice of appeal is filed (Kan. Sup. Ct. R. 3.05).

Transcripts

The appellant must:

- Request the transcript within 21 days after filing the notice of appeal in the district court (Kan. Sup. Ct. R. 3.03(a)).
- File a copy of the initial transcript request and any stipulation when the appeal is docketed (Kan. Sup. Ct. R. 3.03(d)).
- If the reporter serves a demand for advance payment within 14 days after receipt of a transcript request, advance the payment of the estimated cost of the transcript within 14 days after receiving the demand (Kan. Sup. Ct. R. 3.03(f)).

Within 14 days of service of the appellant's transcript request, the appellee can request transcripts of the jury voir dire, opening statements, closing arguments, or any other hearing the appellant did not request (Kan. Sup. Ct. R. 3.03(c)).

The court reporter must complete a transcript within 40 days of service of a request unless the court reporter applies for and receives an extension (Kan. Sup. Ct. R. 3.03(e)).

Unavailable Transcripts or Exhibits

If a transcript is unavailable and a party chooses to prepare a statement of evidence of proceedings, a party who wants to serve an objection or a proposed amendment must do so within 14 days after the statement is served (Kan. Sup. Ct. R. 3.04(a)).

If an exhibit is unavailable and a party chooses to prepare a photocopy or facsimile that accurately duplicates the original exhibit, a party who wants to serve an objection or proposed amendment must do so within 14 days after the substitute is served (Kan. Sup. Ct. R. 3.04(b)).

Any party that must perform an act within a specified time may file for an extension of time (Kan. Sup. Ct. R. 5.02(a)).

RESPONSIBLE FOR FILING

The district court clerk is responsible for both:

- Compiling the record on appeal.
- Preparing and including a table of contents showing the volume and page number for each paper or exhibit contained in the record.

(Kan. Sup. Ct. R. 3.02(a), (c)(4).)

When the parties submit an agreed statement instead of a record on appeal, the parties must file it with the district court clerk (Kan. Sup. Ct. R. 3.05).

The appellant is responsible for filing transcript requests. The appellee is responsible for filing requests for additional or alternative transcripts not requested by the appellant. (Kan. Sup. Ct. R. 3.03(a), (c).)

11. What briefs are filed and when? Does this change when there is a cross-appeal?

There are usually three appellate briefs:

- The appellant's brief.
- The appellee's brief.
- The appellant's reply brief.

(Kan. Sup. Ct. R. 6.02, 6.03, and 6.05.)

FILING BRIEFS

The appellant must serve and file its brief within:

- 40 days after docketing, if all ordered transcripts were filed with the district court clerk before docketing, or if the reporter's transcript was not ordered.
- 30 days after service of a certificate of filing a transcript, if a transcript was ordered but was not filed before docketing.
- 30 days after filing an agreed statement or a statement of proceedings, if either is included in the record on appeal.

(Kan. Sup. Ct. R. 6.01(b)(1).)

The appellee or appellee/cross-appellant must serve and file its brief within 30 days after the appellant's brief is served (Kan. Sup. Ct. R. 6.01(b)(2)).

The appellant or cross-appellant can submit a reply brief only if new material contained in the appellee's or cross-appellee's brief makes it necessary (Kan. Sup. Ct. R. 6.05). A party must serve and file any reply brief within 14 days after service of the brief to which the reply is being made (Kan. Sup. Ct. R. 6.01(b)(5)). If a reply brief is permissible, a cross-appellee must combine the reply brief with the cross-appellee's brief as a separate section (Kan. Sup. Ct. R. 6.05).

BRIEFING AFTER CROSS-APPEAL

A cross-appellee must serve and file a brief within 21 days after the cross-appellant's brief is served (Kan. Sup. Ct. R. 6.01(b)(3)). An appellee/cross-appellee must serve and file a brief within 21 days after the appellee/cross-appellant's brief is served (Kan. Sup. Ct. R. 6.01(b)(4)).

12. How, if at all, can a party extend the time to file a brief (for example, stipulation, so-ordered stipulation, motion)?

A party may file a motion for an extension of time to file a brief. The motion must indicate:

- The present due date.
- The number of extensions previously requested.
- The amount of additional time needed.
- The reason for the request.
- If the motion is being filed after the time to act has expired, the reasons constituting excusable neglect.

(Kan. Sup. Ct. R. 5.02(a), (c).)

For good cause, the appellate court may extend the time:

- With or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.

- On motion made after the time has expired if the party failed to act because of excusable neglect.

(K.S.A. 60-206(b)(1).)

An adverse party's consent to an extension of time is considered, but is not controlling (Kan. Sup. Ct. R. 5.02(b)). The clerk or the court may grant an extension of time not exceeding 20 days without waiting for a response (Kan. Sup. Ct. R. 5.02(d)).

13. Are there word or page limits for briefs? If so, please indicate:

- The word or page limit for each type of brief (for example, appellant's brief, appellee's brief, reply brief).
- How, if at all, a party can obtain permission to exceed the usual limit (for example, stipulation, so-ordered stipulation, motion).

WORD OR PAGE LIMITS

Excluding the cover, table of contents, appendix, and certificate of service, briefs must not exceed the following page limits unless the court orders otherwise:

- 50 pages for a brief of an appellant or appellee.
- 60 pages for a brief of an appellee/cross-appellant or appellee/cross-appellee.
- 25 pages for a brief of a cross-appellee.
- 15 pages for a reply brief or a brief of amicus curiae.

(Kan. Sup. Ct. R. 6.07(c).)

OVERSIZED BRIEFS

A motion to exceed a page limit must be submitted before the brief is submitted and must include a specific total page request. The court may rule on the motion without waiting for a response from any other party. (Kan. Sup. Ct. R. 6.07(d).)

ABBREVIATED BRIEFS

An appellate court may order briefs to be abbreviated in content or format (Kan. Sup. Ct. R. 6.07(e)).

ORAL ARGUMENTS**14. Is oral argument available? If so, please indicate:**

- Any restrictions on what types of cases may be argued.
- Whether the parties can request oral argument or submission on the papers.
- How much time each party or side typically receives for argument.

TYPES OF CASES THAT MAY BE ARGUED

Oral argument is available unless both:

- The case fails to present a new question of law.
- Oral argument is deemed neither helpful to the court nor essential to a fair hearing of the appeal.

(Kan. Sup. Ct. R. 7.01(c)(2) and 7.02(c)(2).)

If oral argument is not allowed, the court sends notice to counsel of record that it will render judgment on the briefs (Kan. Sup. Ct.

R. 7.01(c)(3) and 7.02(c)(3)). If oral argument is denied, a party can move for oral argument. The motion must:

- Be served on all parties.
- Be filed with the appellate court clerk within 14 days of notice that judgment will be rendered on the briefs.
- State the reason why oral argument will be helpful to the court.

(Kan. Sup. Ct. R. 7.01(c)(4) and 7.02(c)(4).)

In a case where it appears that a controlling appellate decision is dispositive of the appeal, the court may summarily affirm or reverse. The court may enter the order after 14 days' notice to the parties, citing the decision deemed controlling and providing an opportunity to show cause why the order should not be filed. (Kan. Sup. Ct. R. 7.041(a).)

A party that does not have a brief on file is not permitted oral argument (Kan. Sup. Ct. R. 7.01(e)(1) and 7.02(f)(1)).

PARTY INVOLVEMENT IN DECISION

An appellant or appellee may request 20, 25, or 30 minutes for argument by printing "oral argument" on the lower right portion of the front cover of the party's initial brief, followed by the desired amount of time (Kan. Sup. Ct. R. 7.01(e)(2) and 7.02(f)(2)).

During the pendency of an appeal, a party may move for summary disposition, citing a controlling appellate decision that is dispositive of the appeal. The motion must be served on all parties, who may respond within 14 days after the motion is served. When the time to respond expires, the court may enter an order summarily affirming or reversing or denying the motion. (Kan. Sup. Ct. R. 7.041(b).)

LENGTH OF ORAL ARGUMENTS

When a case is argued before either the Supreme Court or Court of Appeals:

- The court designates the amount of time granted on the oral argument calendar.
- Unless more time is ordered, oral argument is limited to 15 minutes each for the appellant and the appellee.
- The appellant and the appellee are granted the same amount of time.

(Kan. Sup. Ct. R. 7.01(e)(1) and 7.02(f)(1).)

Oral argument granted on motion is limited to 15 minutes on each side unless sufficient reason is given to grant 20, 25, or 30 minutes (Kan. Sup. Ct. R. 7.01(c)(4) and 7.02(c)(4)).

An appellant may reserve a portion of the time granted for rebuttal by making an oral request at the hearing (Kan. Sup. Ct. R. 7.01(e)(3) and 7.02(f)(3)).

During the hearing, the court may extend the time for oral argument (Kan. Sup. Ct. R. 7.01(e)(4) and 7.02(f)(4)).

If on either side of a case there are multiple parties that are not united in interest in the issues of the appeal and are separately represented, the court on motion will allot time for separate arguments. If multiple parties are united in interest in the issues on appeal, they must divide the allotted time among themselves by mutual agreement. (Kan. Sup. Ct. R. 7.01(e)(5) and 7.02(f)(5).)

REHEARING FOR STATE APPEALS

15. Is there a mechanism for rehearing (panel or en banc)? If so, please describe:

- The process for requesting rehearing (for example, petition, motion).
- The process for presenting the merits if the court grants rehearing (for example, decision on the existing papers, new argument, new briefing).

REQUESTING REHEARING

Any party aggrieved by a decision of the Court of Appeals may file a motion for a rehearing in accordance with rules of the Supreme Court. A motion for rehearing is not a condition precedent to review by the Supreme Court, and any party may petition the Supreme Court for review within 30 days of the date of the decision. (K.S.A. 20-3018(b).)

A party must serve and file a motion for rehearing or modification in a case decided by the Court of Appeals within 14 days after the decision is entered. A copy of the court's opinion must be attached to the motion. (Kan. Sup. Ct. R. 7.05(a).)

A party must serve and file a motion for rehearing or modification in a case decided by the Supreme Court within 21 days after the decision is entered. A copy of the court's opinion must be attached to the motion. (Kan. Sup. Ct. R. 7.06(a).)

REHEARING PROCEDURE

A motion for rehearing or modification in the Court of Appeals stays the issuance of the mandate pending determination of the issues raised by the motion. A motion for rehearing or modification is not a prerequisite for review and does not extend the time for filing a petition for review by the Supreme Court. (Kan. Sup. Ct. R. 7.05(b).)

A motion for rehearing or modification in the Supreme Court stays the issuance of the mandate pending determination of the issues raised by the motion (Kan. Sup. Ct. R. 7.06(b)).

If a motion for rehearing is granted in either the Court of Appeals or the Supreme Court, the order granting rehearing suspends the effect of the original decision until the matter is decided on rehearing (Kan. Sup. Ct. R. 7.05(c) and 7.06(c)).

ABOUT PRACTICAL LAW

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at legalsolutions.com/practical-law. For more information or to schedule training, call **1-800-733-2889** or e-mail referenceattorneys@tr.com.