

SENATE BILL No. 608

By Senator Francisco

2-13

9 AN ACT relating to civil procedure; concerning pretrial conferences;
10 amending K.S.A. 60-216 and repealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 60-216 is hereby amended to read as follows: 60-
14 216. (a) *Pretrial conferences; objectives.* In any action, the court shall on
15 the request of either party, or may in its discretion without such request,
16 direct the attorneys for the parties to appear before it for a conference
17 or conferences before trial to expedite processing and disposition of the
18 litigation, minimize expense and conserve time.

19 (b) *Case management conference.* In any action, the court shall on
20 the request of either party, or may in its discretion without such request,
21 conduct a case management conference with counsel and any unrepres-
22 sented parties. The conference shall be scheduled by the court as soon
23 as possible and shall be conducted within 45 days of the filing of an
24 answer. However, in the discretion of the court, the time for the confer-
25 ence may be extended or reduced to meet the needs of the individual
26 case.

27 At any conference under this subsection consideration shall be given,
28 and the court shall take appropriate action, with respect to:

29 (1) Identifying the issues and exploring the possibilities of stipulations
30 and settlement;

31 (2) whether the action is suitable for alternative dispute resolution;

32 (3) exchanging information on the issues of the case, including key
33 documents and witness identification;

34 (4) establishing a plan and schedule for discovery, including setting
35 limitations on discovery, if any, designating the time and place of discov-
36 ery, restricting discovery to certain designated witnesses or requiring
37 statements be taken in writing or by use of electronic recording rather
38 than by stenographic transcription;

39 (5) requiring completion of discovery within a definite number of
40 days after the conference has been conducted;

41 (6) setting deadlines for filing motions, joining parties and amend-
42 ments to the pleadings;

43 (7) setting the date or dates for conferences before trial, a final pre-

1 trial conference, and trial; and

2 (8) such other matters as are necessary for the proper management
3 of the action.

4 If a case management conference is held, except as provided in sub-
5 section (a)(2)(B) of K.S.A. 60-230 and amendments thereto, no deposi-
6 tions, other than of the parties to the action, shall be taken until after the
7 conference is held, except by agreement of the parties or order of the
8 court. If the case management conference is not held within 45 days of
9 the filing of an answer, the restrictions of this paragraph shall no longer
10 apply.

11 If discovery cannot be completed within the period of time originally
12 prescribed by the court, the party not able to complete discovery shall
13 file a motion prior to the expiration of the original period for additional
14 time to complete discovery. Such motion shall contain a discovery plan
15 and shall set forth the reason why discovery cannot be completed within
16 the original period. If additional time is allowed, the court shall grant only
17 that amount of time reasonably necessary to complete discovery.

18 (c) *Subjects for consideration at pretrial conferences.* At any pretrial
19 conference consideration may be given, and the court may take appro-
20 priate action, with respect to:

21 (1) The simplification of the issues;

22 (2) the determination of issues of law which may eliminate or affect
23 the trial of issues of fact;

24 (3) the necessity or desirability of amendments to the pleadings;

25 (4) the possibility of obtaining admissions of fact and of documents
26 which will avoid unnecessary proof;

27 (5) the limitation of the number of expert witnesses;

28 (6) the advisability of a preliminary reference of issues to a master;
29 and

30 (7) such other matters as may aid in the disposition of the action.

31 At least one of the attorneys for each party participating in any con-
32 ference before trial shall have authority to enter into stipulations and to
33 make admissions regarding all matters that the participants may reason-
34 ably anticipate may be discussed. If appropriate, the court may require
35 that a party or its representative be present or reasonably available by
36 telephone in order to consider possible settlement of the dispute.

37 In the discretion of the court, any pretrial conference may be held by
38 a telephone conference call *or via a video conferencing format.*

39 (d) *Final pretrial conference.* In any action, the court shall on the
40 request of either party, or may in its discretion without such request,
41 conduct a final pretrial conference in accordance with procedures estab-
42 lished by rule of the supreme court.

43 (e) *Pretrial orders.* After any conference held under this section, an

1 order shall be entered reciting the action taken. This order shall control
2 the subsequent course of the action unless modified by a subsequent
3 order. The order following a final pretrial conference shall be modified
4 only by agreement of the parties, or by the court to prevent manifest
5 injustice.

6 (f) If a party or party's attorney fails to obey a pretrial order, if no
7 appearance is made on behalf of a party at a pretrial conference, if a party
8 or party's attorney is substantially unprepared to participate in the con-
9 ference or if a party or party's attorney fails to participate in good faith,
10 the judge, upon motion or the judge's own initiative and after opportunity
11 to be heard, may make such orders with regard thereto as are just, and
12 among others any of the orders provided in subsections (b)(2)(B), (C) and
13 (D) of K.S.A. 60-237 and amendments thereto. In lieu of or in addition
14 to any other sanction, the judge shall require the party or the party's
15 attorney, or both, to pay the reasonable expenses incurred because of any
16 noncompliance with this section, including attorney fees, unless the judge
17 finds that the noncompliance was substantially justified or that other cir-
18 cumstances make an award of expenses unjust.

19 Sec. 2. K.S.A. 60-216 is hereby repealed.

20 Sec. 3. This act shall take effect and be in force from and after its
21 publication in the statute book.