

HOUSE BILL No. 2473

By Committee on Judiciary

1-18

1 AN ACT concerning civil procedure; relating to pleadings and discovery;
2 amending K.S.A. 2011 Supp. 60-208 and 60-226 and repealing the
3 existing sections.
4

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

6 Section 1. K.S.A. 2011 Supp. 60-208 is hereby amended to read as
7 follows: 60-208. (a) *Claim for relief.* A pleading that states a claim for
8 relief must contain:

9 (1) A short and plain statement of the claim showing that the pleader
10 is entitled to relief; and

11 (2) a demand for the relief sought, which may include relief in the
12 alternative or different types of relief. Except in contract actions, every
13 pleading demanding relief for money damages in excess of \$75,000,
14 without demanding a specific amount of money, must state only that the
15 amount sought as damages is in excess of \$75,000. Every pleading
16 demanding relief for money damages in an amount of \$75,000 or less must
17 specify the amount sought as damages.

18 (b) *Defenses, admissions and denials.* (1) *In general.* In responding to
19 a pleading, a party must:

20 (A) State in short and plain terms its defenses to each claim asserted
21 against it; and

22 (B) admit or deny the allegations asserted against it by an opposing
23 party.

24 (2) *Denials; responding to the substance.* A denial must fairly
25 respond to the substance of the allegation.

26 (3) *General and specific denials.* A party that intends in good faith to
27 deny all the allegations of a pleading, including the jurisdictional grounds,
28 may do so by a general denial. A party that does not intend to deny all the
29 allegations must either specifically deny designated allegations or
30 generally deny all except those specifically admitted.

31 (4) *Denying part of an allegation.* A party that intends in good faith to
32 deny only part of an allegation must admit the part that is true and deny the
33 rest.

34 (5) *Lacking knowledge or information.* A party that lacks knowledge
35 or information sufficient to form a belief about the truth of an allegation
36 must so state, and the statement has the effect of a denial.

1 satisfy the judgment. Information concerning the insurance agreement is
2 not by reason of disclosure admissible in evidence at trial. For purposes of
3 this paragraph, an application for insurance is not a part of an insurance
4 agreement.

5 (4) *Trial preparation; materials.* (A) *Documents and tangible things.*
6 Ordinarily, a party may not discover documents and tangible things that
7 are prepared in anticipation of litigation or for trial by or for another party
8 or its representative, including the other party's attorney, consultant, surety,
9 indemnitor, insurer or agent. But, subject to subsection (b)(5), those
10 materials may be discovered if:

11 (i) They are otherwise discoverable under paragraph (1); and
12 (ii) the party shows that it has substantial need for the materials to
13 prepare its case and cannot, without undue hardship, obtain their
14 substantial equivalent by other means.

15 (B) *Protection against disclosure.* If the court orders discovery of
16 those materials, it must protect against disclosure of the mental
17 impressions, conclusions, opinions or legal theories of a party's attorney or
18 other representative concerning the litigation.

19 (C) *Previous statement.* Any party or other person may, on request
20 and without the required showing, obtain the person's own previous
21 statement about the action or its subject matter. If the request is refused,
22 the person may move for a court order, and K.S.A. 60-237, and
23 amendments thereto, applies to the award of expenses. A previous
24 statement is either:

25 (i) A written statement that the person has signed or otherwise
26 adopted or approved; or

27 (ii) a contemporaneous stenographic, mechanical, electrical or other
28 recording, or a transcription of it, that recites substantially verbatim the
29 person's oral statement.

30 (5) *Trial preparation; experts.*

31 (A) *Deposition of an expert who may testify.* A party may depose any
32 person who has been identified as an expert whose opinions may be
33 presented at trial. If a disclosure is required under subsection (b)(6), the
34 deposition may be conducted only after the disclosure is provided.

35 (B) *Trial-preparation protection for draft disclosures.* Subsections (b)
36 (4)(A) and (b)(4)(B) protect drafts of any disclosure required under
37 subsection (b)(6), regardless of the form in which the draft is recorded.

38 (C) *Trial-preparation protection for communications between a*
39 *party's attorney and expert witnesses.* Subsections (b)(4)(A) and (b)(4)(B)
40 protect communications between the party's attorney and any witness
41 about whom disclosure is required under subsection (b)(6), regardless of
42 the form of the communications, except to the extent that the
43 communications:

and a report signed by the witness
which is disclosed in lieu of the
disclosure required by subsection
(b) (6),