

**REQUEST FOR (PRODUCTION OF DOCUMENTS AND TANGIBLE THINGS)
(ENTRY UPON LAND FOR INSPECTION AND OTHER PURPOSES)**

Pursuant to K.S.A. 60-234, _____ (plaintiff) (defendant) _____ requests _____ (defendant) (plaintiff) _____ within _____ (30) (45) _____ days after service of this request, to respond to the following requests [for the purpose of this action only and subject to all pertinent objections to admissibility which may be interposed at trial]:

(1) That _____ (defendant) (plaintiff) _____ produce and permit _____ (plaintiff) (defendant) _____ to inspect and copy each of the following documents:

[List the documents to be inspected or copied, either individually or by category, and describe each of them with reasonable particularity. Documents include writings, drawings, graphs, charts, photographs, phonographic records and other data compilations from which information can be obtained, or translated if necessary, by the respondent through detection devices into reasonably usable form.]

[State the time, place, and manner of making the inspection and performance of any related acts.]

(2) That _____ (defendant) (plaintiff) _____ produce and permit _____ (plaintiff) (defendant) _____ to inspect and copy, test, or sample each of the following tangible things:

[List tangible things that constitute or contain matters within the scope of K.S.A. 60-226(b) and that are in the possession, custody or control of the party served with the request.]

[State the time, place, and manner of making the inspection and performance of any related acts.]

(3) That _____ (defendant) (plaintiff) _____ permit _____ (plaintiff) (defendant) _____ to enter *[describe the property to be entered, including its physical location]* and to (inspect and measure) (survey) (photograph) (test) (sample) *[describe the portion of the real property and the objects to be inspected]*.

[State the time, place, and manner of making the inspection and performance of any related acts.]

(Signature of attorney)
(Name), Attorney for (party)
Bar Registration Number
Address
Telephone
[Facsimile number]
[Email address]

Authority

K.S.A. 60-234.

Notes on Use

A party may serve directly upon another party a request for production of documents or tangible things within the scope of discovery pursuant to K.S.A. 60-226(b). K.S.A. 60-234(b). The request may be served on the plaintiff any time after commencement of the action and upon any other party with or after service of process. The party upon whom the request is served shall serve a written response within 30 days after service of the request, except that a defendant may serve a response within 45 days after service of process upon that defendant. The court may allow a shorter or longer time for response. K.S.A. 60-234(b).

The response to a request for production of documents or things shall state, with respect to each item or category, that inspection and related activities will be permitted as requested unless an objection is stated and the reasons for the objection are given. K.S.A. 60-234(b). If objection is made to a part of an item or category, the objection shall specify the part. The party submitting the request may move for sanctions under K.S.A. 60-237(a) for failure to respond to the request or failure to permit inspection. K.S.A. 60-234(b). Documents shall be produced for inspection as the documents are kept in the usual course of business, or documents produced shall be organized and labeled to correspond to the categories in the request. K.S.A. 60-234(b).

A person not a party to an action may be compelled to produce documents and tangible things or to submit to an inspection through use of subpoenas as provided in K.S.A. 60-245 and 60-245a. K.S.A. 60-234(c).

A request for production and any response are not filed with the court, unless ordered to do so by the court or when used in a trial or hearing. K.S.A. 60-205(d)(1). The party serving the request must file with the court a certificate stating what document was served, when it was served, and upon whom. K.S.A. 60-205(d)(2).

Comments

In all discovery disputes, the parties should confer and attempt to resolve their differences. If a person fails to respond to or allow discovery, the requesting party may file a motion asking the court to compel a response. K.S.A. 60-237(a). If discovery is still not provided in response to an order that compels discovery, the court may consider more severe sanctions as set forth in K.S.A. 60-237(b).

Although K.S.A. 60-234 permits inspection of documents in the possession, custody, or control of a party, the test for imposing sanctions pursuant to K.S.A. 60-237 to enforce a request under K.S.A. 60-234 is whether the moving party can show the documents are in the control of the adverse or nonmoving party. *Williams v. Consolidated Investors, Inc.*, 205 Kan. 728, 733, 472 P.2d 248 (1970).

K.S.A. 60-234(c) does not create an independent cause of action for discovery against nonparties. *Austin v. Johnston Coca-Cola Bottling Group, Inc.*, 20 Kan.App.2d 715, 717-719, 891 P.2d 1143, rev. denied 257 Kan. 1091 (1995).

Note that under the code of civil procedure for limited actions, production of documents and things for inspection shall be allowed in accordance with K.S.A. 60-234. K.S.A. 61-3106.