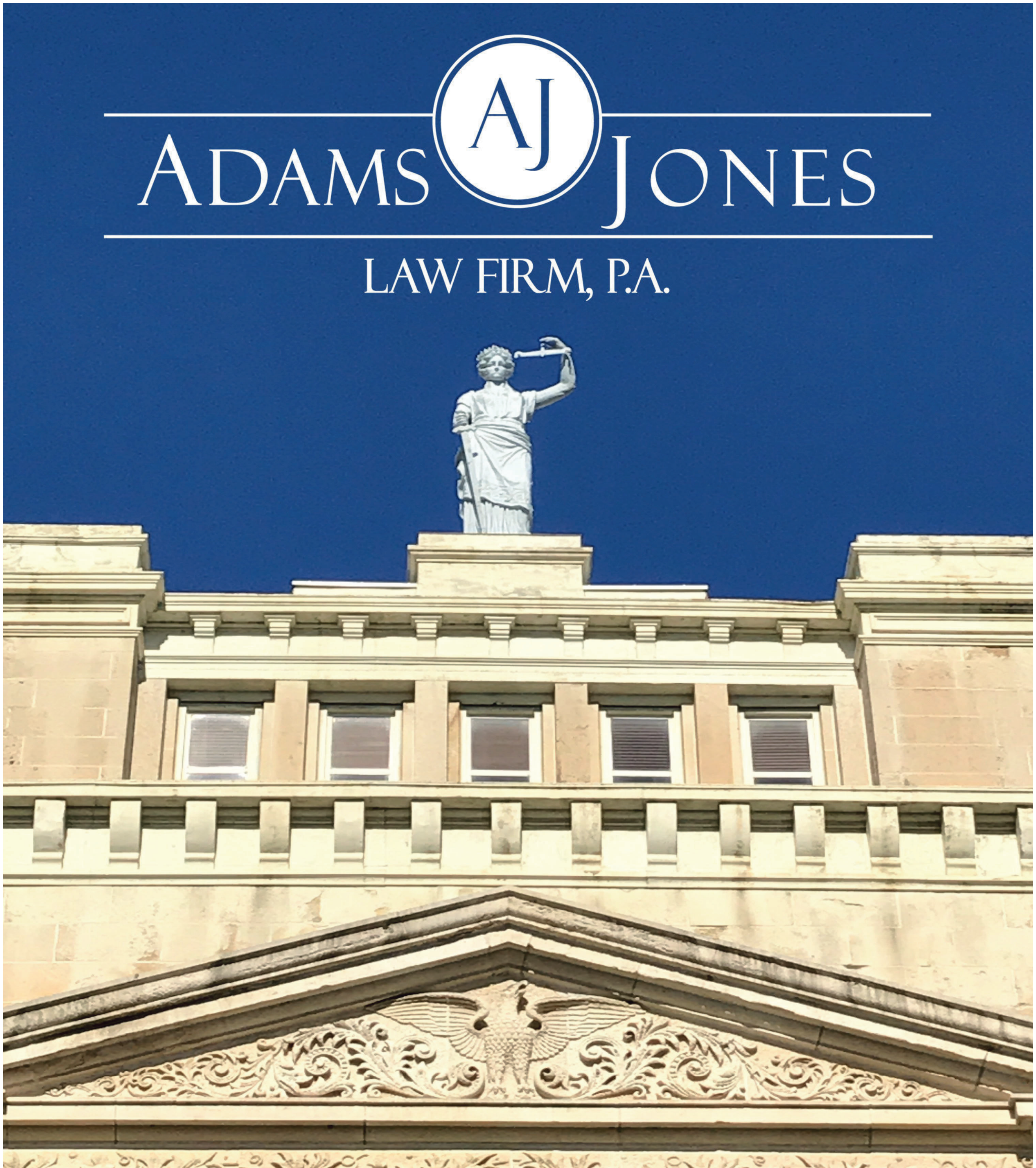


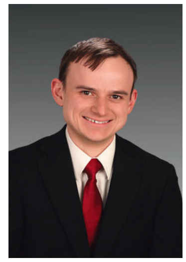
RECENT CHANGES IN KANSAS REAL ESTATE LAW 2026

Adams Jones Attorneys

Cody Branham

Mert Buckley

Ian Hughes



Quinn Hughes

Pat Hughes

Susan Locke

Joshua Albin

Brad Stout

Monte Vines

Preeminent Presence in Kansas Real Estate

Top Band in Kansas Real Estate. Chambers USA again awarded Adams Jones its highest rating as a first band of leading firms for real estate in Kansas. Chambers USA says Adams Jones has: “excellent experience in property transactions, zoning issues and finance work” and “a strong reputation in all manner of real estate litigation, including zoning and easement disputes...and possesses additional expertise in general commercial cases” and “maintains a noteworthy strength in professional liability, estates and trusts and municipal government disputes.” Those attorneys selected from the firm in the area of real estate include **Mert Buckley, Brad Stout, Pat Hughes and Cody Branham**. Selected for general commercial litigation were **Monte Vines and Pat Hughes**. The rankings were compiled from interviews with clients and attorneys by a team of full-time researchers.

Overview

This summary of recent changes in Kansas Real Estate Law was prepared by the Real Estate Group at Adams Jones. Our real estate attorneys continually monitor Kansas case decisions and legislation so we remain current on developments in real estate law in Kansas. This up-to-date knowledge prepares us to address client needs more quickly and efficiently because our “research” is often already done when a question arises.

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LEGISLATION

2025 Legislation

Housing Tax Credits

2025 House Bill 2289 modifies both the Kansas Affordable Housing Tax Credit and the Kansas Housing Investor Tax Credit.

With respect to the Affordable Housing Tax Credit, the bill discontinues the state credit for developments receiving 4% federal low-income housing tax credits after the 2025 qualified allocation plan, and caps annual allocations for developments receiving 9% federal credits at $8.8 million for plan years 2026 through 2028. The legislation further provides that no new credits may be awarded after the 2028 plan year, effectively phasing out the program, although previously awarded credits continue through their applicable credit and carryforward periods. The bill also imposes an aggregate cap of $25 million for credits allocated in the 2025 plan year, reinforcing a staged reduction in program scope.

In contrast, the amendments to the Kansas Housing Investor Tax Credit expand taxpayer flexibility by allowing credits to be transferred and claimed beginning in the year the original qualifying investment was made, rather than the year of transfer. This change applies retroactively to tax year 2022 and permits unlimited transfers, with transferees succeeding to the rights and limitations of the original holder.

Multi-Year Flex Accounts

2025 Senate Bill 58 amends K.S.A. 82a-736 to modify the structure and operation of multi-year flex accounts ("MYFAs"), which allow water right holders to aggregate and use authorized quantities over a multi-year period rather than on an annual basis.

The amendments clarify that a MYFA is a term permit of up to five years that temporarily replaces a base water right's annual quantity limitation with a multi-year allocation, permitting use of water at any time during the term so long as total withdrawals remain within the authorized multi-year amount.

The Legislature broadened eligibility by allowing any qualifying holder of a base water right, defined as a vested or certificated groundwater right in compliance with applicable law, to apply for a MYFA, subject to the chief engineer's determination that the account is not contrary to the public interest.

The statute also revises calculation of allowable allocations, generally capping deposits at up to 500% of certain usage metrics or five times the authorized annual quantity, while ensuring that total withdrawals do not increase long-term water use or impair other rights.

Additionally, the bill modifies administrative and regulatory provisions by shifting program funding to the Water Appropriation Certification Fund, reducing certain reporting and enforcement requirements, and extending legislative reporting intervals to every four years beginning in 2029.

Water Pollution Permits

2025 House Bill 2085 amends amended K.S.A. 65-166a to increase the maximum term of permits issued under Kansas's water pollution control permit system from five to ten years.

The amended statute provides that permits subject to the fee schedule established by the Secretary of Health and Environment now expire ten years after issuance, unless valid cause exists to justify a shorter term. This change grants the Secretary discretion to tailor permit duration based on site-specific or regulatory considerations.

The legislation does not otherwise alter the underlying regulatory framework, which continues to require permits for certain confined feeding facilities and other operations with potential water pollution impacts, nor does it modify the fee structure or enforcement mechanisms tied to permit compliance.

Water Rights

2026 House Bill 2477 amends K.S.A. 82a-745 and 82a-1906 to require the Kansas Department of Agriculture to publish additional information regarding water right applications and proposed changes, and to expand notification requirements for nearby landowners.

The amendments require the Division of Water Resources to post all complete applications and resulting orders on the department's official website, and to publish a map identifying the location of all proposed water diversions and any requested changes in a point of diversion exceeding 300 feet.

The legislation also expands individual notice requirements by mandating that all landowners within one-half mile of a proposed diversion or qualifying change receive notice, replacing the prior requirement that notice be limited to water right owners and coordinated with groundwater management districts.

Additionally, conforming amendments to the water conservation area statute incorporate these notice provisions, requiring similar notification and public access to management plans and related technical materials.

CASES & ATTORNEY GENERAL OPINIONS

Adverse Possession

A claim of adverse possession based on a good-faith belief of ownership presents a factual question, and an affidavit of equitable interest, though legally insufficient to independently establish title, may still be considered as evidence supporting the possessor's state of mind when viewed alongside other conduct.

Trester v. Vanderford, No. 128,044, 2025 WL 1840750 (Kan. App. July 3, 2025). The Kansas Court of Appeals upheld a ruling awarding ownership of a 7.4-acre tract to an occupant who had possessed and treated the property as his own for many years, despite the absence of a recorded deed.

The dispute stemmed from an alleged oral sale agreement dating back to 1997. The occupant later filed an affidavit of equitable interest in 2001 and continued using the property, paying taxes, and attempting to obtain formal title documentation. After the record owner filed a quiet title action, the occupant asserted ownership through adverse possession.

The Court emphasized that adverse possession claims based on a good-faith belief of ownership are heavily fact-dependent. While the affidavit of equitable interest had expired under Kansas law and was not sufficient by itself to establish ownership, the Court held it could still be considered as evidence of the occupant's belief that he owned the property.

Importantly, the Court relied on the occupant's overall conduct—not just the affidavit—including payment of the purchase price, payment of property taxes, physical possession of the property, and repeated efforts to secure a deed.

The decision serves as a reminder that long-term possession and ownership-like conduct can create significant title risks, even where the public record does not reflect a completed transfer. The case highlights the importance of investigating possession issues, unrecorded claims, and other facts "on the ground" that may not appear in the chain of title.

Arbitration Awards

Judicial review of arbitration awards is extremely limited, and a party may not use post-judgment motions under Chapter 60 as a substitute for statutory remedies under the Kansas Uniform Arbitration Act or as a vehicle to relitigate the merits of the arbitration award.

Swope Lees Com. Real Est., LLC v. Slaten, 66 Kan. App. 2d 231, 580 P.3d 1255 (2025). The Kansas Court of Appeals reaffirmed that courts have very limited authority to overturn arbitration awards, even when a party argues the arbitrator made legal mistakes.

The dispute arose from a brokerage agreement involving the sale of commercial real estate in Paola, Kansas. After a disagreement over entitlement to a commission, the matter proceeded to arbitration as required by the parties' contract. The arbitrator awarded a commission to the brokerage firm, Swope Lees.

The property owner later asked the courts to set aside the award, arguing the broker failed to comply with Kansas licensing requirements applicable to out-of-state brokers and therefore could not legally recover a commission. The owner contended this defect rendered both the arbitration award and the court's judgment invalid.

The Court of Appeals rejected those arguments and affirmed the award. The Court explained that alleged licensing deficiencies are generally defenses to the underlying commission claim—not jurisdictional defects that allow courts to revisit the merits of an arbitration decision.

Importantly, the arbitrator had already considered the licensing issue and concluded the broker qualified under Kansas law. The Court emphasized that disagreement with an arbitrator's legal interpretation is not enough to overturn an award. Under the Kansas Uniform Arbitration Act, courts may vacate awards only in narrow circumstances, such as fraud, corruption, or a clear "manifest disregard" of controlling law.

The Court also noted that the relevant statutory provisions governing cooperation agreements with foreign brokers were not entirely clear, particularly regarding filing requirements and the consequences of noncompliance. Because the arbitrator's interpretation was at least reasonable, the Court would not substitute its judgment for the arbitrator's.

The decision underscores the finality of arbitration clauses commonly found in brokerage and real estate agreements. Once parties agree to arbitrate, courts are unlikely to revisit the substance of the dispute—even where one side later claims the arbitrator misapplied Kansas real estate licensing laws.

Authority to Grant Tax Rebates

In a recent opinion, the Kansas Attorney General concluded that counties may not create property tax rebate or remission programs unless specifically authorized by state law.

Op. Att'y Gen. No. 2026-1. The opinion addressed a county ad valorem tax rebate program and whether participants could be required to waive appeal rights as part of receiving a rebate. Rather than directly approving or rejecting the program, the Attorney General emphasized that property taxation in Kansas is governed entirely by statute and constitutional requirements.

Relying on Article 11, Section 1 of the Kansas Constitution, the opinion explained that property taxes must be imposed uniformly and equally across similarly-situated property owners. The Attorney General further noted that only the Kansas Legislature has authority to create programs that reduce, forgive, rebate, or remit taxes.

As a result, local governments generally cannot create independent tax relief programs unless operating under an existing statutory framework, such as neighborhood revitalization or redevelopment statutes expressly authorized by the Legislature.

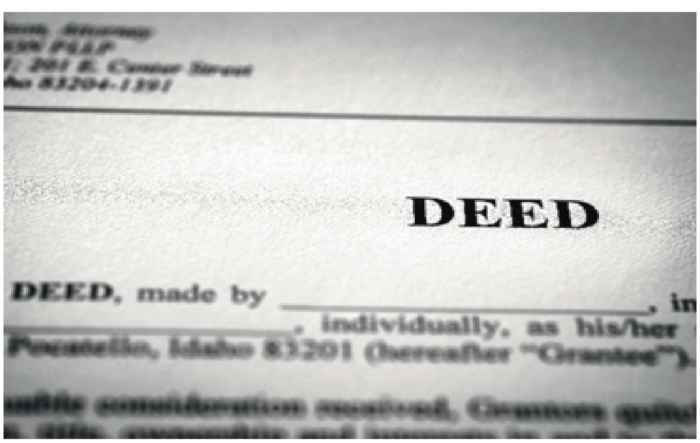
The opinion also pointed to K.S.A. 79-1703, which generally prohibits counties from releasing or forgiving taxes, and allows recovery of taxes that were unlawfully discharged.

Because the available facts did not establish whether the county's rebate program was tied to a specific statutory authorization, the Attorney General declined to issue a definitive ruling on the program's legality. However, the opinion strongly suggested that counties risk violating Kansas law if they implement ad hoc tax rebate or forgiveness programs without clear legislative authority.

The opinion serves as a reminder that property tax incentives and abatements in Kansas must be carefully structured within existing statutory programs. Informal or locally-created rebate arrangements may face significant legal challenges if not grounded in express legislative authorization.

Contract for Deed

A buyer under a contract for deed forfeits any equitable interest in the property upon material breach where the contract so provides, and eviction, not foreclosure, is the proper remedy when the buyer's performance is insufficient to establish a protectable equity.



Herrera v. Koehn, No. 126,853, 2025 WL 3250874 (Kan. App. Nov. 21, 2025). The Kansas Court of Appeals held that buyers under a contract for deed lost any equitable interest in residential property after materially breaching the agreement, allowing the seller to proceed through eviction rather than foreclosure.

The buyers entered into a contract for deed and made a down payment along with monthly installment payments over several years. The agreement provided that, in the event of default, the seller could accelerate the remaining balance, terminate the contract, and retain prior payments as rent.

After the buyers stopped making payments, abandoned the property, and allegedly caused significant damage, the seller obtained an eviction order and later sold the property to a third party. Nearly two years later, the buyers returned to court seeking possession of the property and recognition of an equitable ownership interest.

Both the district court and the Court of Appeals rejected the buyers' claims. The Appellate Court explained that Kansas courts evaluate contract-for-deed disputes by examining the extent of the buyer's performance and equity in the property. In some situations—particularly where buyers have made substantial payments or improvements—foreclosure protections may apply. But where the buyer materially breaches the agreement and lacks meaningful remaining equity, forfeiture and eviction may be appropriate.

Although the buyers had made numerous payments over time, the Court found their nonpayment, abandonment of the property, and failure to maintain the home substantially reduced the property's value and justified enforcement of the contract's forfeiture provisions. As a result, any equitable interest they may once have held was extinguished.

The Court also noted that the dispute arose before the Kansas Contract for Deed Act took effect, meaning the case was governed by prior Kansas common law rather than the newer statutory framework.

Corporate Farming Restrictions

In a recent opinion, the Kansas Attorney General concluded that a limited liability partnership (LLP) is not required to obtain county approval under Kansas corporate farming laws before establishing a swine production facility.

Op. Att'y Gen. No. 2025-21. The opinion focused on K.S.A. 17-5908, which restricts certain entities from engaging in swine production operations unless county approval is obtained. The key issue was whether an LLP qualifies as a "limited partnership" under the statute.

The Attorney General determined that it does not. The opinion explained that Kansas law treats limited partnerships and LLPs as distinct legal entities governed by separate statutory frameworks. A limited partnership is formed under the Kansas Revised Uniform Limited Partnership Act and includes both general and limited partners. By contrast, an LLP is essentially a general partnership that has elected limited liability status under the Kansas Uniform Partnership Act.

Because the statute specifically identifies limited partnerships as covered entities—but does not mention LLPs—the Attorney General concluded the Legislature intentionally excluded LLPs from the approval requirement.

The opinion also noted Kansas statutes regularly distinguish between LLPs and limited partnerships, reinforcing that the two business structures are legally different and should not be treated interchangeably.

As a result, an LLP generally may establish a swine production facility without obtaining county approval under K.S.A. 17-5908, unless the LLP otherwise falls within the definition of a prohibited "corporate partnership," such as by having a corporation or LLC as one of its partners.

For those involved in livestock facilities, the opinion highlights the importance of entity structure when evaluating regulatory requirements under Kansas corporate farming laws.

Foreclosure

A motion to set aside a foreclosure judgment under K.S.A. 60-260 is subject to strict time limitations for most claims, but allegations that a judgment is void—based on lack of jurisdiction, standing, or due process—may be raised at any time; nevertheless, such claims fail absent a plausible showing that the judgment is legally void.

Midfirst Bank v. Sipple, No. 128,054, 2026 WL 482568 (Kan. App. Feb. 20, 2026). The Kansas Court of Appeals affirmed a district court's refusal to set aside a foreclosure judgment nearly a year after the foreclosure sale, holding that the borrowers failed to show the judgment was legally void.

After the foreclosure action concluded and the property was sold at sheriff's sale, the borrowers sought to reopen the case, arguing the lender lacked standing and that the foreclosure violated jurisdictional and due process requirements.

The Appellate Court clarified that most motions seeking relief from a judgment under K.S.A. 60-260 are subject to strict filing deadlines. However, claims asserting that a judgment is "void"—such as allegations involving lack of jurisdiction or constitutional due process violations—may be raised at any time.

Even so, the Court emphasized that simply labeling a judgment "void" is not enough. A party must present a legitimate legal basis showing the court lacked authority to enter the judgment.

Here, the Court found no such defect. It explained that Kansas courts plainly have authority to hear mortgage foreclosure cases, and that any objections to personal jurisdiction were waived because the borrowers participated in the litigation without timely raising those issues.

The Court also rejected the borrowers' standing argument, finding the lender had established its right to enforce the promissory note during the foreclosure proceedings. In addition, the Court concluded there was no due process violation because the borrowers received notice of the case and had opportunities to respond, even though they ultimately failed to participate meaningfully.

The decision reinforces the stability and finality of foreclosure judgments once the litigation and sale process have concluded. While borrowers may still attempt to challenge judgments after the fact, Kansas courts will require a concrete showing of a true jurisdictional or constitutional defect before disturbing completed foreclosure proceedings.

Homeowner Associations

A homeowners' association may not enforce general maintenance provisions in a manner that conflicts with or renders meaningless more specific covenant provisions, and obligations under restrictive covenants must be interpreted harmoniously to reflect their intended timing and scope.

Clements as Tr. of Clements Fam. Tr. a Revocable Tr. Agreement Dated 12/20/2000 v. Cornerstone Residential Owners' Ass'n, No. 128,198, 2025 WL 3730577 (Kan. App. Dec. 26, 2025). The Kansas Court of Appeals ruled that a homeowners' association could not impose fines or file a lien against a property owner for failing to install a lawn before the timing required under the subdivision's restrictive covenants.

The dispute arose while a homeowner was constructing a residence over an extended period. Although the owner had not yet installed sod or seed, he maintained the property through mowing, weed control, and erosion prevention. The HOA nevertheless imposed daily fines and recorded a lien, relying on a general covenant requiring lots to be kept in good order.

The owner challenged the enforcement action, pointing to a separate covenant provision stating that a lawn was required within 90 days after occupancy of the home—a deadline that had not yet occurred.

Both the district court and the Court of Appeals agreed with the owner. The Appellate Court explained that restrictive covenants must be interpreted together so that specific provisions are not overridden by broader, more general language. Because the covenants specifically addressed when a lawn had to be installed, the HOA could not rely on a general maintenance clause to impose an earlier deadline.

The Court reasoned that the HOA's interpretation would effectively eliminate the purpose of the specific timing provision and could create unreasonable obligations during ongoing construction projects.

The decision also reinforces that HOA enforcement authority has limits, particularly where covenants contain detailed requirements governing construction timelines or property improvements. For developers, builders, and property owners, the case highlights the importance of carefully reviewing both general maintenance provisions and more specific covenant language when evaluating compliance obligations or enforcement risks.

Joint Tenancy Deeds

The intent of grantors controls the interpretation of deeds, and a joint tenancy with right of survivorship will be recognized where the language of the instruments, read as a whole, clearly manifests such intent.

Matter of Est. of Fry, No. 128,133, 2025 WL 2631399 (Kan. App. Sept. 12, 2025). The Kansas Court of Appeals held that farmland passed automatically to surviving co-owners through joint tenancy rights rather than becoming part of a deceased owner's probate estate.

The dispute involved two deeds executed on the same day that transferred ownership of a farm to a married couple and their son and daughter-in-law. Because of the property's ownership structure at the time, two separate deeds were necessary to complete the transfer. After the mother later died, her estate claimed that a one-eighth ownership interest in the farm remained as part of the estate.

The surviving son argued that the deeds created a joint tenancy with right of survivorship, meaning ownership passed automatically to the surviving owners upon death.

Both the district court and the Court of Appeals agreed. The Appellate Court focused heavily on language used in the deeds, noting that the documents repeatedly stated the grantees held title "as joint tenants with right of survivorship and not as tenants in common." The deeds also described the parties as holding undivided interests "in the whole" property.

Kansas law generally presumes co-owners hold property as tenants in common unless the deed clearly states otherwise. Here, however, the Court found the survivorship language unmistakably demonstrated the grantors' intent to create joint tenancy rights not only within each married couple, but also between the two couples collectively.

The decision underscores the importance of precise deed drafting. Small differences in ownership language can determine whether property passes automatically outside probate or becomes part of a deceased owner's estate. The case also highlights the need to review multiple related conveyance documents together when evaluating ownership and survivorship rights.

Landlord-Tenant

A tenant remains liable for rent, fees, and property damage accruing prior to surrender of possession, and eviction does not retroactively extinguish contractual obligations under a lease.

Landmark Dev. Grp., LLC v. LuPardus, No. 128,180, 2026 WL 412585 (Kan. App. Feb. 13, 2026). The Kansas Court of Appeals confirmed that a tenant's financial obligations under a lease do not automatically disappear once possession of the property is returned to the landlord.

The case arose from a residential lease dispute involving unpaid rent, late fees, pet fees, and property damage. During the eviction proceedings, the parties reached an agreement allowing the landlord to regain possession of the property, but the landlord continued pursuing monetary claims for amounts allegedly owed before the tenant vacated.

After a bench trial, the district court awarded the landlord unpaid rent, fees, and property damage costs. The tenant appealed, arguing that once the lease was terminated through eviction, all liability under the lease ended as a matter of law.

The Court of Appeals rejected that argument. The Court explained that eviction terminates the tenant's right to possess the property, but it does not erase obligations that accrued before possession was surrendered. Here, the damages awarded were limited to amounts arising during the tenant's occupancy and before the property was returned to the landlord.

The Court also noted that the eviction process effectively occurred in two stages: first resolving possession of the property, and later determining the landlord's monetary damages.

In addition, the tenant's appeal was weakened by an incomplete appellate record and failure to provide supporting legal authority. Because the tenant did not supply a full trial transcript, the Appellate Court presumed the district court's factual findings were supported by the evidence.

The case reinforces that recovering possession of leased property does not necessarily prevent pursuit of unpaid rent, fees, or damage claims that arose before move-out. The case also highlights the importance of maintaining adequate documentation of lease violations, property condition, and damages when pursuing post-eviction monetary claims.

Partition

In a partition action, property held in joint tenancy is presumed to be equally owned, and a cotenant seeking an unequal division or to avoid partition bears the burden to rebut that presumption or demonstrate extraordinary hardship.

Rider v. Rider, No. 127,923, 2025 WL 3496037 (Kan. App. Dec. 5, 2025). The Kansas Court of Appeals upheld a district court order requiring the sale of jointly owned residential property and an equal division of the proceeds between co-owners holding title as joint tenants with right of survivorship.

The dispute arose between a mother and son who jointly owned a home. The son filed a partition action seeking sale of the property, while the mother argued she should receive a greater share of the proceeds and that partition should not occur.

After trial, the district court ordered the property sold and divided the proceeds equally. The Court of Appeals affirmed, emphasizing that joint tenancy creates a presumption of equal ownership under Kansas law.

The Court explained that a party seeking an unequal division bears the burden of proving the parties intended something other than equal ownership. Here, evidence showed both parties contributed financially to the property, and the son treated the property as an investment interest rather than merely holding title for convenience. As a result, the Court found no basis to depart from equal ownership.

The Court also reiterated that partition rights are strongly favored in Kansas. Unless co-owners have entered into an agreement restricting partition, courts will generally permit a cotenant to force sale or division of jointly-owned property.

In rejecting the mother's request for a larger share of the sale proceeds, the Court distinguished between value-enhancing improvements and ordinary ownership expenses. Routine maintenance, repairs, taxes, and similar homeowner costs generally do not justify unequal distribution of partition proceeds unless they substantially increase the property's value.

Finally, the Court rejected the argument that personal or financial hardship should prevent partition, explaining that Kansas law requires a showing of "extraordinary hardship," not merely inconvenience or economic difficulty.

The decision highlights the importance of clearly documenting ownership expectations when multiple parties take title together. Without clear agreements establishing unequal interests or restricting partition rights, Kansas courts are likely to presume equal ownership and permit partition upon request by any cotenant.

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Title Insurance. Assist purchasers and lenders in securing appropriate title insurance coverage. Represent title insurance companies in claims.

Wind Energy. Represent lenders, landowners, county governments, and neighbors in proposed and completed wind farm projects across Kansas.

NOTES

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