

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
SMALL CLAIMS DIVISION

VS

Plaintiff,

Case No. _____

Defendant

DEFENDANT'S CLAIM

Instructions:

1. As stated in the summons, if you have a claim against the plaintiff which arises out of the transaction or occurrence which is the subject of plaintiff's claim and your claim does not exceed \$4,000, you must state your claim in the space provided below. If your claim against the plaintiff exceeds \$4,000, you may state your claim in the space provided below. In determining whether or not your claim against the plaintiff exceeds \$4,000, do not include interest, costs and any damages under K.S.A. 60-2610 and amendments thereto, but do include the value of any personal property sought to be recovered as determined by estimate of its value under oath.

2. Be clear and concise in stating your claim.

3. If the value of your claim exceeds \$4,000 (not including interest, costs and any damages awarded under K.S.A. 60-2610 and amendments thereto, but including the value of any personal property sought to be recovered, as determined by your estimate of its value under oath), the court must decide whether you may pursue your entire claim or only that portion not exceeding \$4,000.

4. If your claim exceeds \$4,000 and the court determines that you may not pursue the entire claim at the hearing, you have three alternatives: (1) Make no demand for judgment and reserve the right to pursue your entire claim in a court competent jurisdiction; (2) make demand for judgment of that portion of your claim which does not exceed \$4,000 and reserve the right to bring an action in a court competent jurisdiction for any amount in excess thereof; or (3) make demand for judgment of that portion of your claim which does not exceed \$4,000 and waive your right to recover any excess.

5. When completed, this form must be filled with the judge or the clerk of the court on or before the time stated in the summons for the trial.

Statement of claim:

I, _____, having read the instructions above, assert the following claim against _____, plaintiff:

Demand for judgment:

Based on the claim stated above, judgment is demanded against plaintiff as follows:

1. Payment of \$_____, plus interest, costs and any damages awarded under K.S.A. 60-2610 and amendments thereto.
2. Recovery of the following described personal property, plus costs:

This property has an estimated value of \$_____.

I, _____, hereby swear that, to the best of my knowledge and belief, the above claim asserted against the plaintiff (including the estimate of value of any property sought to be recovered) is a just and true statement.

Signature _____

Address _____

Phone # _____

Subscribed and sworn to before me on the ____ day of _____, 2____.

(Clerk or notary)

What is Small Claims Court?

Small Claims Court was established to provide a simple, informal procedure to settle certain legal problems cheaply and quickly. When a small claims case is filed, the party initiating the case is called the **Plaintiff**, and the party against which the claim is being made (you) is called the **Defendant**. Please note the personnel in the Office of the Clerk of the District Court are neither qualified nor permitted by law to provide you with legal advice.

Prior to the Court Date

- If you owe the Plaintiff the money or property claimed, you can avoid appearing in Court by paying what you owe. **If you do this, you should require the Plaintiff to file an “Order of Dismissal” with the Court on or before the scheduled court date.**
- If you believe you are owed property or money from the Plaintiff in connection with the same matter, you may file a counterclaim by completing the “Defendant’s Claim” form that was delivered with this packet.
 - You should file your completed form with the Clerk of the District Court at least 10 days prior to the hearing.
 - If there are multiple Defendants, each must sign the claim.
- If the claim is not settled out of court prior to the time scheduled for the judge to hear the matter, you must appear in court. If you do not appear as summoned, the judge can find you in default and order judgment to the Plaintiff.
- If you believe that you **do not** owe the amount alleged by the Plaintiff, you should appear in court to present your side of the issue.

Rescheduling the Court Date

If you cannot appear on the scheduled date you must submit what is called a request for continuance.

1. The request must be filed in writing with the Clerk of the District Court at least 12 days prior to the court date. Any request for continuance filed less than 12 days prior to the court date will be denied unless there are compelling reasons.
2. The request must be a simple letter to the Court. Please reference the case number, provide a reason why you are requesting a continuance and include your phone number.
3. Mail a copy of that request to the other party; also call them to let them know that you are asking for a continuance.
 - If there is enough time to notify everyone and it is your first request for a Continuance, the Court **may** grant the continuance without a hearing.
 - If there is not enough time, the request will be considered on the court date.

Your Day in Court

- Neither the Plaintiff nor Defendant may be represented by a lawyer.
- You should be prepared to clearly explain your side of the case. Bring whatever evidence, papers, documents, or other materials you need to prove or support your case.
- You may subpoena unwilling witness, if necessary. Witness fees and mileage will be at your expense, paid in advance. The payment must accompany the subpoena.
- The judge will allow both sides of the dispute to present their side of the case before rendering a decision.
- Depending upon the circumstances, the judge may make a decision immediately after the hearing, or may continue the decision to another date.
- When the judge has announced a decision in the case, the Small Claims procedure is finished. It is up to you to collect what is owed to you if you win. The Clerk of the District Court cannot assist you in any post-judgment efforts.

You may be represented by a lawyer in any procedures after the judgment.

Appealing a Judgment?

Either party has the right to appeal a judgment and receive a new hearing before a District Court Judge.

- The Notice of Appeal must be filed with the Clerk of the District Court in a typewritten format within 14 days of the judgment.
- A filing fee of \$177.50 (subject to change) is required. **Payment must be in cash, cashier's check, money order, personal check, or credit card.**
- The Notice of Appeal forms are located on the Johnson County District Court website under Small Claims.

Collecting Money or Property

The Judgment Creditor is the party who wins the case and Judgment Debtor is the party who loses.

The clerk will provide the Creditor with a form entitled "Judgment Debtor's Statement of Assets." This form can be used if necessary to aid in the collection of the judgment and as the basis for proceedings such as garnishment of wages or bank accounts, or an execution against any non-exempt property belonging to the Debtor.

If an appeal has not been filed or full payment made to the Creditor or the Clerk of the District Court within 15 days of the date the judgment was entered, the Creditor will need to do the following to enforce collection:

1. Send a copy of the “Journal Entry of Judgment” and blank “Judgment Debtor’s Statement of Assets” form to the Debtor using the U.S. Postal Certificate of Mailing form (PS form 3817).
2. The original postmarked Certificate of Mailing form must be filed with the Clerk of the District Court. For expediency of receiving the form (as discussed in the next step), you should enclose a stamped, self-addressed envelope at this time.
3. The Debtor will then have 30 days to either pay the judgment or complete the Statement of Assets form and return it to the Clerk of the District Court. The clerk will record receipt of the form on the Court’s docket and the forward the form to the Creditor.
4. The Statement of Assets form should provide you with enough information to proceed with the appropriate process, such as garnishment or execution.

Post-judgment garnishment forms are located on the Johnson County District Court website under Small Claims.

Satisfaction of Judgment

Upon full receipt of the awarded money or property, the Creditor should file a “Satisfaction of Judgment” with the Clerk of the District Court. Failure to do this could result in litigation by the Debtor against the Creditor for any damages resulting from a bad credit showing or any adverse effect of an incomplete record of the disposition of the court case.

A blank satisfaction of judgment form is located on the Johnson County District Court website under Small Claims.

Miscellaneous

Paperwork should be filed with the Clerk’s Office at the Johnson County Courthouse, 8 am-5 pm Monday through Friday or mailed to Small Claims Department, 100 N. Kansas, Olathe, KS 66061.

You may view the case online anytime at <http://www.jococourts.org>. The small claims court phone # is (913) 715-3354.