

1. Send a copy of the Journal Entry of Judgment and the blank Judgment Debtor's Statement of Assets form to the Judgment 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, you should enclose a stamped, self-addressed envelope.

3. The Judgment Debtor will then have 30 days to either pay the judgment or complete the 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 then forward the Assets form to you.

4. The Assets form should provide you with enough information to proceed with the appropriate process, such as a garnishment or execution.

REMEMBER...NEITHER THE JUDGE NOR THE CLERK CAN PROVIDE YOU WITH ANY LEGAL ASSISTANCE OR ADVICE. YOU MAY, HOWEVER, HIRE AN ATTORNEY TO ASSIST YOU IN POST-JUDGMENT MATTERS.

HOW CAN YOU FILE AN APPEAL OF A JUDGMENT?

Either party has the right to appeal a judgment and receive a new hearing before a District Court judge. Notice of appeal must be filed in a typewritten format within 14 days of the judgment. The Notice of Appeal must be filed with the Clerk of the District Court and must be accompanied by the docket fee. **Payment must be in cash, cashier's check, money order, personal check, or credit card.**

SATISFACTION OF JUDGMENT.

Upon 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.

WHAT IF YOU ARE BEING SUED IN SMALL CLAIMS COURT?

If you receive a summons notifying you that you have been sued in Small Claims Court and you do owe the claimant money or property, you can avoid appearing in Court by paying what you owe. **If you do this, however, you should require the claimant to file an Order of Dismissal with the Court on or before the scheduled court date.**

If you have a claim against the party suing you in connection with the same matter, you may file a counterclaim by completing the Defendant's Claim form that was delivered with the summons. 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 claimed by the plaintiff, you should appear in court prepared to present your side of the issue. You may not be represented by a lawyer, but you may present documents or witnesses to speak on your behalf. You must provide the witness fee and mileage for any witness that you subpoena. The payment must accompany the subpoena to be served on the witness.

The judge will allow both sides of the dispute to present their side of the case before rendering a decision. If the judge enters judgment for the claimant, you are legally bound to pay the amount set by the judge. As stated before, you do have the right to appeal to the District Court.

Detailed information about the small claims procedure appears on the printed forms that are available from the Clerk of the District Court, Small Claims Department.

LEGAL TERMS YOU NEED TO KNOW.

Plaintiff - The person who brings or files a court action, the claimant.

Defendant - The party being sued.

Petition - The document that sets out the cause of action and the amount of money or property being sought by the plaintiff.

Counterclaim - A pleading in which a defendant in a civil action asserts a claim for relief against the person who originally brought the action.

Summons - A document that notifies a defendant that a lawsuit has been filed against them.

Subpoena - An order of the court issued by the Clerk of the District Court commanding a person to appear in court as a witness.

Service - Delivery of a notice of some type by a sheriff or any agent authorized by law, and by the method prescribed by law.

Judgment - The decision of the judge in a particular case.

Garnishment - A procedure by which any debt or salary owed by a judgment debtor is seized and placed under court control to be delivered to the judgment creditor.

Execution - A court document directing the sheriff to seize any non-exempt property of a judgment debtor and cause said property to be sold in satisfaction of the judgment.

Appeal - A legal proceeding by which a party seeks a higher court review of the action taken by a lower court.

If you, or any party involved in this case, need to have an interpreter or have handicap accommodations, contact Small Claims Court Clerk to make necessary arrangements (913) 715-3354. Arrangements should be made by plaintiff when the petition is filed or by the defendant when the summons has been received.

You may view your case at: www.jococourts.org

Tenth Judicial District Court Small Claims

courts.jocogov.org



Small Claims Court
Johnson County Courthouse
100 North Kansas Avenue
Olathe, Kansas 66061-3273

Clerk of the District Court
(913) 715-3354
DCCSmallClaims@jocogov.org

WHAT IS SMALL CLAIMS COURT?

Small Claims Court was established to provide a simple, informal procedure to settle certain legal problems cheaply and quickly. In Small Claims Court, you can sue someone or be sued by someone. You present your side of the case yourself. You cannot be represented by a lawyer. This court hears only simple cases involving small amounts of money or property.

The purpose of this brochure is to help you decide whether or not you can use this Court to solve a problem, and to help you understand how the Court works.

Litigants should be aware that the Court cannot guarantee payment of your judgment and cannot give you legal advice or assistance in the collection of your judgment. You can hire an attorney to assist you after the judgment in Small Claims Court has been granted. Personnel in the Office of the Clerk of the District Court can only process your case. They are neither qualified nor permitted by law to provide you with legal advice.

WHAT LEGAL CHOICES ARE AVAILABLE TO ME INSTEAD OF SMALL CLAIMS COURT?

If your dispute is complex or involves a claim over \$4,000, you may wish to consult a lawyer. A lawyer can advise you on your best course of action and the costs involved. **The Clerk of the District Court cannot provide you with legal advice.**

WHAT IS REQUIRED OF YOU TO FILE A CASE IN SMALL CLAIMS COURT?

Claims cannot be greater than \$4,000 exclusive of interest, costs, and any damages for worthless checks which may be awarded pursuant to K.S.A. 60-2610.

Claimant must be over 18 years of age or be represented by someone over 18.

Businesses and Corporations may use Small Claims court, Collection agencies may not use the court to collect for clients.

A claimant cannot file more than 20 cases per calendar year. Filing fees must be paid by cash, cashiers check, money order, personal check, or credit card payable to the Clerk of the District Court.

THE FEES ARE AS FOLLOWS:

- **Claim of \$500.01 to \$4,000 is \$69.00**
A separate fee for service may also be required •••••
- **Claim of \$500 or less is \$49.00**

HOW IS THE CLAIM FILED?

To file your case, complete all enclosed forms as instructed on each form. You must provide the current address of the person you are suing so that an official summons can be served upon the defendant(s). Deliver the completed forms, a valid e-mail address, and the required fee to the Clerk of the District Court. (For your convenience, this can be done by mailing your documents to the address on the front of this brochure.)

- * **All plaintiffs must sign the petition and request form.**
- ** **If the defendant is to be served outside the State of Kansas or if you have more than one defendant, contact the Small Claims Clerk for instructions.**

WHERE CAN THE CLAIM BE FILED?

- If suing a Kansas resident**, file in the District Court of the county in which:
 1. Defendant resides.
 2. Claimant lives if defendant can be served there.
 3. Defendant works, if summons to be served there.
 4. Property sought is located.
 5. Claim arose and defendant resided at time.
- If suing a domestic corporation or a foreign corporation qualified to do business in Kansas**, file in the District Court of the county in which:
 1. Defendant has a registered business.
 2. Defendant doing business when suit filed.
 3. Cause of action arose.
 4. Property sought is located.
- If suing a non-Kansas resident or business**, file in the District Court of the county in which:
 1. Claimant resides.
 2. Defendant can be served.
 3. Defendant is doing business at time case filed.
 4. Defendant has property.

AFTER THE CLAIM IS FILED.

After the Petition has been filed with the Clerk, a hearing will be set. The Sheriff will then serve a copy of the Summons and a copy of your Petition to the defendant at the address you provide. A copy of the Sheriff's return of service will be provided to you in one of the envelopes you have provided.

If the defendant could not be located by the Sheriff at the address you provided, you will not go to court on the date on the Petition. When you obtain the correct address, you can request additional forms to instruct the Clerk to issue an Alias Summons. A new court date will be set. (You should provide an additional stamped, self-addressed envelope at this point.)

WHO CAN BE SUED IN SMALL CLAIMS COURT?

You can sue any person or business in Kansas that you believe owes you money or property. You cannot sue the state, a local governmental unit, or governmental entity in Small Claims Court.

YOUR DAY IN COURT: Small Claims Court proceedings are conducted informally by the judge. 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 witnesses if necessary. Witness fees and mileage will be at your expense, paid in advance. The payment must accompany the subpoena.

The defendant will be allowed to present the defendant's side of the case and may also call witnesses. If the defendant files a counterclaim against you, the defendant will proceed with their case at the same time set for your case.

Depending upon the circumstances, the judge may make a decision immediately after the hearing, or may continue the decision to another date.

If the defendant was served with the Summons and a copy of the Petition, but does not show up for the hearing, the judge may declare the defendant to be in default. Judgment may be awarded to the claimant at this time.

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 your case. The clerk cannot assist you in any post-judgment efforts.** If you are not satisfied with the judge's decision and believe that there is sufficient reason for an appeal, within 14 days you may file a notice of appeal in the Johnson County District Court. This involves additional legal procedures on your part and an additional docket fee. **You may be represented by a lawyer in any procedures after the judgment has been rendered by the Small Claims Judge.**

COLLECTING YOUR MONEY OR PROPERTY.

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

The loser (Judgment Debtor) also has 14 days after the judgment has been entered to file an appeal to the District Court. The Debtor may proceed in the same manner as described above for the Creditor.

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