

# PROCEDURES FOR SMALL CLAIMS CASES

## INSTRUCTIONS FOR PLAINTIFF FOR FILING AND HEARING

- The small claims forms mentioned below are located on the Kansas Judicial Council website: <https://kjc.ks.gov/legal-forms/small-claims/filing-a-small-claims-case>.
- In a small claims case, the person filing the case and seeking to recover money or property is the Plaintiff. The person being sued for money or property is the Defendant. These instructions are for the Plaintiff.
- Small claims court is only for cases to recover money or property worth \$4,000 or less.
- If suing an individual who is a Kansas resident, you may file in the district court of any county in which:
  1. Defendant resides.
  2. Plaintiff lives if Defendant is served there.
  3. Defendant works, if Defendant is served there.
  4. Property sought is located.
  5. The claim arose and Defendant resided at the time.

If the Defendant is a corporation or non-Kansas resident, see the VENUE INFORMATION SHEET for more information.

- You will need these forms to start the small claims case:
  - CIVIL COVER SHEET
  - SELF-REPRESENTED LITIGANT CERTIFICATION FORM
  - PETITION
  - SUMMONS
  - REQUEST FOR SERVICE
  - POVERTY AFFIDAVIT (if asking for the filing fee to be waived)
- You will need to bring this form to your court hearing:
  - JOURNAL ENTRY
- You might need more than one copy of the forms above. You also should make a copy of each completed form to keep for your records. If you have questions about how many copies you need, you may contact the court clerk.

1. Complete the CIVIL COVER SHEET. Mark the following items:
  - a. In the “Civil” section, where it states “If a CH. 61: \$\_\_\_\_\_ (Judgment Demand Amount),” enter the total amount that you are seeking from the Defendant.
  - b. In the “Civil” section, check “Small Claims.”
  - c. Next to “Jury Demand,” check “No.”
  - d. Next to “Summons Attached,” check “Yes.”
  - e. Next to “Service By,” check:
    - i. “Process/Server/Attorney” if you plan to serve the Petition by return receipt delivery (*e.g.*, certified mail) or by hiring a process server;
    - ii. “Sheriff in State” and fill in the name of the County if the Defendant is in Kansas and you want the sheriff to serve the Petition; or
    - iii. “Sheriff Out of State” if the Defendant is outside the state of Kansas.
  - f. Next to “Sheriff’s Process Fee Attached,” check “Yes” if you checked (e)(ii) above. Check “no” for other options.
  - g. On page 2 of the CIVIL COVER SHEET, provide as much of the requested information as possible about the Plaintiff and the Defendant. On pages 3 and 4, complete the “Additional Civil Party Information” if there is more than one Plaintiff or Defendant. Do not complete the section “For Domestic Cases.”
2. Complete the SELF-REPRESENTED LITIGANT CERTIFICATION FORM.
3. Complete the PETITION. Carefully read the Instructions to Plaintiff in the PETITION.
4. Complete the SUMMONS. Ask the court clerk for a hearing date to list on the SUMMONS.
5. Complete the REQUEST FOR SERVICE.

If you want to have service done by the Sheriff in Kansas, you must pay a \$15.00 fee by personal check, cash, cashier’s check, or money order. If you want to have service done by the Sheriff in another state you must contact that sheriff to ask what the service fee is, what forms of payment are accepted, and who receives payment.

If you want to have service done by a private process server or by certified mail, the court clerk will provide you with more information and a service packet. Some counties provide this information by email. In other counties you must get the service packet from the court clerk inside the courthouse.

6. Take these forms to the court clerk and pay the filing fee and, if you choose to have service done by the Sheriff, the Sheriff’s service fee. The court clerk can tell you the filing fee. You may be eligible to have the filing fee waived by filing a POVERTY AFFIDAVIT.

7. You must come to the court hearing to present your case and to avoid default judgment against you on any claims brought by the Defendant. Arrive at the courtroom for the court hearing at least a few minutes before the scheduled hearing time. Make sure to bring any documents you want the court to review and any witnesses who have relevant personal knowledge about the case.
8. Bring the JOURNAL ENTRY with you to the court hearing. The judge may require you to complete and file the JOURNAL ENTRY with the court clerk, or the judge may do it.

## **INSTRUCTIONS AFTER THE JUDGE MAKES A DECISION**

- You may need these forms after judgment has been entered, granting or denying your claim:
- STATEMENT OF ASSETS
  - CERTIFICATE OF MAILING OF JOURNAL ENTRY AND STATEMENT OF ASSETS
  - NOTICE OF APPEAL
  - POVERTY AFFIDAVIT (if asking for the filing fee for an appeal to be waived)
  - REQUEST FOR CITATION FOR CONTEMPT
  - CITATION FOR CONTEMPT

### **If you win in small claims court:**

1. Within 14 days after the file-stamped date on the JOURNAL ENTRY, unless the judgment has been paid in full or Defendant has appealed, you must mail a copy of the file-stamped JOURNAL ENTRY and STATEMENT OF ASSETS to the Defendant. On the STATEMENT OF ASSETS form, complete the case caption with the Plaintiff's and Defendant's names and the case number; leave the rest of the form blank. The Defendant is responsible for completing the rest of the form.
2. You must file with the court clerk a CERTIFICATE OF MAILING OF JOURNAL ENTRY AND STATEMENT OF ASSETS showing when you mailed a copy of the JOURNAL ENTRY and STATEMENT OF ASSETS to the Defendant.
3. Within 30 days after receiving the STATEMENT OF ASSETS, the Defendant must complete and return the form to the court clerk. If the Defendant completes the STATEMENT OF ASSETS, the court clerk will mail it to you. The court clerk will not keep a copy of the STATEMENT OF ASSETS form, so do not lose it.
4. To collect on the judgment, follow the procedures for garnishment and attachment. You may consult with or hire an attorney at this stage. You also can refer to the forms made available by the Kansas Judicial Council.

5. If the Defendant does not complete and return the STATEMENT OF ASSETS within 30 days, you can file a REQUEST FOR CITATION FOR CONTEMPT to request that the court issue a CITATION FOR CONTEMPT to the Defendant, and the court may punish the Defendant for failing to submit the STATEMENT OF ASSETS.

**If you lose or do not receive everything you asked for in small claims court:**

6. If you want to appeal, you must file a NOTICE OF APPEAL with the court clerk within 14 days after the filed-stamped date on the JOURNAL ENTRY. You must mail or hand-deliver a copy of the NOTICE OF APPEAL to all other parties. You may consult with or hire an attorney at this stage. The appeal will involve additional costs. You may be eligible to have the filing fee waived by filing a POVERTY AFFIDAVIT. The case is stayed, or paused, while the appeal is pending.
7. If you lose your case on appeal, you likely will be ordered to pay the winning party's reasonable attorney's fees.
8. If you win your case on appeal, refer to step numbers 1-5 above of these Instructions After the Judge Makes a Decision.

**If the Defendant files a DEFENDANT'S CLAIM and wins the claim:**

9. If you want to appeal, refer to step numbers 6-7 above.
10. If you do not appeal, the Defendant should mail you a copy of the JOURNAL ENTRY and a STATEMENT OF ASSETS within 14 days after the file-stamped date on the JOURNAL ENTRY. If you appeal and lose, the Defendant should mail you the JOURNAL ENTRY and STATEMENT OF ASSETS at that time.
11. Complete the STATEMENT OF ASSETS and give it to the court clerk within 30 days. The court clerk then will mail the STATEMENT OF ASSETS to the Defendant.
12. The Defendant may attempt to garnish your wages or your bank account or attach your property (i.e., the sheriff may seize the property and sell it) to pay the judgment.
13. If you do not complete and file the STATEMENT OF ASSETS within 30 days, the court may issue a CITATION FOR CONTEMPT and punish you for failing to submit the STATEMENT OF ASSETS.

## **GETTING HELP**

- The Kansas Judicial Branch provides resources for people who represent themselves in court without an attorney and information about how to get legal help. You can find that information at <https://kscourts.gov/>. Information about the small claims process is available at <https://kscourts.gov/Public/Small-Claims>.
- Laws about the [small claims process](#) are K.S.A. 61-2701 – 61-2714.