

Procedures for Defending Against Small Claims Cases

1. Instructions for Defendant

- The small claims forms mentioned below are located on the Kansas Judicial Council website: <https://www.kjc.ks.gov/legal-forms/small-claims/responding-to-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 Defendant.
- You will need these forms if you assert a claim against the Plaintiff:
 - Defendant's Claim
 - Self-Represented Litigant Certification Form
- You will need to bring this form to your court hearing if you file a Defendant's Claim:
 - 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.
 - i. Review the Petition and Summons sent to you. The Petition will explain the claims the Plaintiff is making against you (the Defendant). The Summons will tell you when and how you need to appear in court, i.e., in person or by Zoom.
 - ii. If you have a claim against the Plaintiff from the same transaction or occurrence (which means the same event or circumstance) as the Plaintiff's claim, carefully read and complete the Defendant's

Claim form if applicable. You must file the Defendant's Claim if your claim does not exceed \$10,000. If you do not file the Defendant's Claim form, you will not be able to make the claim against the Plaintiff in this case or in the future. If your claim is over \$10,000, you may, but are not required to, file the Defendant's Claim in this case.

- iii. If you complete the Defendant's Claim, you also must complete the Self-Represented Litigant Certification Form.
- iv. File the Defendant's Claim and Self-Represented Litigant Certification Form with the court clerk on or before the date listed in the Summons for the trial. Mail a copy of your Defendant's Claim to the Plaintiff.
- v. If you want to present evidence at the trial, which may include witnesses, receipts, pictures, emails, or other papers, you should print them and bring them with you to the trial. If you have video evidence, ask the court in advance how to present it.

If you want the court to order witnesses to appear at the trial, see the Clerk of the Court as soon as possible for a subpoena.
- vi. You must go to the trial to avoid a default judgment against you on claims brought by the Plaintiff. If you filed a Defendant's Claim, you also may present your case at the trial to obtain a judgment against the Plaintiff. Arrive at the courtroom for the court hearing at least a few minutes before the scheduled trial time. Make sure to bring any documents you want the court to review and any witnesses who have relevant personal knowledge about the case.
- vii. If you filed a Defendant's Claim, bring the Journal Entry with you to the trial. The judge may require you to complete and file the Journal Entry with the court clerk, or the judge may do it.

2. **Instructions After the Judge Makes a Decision**

➤ You may need these forms after judgment has been entered, granting or denying Plaintiff's claim or 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

a. If You Filed a Defendant's Claim and Win in Small Claims Court

- i. Within 14 days after the file-stamped date on the Journal Entry, unless the judgment has been paid in full or Plaintiff has appealed, you must mail a copy of the file-stamped Journal Entry and Statement of Assets to the Plaintiff. 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 Plaintiff is responsible for completing the rest of the form.
- ii. 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 Plaintiff.
- iii. Within 30 days after receiving the Statement of Assets, the Plaintiff must complete and return the form to the court clerk. If the Plaintiff 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.

- iv. 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.
- v. If the Plaintiff 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 Plaintiff, and the court may punish the Plaintiff for failing to submit the Statement of Assets.

b. If You Lose or Do Not Receive Everything You Asked For in Small Claims Court

- vi. If you want to appeal, you must file a Notice of Appeal with the court clerk within 14 days after the file-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.
- vii. If you appeal and lose your case on appeal, you likely will be ordered to pay the winning party's reasonable attorney's fees.
- viii. If you filed a Defendant's Claim and win your case on appeal, refer to section 2.a. above.
- ix. If you do not appeal the case and you have not paid the judgment, the Plaintiff 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.

- x. 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 Plaintiff.
- xi. The Plaintiff 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.
- xii. If you do not complete and file the Statement of Assets, the court may issue a Citation for Contempt and punish you for failing to submit the Statement of Assets.

3. 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://self-help.kscourts.gov>. Information about the small claims process is available at <https://self-help.kscourts.gov/Home/SmallClaims>.
- Laws about the [small claims process](#) are K.S.A. 61-2701 – 61-2714.