

Message from Attorney General Stephen Six:



Dear Kansans,

As a former judge, I understand how intimidating the court process can be. For this reason, Kansas established a small claims court system to provide a simple, informal way to settle simple

claims of less than \$4,000. Small claims court provides everyday citizens with a straightforward way to seek justice.

Every citizen has the right to represent their interests in the courtroom. In small claims court, each party represents themselves and seeks legal judgment without an attorney.

This brochure contains helpful information on how small claims court works and whether it is the right avenue to solve your legal problem. Please remember, small claims procedures vary from county to county. Before you act, make sure to check with the district court clerk's office where you plan to file.

It is my honor to serve as your Attorney General.

Sincerely,

A handwritten signature in black ink that reads "Stephen N. Six". The signature is written in a cursive style.

Stephen N. Six



Important Legal Terms to Know:

Plaintiff: Someone who files a lawsuit or complaint against another party, initiating legal action.

Defendant: The party being sued.

Judgment debtors: Those who lose a collection lawsuit in small claims court and owe money or property.

Judgment creditors: Those who win monetary judgments in small claims court.

Counterclaim: The legal claim presented by a defendant that opposes the claim of the plaintiff. This prevents a duplicate lawsuit over the same issue by each party.

Garnishment: A legal proceeding where the property or money of a party is applied to the debt they owe. In small claims court, the judgment debtor's wages or bank accounts may be garnished to pay the debt owed to the judgment creditor.

Summons: An order directing the law enforcement officer to notify a person or party that a legal action has been filed against them. The defendant is also notified that they must appear in court within a certain time to answer the complaint.

Judgment: A judge's official decision that determines the rights of the parties in a case.

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

Subpoena: A court order that requires a witness to appear and testify at a certain time and place. A witness fee must be paid to subpoena a witness unwilling to appear.

Filing a Lawsuit in Small Claims Court



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Provided by Kansas Attorney General

Stephen N. Six

What is small claims court?

The Kansas small claims court provides citizens with a simple, informal procedure to settle small legal claims cheaply and quickly. Parties present their cases directly to the judge. Attorneys are generally kept out of the process unless they are one of the parties in the case.

Small claims court is only for simple cases to recover money or property worth less than \$4,000. If you are seeking more than \$4,000, you must agree to a judgment of no more than \$4,000 to use small claims court.

Small claims procedures may vary across counties. Check with the clerk of the district court in the county where you intend to file by visiting www.kscourts.org.

How do I file a claim?

Visit the small claim division of the district court clerk where you live or where the person being sued resides.

Make sure to bring the name and address of the party you are suing. The sheriff will not be able to serve the summons to the defendant(s) unless you provide their accurate address with your claim.

A docket fee must be paid when the lawsuit is filed. This fee is \$26 for claims under \$500 and \$46 for claims between \$501 and \$4,000. Additional fees, including a summons fee, may apply.

Know the exact amount you want to recover and bring along a written explanation of your case.

You may obtain a petition for small claims court from the clerk of the district court or by visiting www.kscourts.org. Once you fill this out, it must be signed by a notary public or a clerk's office employee.

Who can be sued?

You can sue any person or business operating in Kansas that you believe owes you money or property. That person must live in the county where the case is filed. You may not sue the state, county, city, township or any other government in small claims court.

What happens after the claim is filed?

Once you file your claim, you will be notified of a hearing date. Law enforcement will serve the summons and copy of your petition on the person being sued. Once the summons is served, the defendant is required to appear in court. At that time, the defendant can raise their own issues, including a counterclaim.

If the defendant in your case cannot be located, you should contact the court for a continuance to give you more time to find a good address. Always contact the clerk before each court date with any information that can be used to find the person.

Where can I file my claim?

You may file your claim in the district court of the county where you live; where the defendant lives or the place of business exists; or where the defendant works. However, the defendant must be served in the county where you file your claim. You may also file your claim in the county where the property in question is located or where your claim arose (if the defendant was a resident of the county at the time).

For probate cases, you may file a claim in the district court of the county where the estate of a deceased individual is probated if (a) the defendant would have been a co-defendant, and (b) a claim has been duly exhibited in the probate proceeding.

If you are filing a case against a corporation or non-resident, please see K.S.A. 61-3403, 3404.

Appearing in small claims court

Small claims court proceedings are conducted informally. The judge is primarily interested in hearing from both sides of the case. You should be prepared to clearly explain your side and to bring all relevant documents, exhibits or witnesses with you to trial.

The judge may make a decision on the first day the case is presented, or continue the case to allow more time for evidence or deliberation. If the defendant was properly served and failed to appear, the judge may find the defendant in default and award judgment to the plaintiff.

The judgment

Once the judge has rendered an opinion, the winning party enters the collection phase of the lawsuit. The court may have forms for this process, available at www.kscourts.org. You may also use an attorney to collect a judgment.

Appealing a small claims decision

Following a judgment, either party may file an appeal and get a new hearing and a new judge. These appeals must be filed in district court within 10 days of the judgment. An appeal stays (places on hold) the judgment and is accompanied by certain paperwork and an appellate fee.

Appeals should not be undertaken without first seeking the advice of an attorney. Filing an appeal typically takes the case out of small claims court and can result in additional penalties.

Collecting your judgment

The clerk of the district court will give the winner of the case a "Judgment Debtor's Statement of Assets Form," which is used to collect judgment from the losing party. This form is the gateway to collection tools including the garnishment of bank accounts and wages.

Unless an appeal has been filed or full payment has been rendered, you should do the following:

- Send the Judgment Debtor's Statement of Assets and a copy of the judgment form to the losing party;
- File a proof of mailing with the district court clerk.

The judgment debtor then has 30 days to either pay the judgment or complete the Judgment Debtor's Statement of Assets Form and return it to the clerk of the district court, who will send it to you.

The Small Claims Procedures Act may be found in the Kansas Statutes beginning with K.S.A. 61-2701, available from your local law library or at www.kslegislature.org.

The clerk of the district court cannot serve as private counsel, render legal advice on the merits of any claim, or direct any judgment collection efforts.