

**IN THE FOURTH JUDICIAL DISTRICT OF KANSAS
(SMALL CLAIMS DIVISION)**

OFFICE HOURS: 8:00 A.M. - 4:00 P.M. (CLOSED 12:00 NOON TO 1:00 P.M.)

TELEPHONE: Anderson County - (785) 448-6886
Coffey County - (620) 364-8628
Franklin County - (785) 242-6000
Osage County - (785) 828-4713

PLEASE READ THOROUGHLY AND FOLLOW THESE INSTRUCTIONS

1. PLEADINGS:

- a. Complete the petition carefully. The name, address, and telephone number of both plaintiff and defendant shall be on the petition. Plaintiff's signature on the petition must be notarized or signed in front of the clerk or deputy clerk of the district court. **YOU MUST FILE THE ORIGINAL COPY OF THE PETITION. YOU MUST ALSO FILE A CIVIL INFORMATION SHEET WITH YOUR PETITION.**
- b. The defendant MUST be at least 18 years of age or older. If not, then you must add the parents' name, address, and telephone number on the petition as well.
- c. An action against a resident of this state, other than an action for which venue is otherwise specifically prescribed by law, may be brought in the county in which:
 - (a) The defendant resides;
 - (b) The plaintiff resides if the defendant is served therein;
 - (c) The cause of action arose; except that the county in which the cause of action arose shall be proper venue only where it is affirmatively shown that the defendant was a resident of the county where the cause of action arose at the time the cause of action arose.
 - (d) The defendant has a place of business or of employment if the defendant is served therein;
 - (e) The estate of a deceased person is being probated if such deceased person was jointly liable with the defendant and a demand to enforce such liability has been duly exhibited in the probate proceedings of such decedent's estate; or
 - (f) There is located tangible personal property which is the subject of an action for the possession thereof if immediate possession is sought in accordance with K.S.A. 61-3701, and amendments thereto, at the time of the filing of the action." K.S.A. 61-3402.
- d. The maximum number of claims that can be filed per year is twenty (20). The maximum amount for which one may file a claim is **FOUR THOUSAND DOLLARS (\$4,000.00)**. A filing fee must be paid at the time a case is filed. The filing fee is \$49.00 for claims of \$500.00 or less. The filing fee is \$69.00 for claims of \$501.00 to \$4,000.00. **There is also a \$5.00 sheriff's service of process fee. A separate check or money order, made payable to the County Sheriff's Office, must accompany your petition. Do not combine the sheriff's fee with a check or money order for the filing fee which is to be made payable to Clerk of District Court.**
- e. The court may request that you provide self-addressed, stamped envelopes for

correspondence between the parties in the case and the court.

2. TRIAL SETTING:

- a. A trial setting is scheduled by the court at the time the petition is filed and is set out on the summons. The plaintiff will receive a copy of the petition. The defendant's summons will indicate the trial date and time.

3. TRIAL:

- a. The hearing is a meeting before a judge. The plaintiff and defendant should report to the courtroom or check in at the District Court office. Each party is allowed a short time in which to present their case to the court, and if necessary, a short time for cross-examination of the opposing witness. An attorney may represent neither party.
- b. If a witness is to be called, it is the responsibility of each party to have the witness present in the courtroom.
If this cannot be done by agreement with the witness, upon written request by party, the court will subpoena the witness. The request must be filed at least five (5) days prior to the trial in order to have time to serve the subpoena on the witness requested. A ten dollar (\$10.00) plus mileage check should accompany the request for a subpoena. **There is a \$5.00 sheriff's service of Process fee that must accompany the subpoena. For each witness being subpoenaed, a check or money order made payable to the County Sheriff's Office must be provided by the party wishing to subpoena witnesses.** *Written statements of intended witnesses ARE NOT allowed in court.*

4. JUDGMENT:

- a. Judgment will be made by the presiding judge after both parties have been given an opportunity to speak. (If the defendant does not appear, the plaintiff is granted judgment by default).
- b. After judgment has been awarded by the court, an attorney may assist in the collection attempt, or the court may be asked to assist in this respect by issuing requested post judgment orders allowed by law.

5. POST-JUDGEMENT ORDERS:

- a. Request for Garnishment (Wage or Non-Wage) can be issued to the court for service on employers or financial institutions to recover the amount of the judgment. There is a \$10.00 surcharge fee for each garnishment requested and a separate \$5.00 fee to the sheriff if you wish to have the documents served by a sheriff's office.

6. APPEALS:

- a. An appeal may be taken from the judgment by either party by filing a Notice of Appeal with the Clerk of the District Court within ten (10) days after the date judgment is entered. There is a \$166.00 filing fee for filing an appeal of a Small Claims case. Parties may be represented by an attorney during the appeal process.