

**IN THE DISTRICT COURT OF OSAGE COUNTY, KANSAS**

**OFFICE HOURS: 8:00 A.M. TO NOON AND 1:00 P.M. TO 4:00 P.M.**

**785-828-4514**

**SMALL CLAIMS CASE INSTRUCTIONS**

**1. PLEADINGS:**

- a. Complete the petition carefully. The name, address, and telephone number of both the plaintiff and defendant must 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. **FILE THE ORIGINAL PETITION AND A COMPLETED CIVIL INFORMATION SHEET.**
- b. The defendant **MUST** be at least 18 years of age or older. If not, parents' names, address, and telephone number **MUST** 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;
  - (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 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 **\$47.50** for claims of \$500.00 or less.  
The filing fee is **\$67.50** for claims of \$501.00 to \$4,000.00.

There is also a **\$15.00** sheriff's service of process fee for serving the summons. A separate check or money order, made payable to the Osage County Sheriff, must accompany the petition. **Do not combine the filing fee or the sheriff's fee into one check or money order.**
- e. The court may request that self-addressed, stamped envelopes to receive copies of the summons after sheriff's office has served or attempted service be provided.

**2. TRIAL SETTING:**

A trial is scheduled by the court at the time the petition is filed, that date and time will be added to the petition and will appear on a summons to be issued to sheriff's office for service on the defendant. A copy of the petition will be given/mailed to the plaintiff.

**3. TRIAL:**

- a. The trial is a hearing before a judge. The plaintiff and defendant should report to the courtroom or check in at the district court clerk's office at the time stated. Each party is allowed a short time in

which to present his/her case to the court, and if necessary, a short time for cross-examination of the opposing witness. An attorney may not represent either party.

- b. If a witness is to be called, it is the responsibility of each party that the witness be present in the courtroom.

If this cannot be done by agreement with the witness, a subpoena can be issued for the witness by the court. A written request for subpoena listing the witness' name and address must be filed at least five days prior to the trial to allow the sheriff's office to serve the subpoena on the witness. A \$10.00 plus round trip mileage check (\$0.56 per mile) made out to the witness should accompany the request for subpoena. There is also a \$15.00 sheriff's service of process fee that must accompany the request. Make that check or money order payable to the Osage County Sheriff.

*Written statements of intended witnesses ARE NOT allowed.*

#### **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. The person granted the judgment is the judgment creditor, the judgment debtor is the person against whom the judgment was granted.
- b. A Journal Entry of Judgment will be filed by the court stating the decision made by the judge. Copies will be given to the judgment creditor along with instructions on how to send the judgment debtor a Statement of Assets form. This form is an aid to collecting the judgment. A copy of the Journal Entry of Judgment will also be handed or mailed to the judgment debtor.
- c. After judgment has been awarded by the court, an attorney may assist in the collection attempt, or the judgment creditor may, in writing, request any post judgment allowed by law.

#### **5. POST JUDGMENT ORDERS:**

- a. A Request for Garnishment (wage or non-wage) can be filed asking that an Order of Garnishment be served on the judgment debtor's employer or financial institution to help recover the judgment. There is a \$12.50 surcharge for each garnishment requested, and a separate \$15.00 fee to the sheriff for service of process. The judgment creditor must provide the employer's or financial institution's name and address. (The Statement of Assets form may assist with gathering this information).

#### **6. APPEALS:**

An Appeal may be filed by either party by filing a Notice of Appeal in the district court clerk's office within **14** days after the date the judgment was entered. The small claims case will become a civil case upon filing the Notice of Appeal and paying the **\$195.00** filing fee. Parties are encouraged to contact an attorney.