

CIRCUIT COURT OF JACKSON COUNTY, MISSOURI



COURT ADMINISTRATOR'S OFFICE SMALL CLAIMS BOOKLET

SMALL CLAIMS COURT FILINGS

**Western Jackson County
(Kansas City, Grandview)**

**Jackson County Courthouse
3rd Floor - Associate Circuit Judges' Records
415 E. 12th Street
Kansas City, MO 64106
(816) 881-4239
(816) 881-3983**

**Eastern Jackson County
(Blue Springs, Independence, Lee's Summit, Raytown, etc.)**

**Jackson County Courthouse Annex
308 West Kansas Avenue
2nd Floor - Associate Circuit Judges' Records
Independence, MO 64050
(816) 881-4239
(816) 881-4493**

NOTICE TO THOSE WISHING TO FILE A SMALL CLAIM

The clerks of these offices will help you prepare all forms and pleadings necessary for the presentation of your claim or counterclaim to the Court.

**MONDAYS - FRIDAYS
8:00 a.m. to 5:00 p.m.**

Small Claims Court is designed to settle uncomplicated disputes of \$3,000.00 or less. However, filing a small claim can be far from uncomplicated: The information below is important to the success of your claim. Please Read It Carefully:

I. THE PETITION

A. THE PLAINTIFF AND DEFENDANT

1. In Small Claims Court plaintiffs act as their own attorney unless they choose to retain an attorney to represent them. The plaintiff must complete all forms and present their own evidence in court. All forms necessary for the filing of a small claims case are provided by the Court. They should be filled out by the plaintiff and must be legible, printed in black ink or typed.
2. The plaintiff must properly identify himself both on the petition in the upper left hand corner, then again when he signs the complaint. If there is more than one plaintiff, both must sign the petition.
3. It is essential that you name the defendant properly. If you do not, your case may be dismissed by the judge or you may not be able to collect your judgment.
4. As a general rule, there are three types of plaintiffs and defendants. The following are examples of how each must be listed on a small claims petition:
 - a) An individual is listed as "John Doe"
 - b) An unincorporated business or a partnership is listed as, "John Doe and James Roe d/b/a Roe's Tractor"
 - c) A corporation is listed as:
Doe's Tractor, Inc.
(Serve) John Doe, Registered Agent
(or) James Roe, President

FOLLOW THESE INSTRUCTIONS

5. To find out if a business is incorporated, call the Secretary of State's Office. The number is 889-2925.
6. Ask them if the business is incorporated.
7. If it is incorporated, ask for the name of the registered agent and his address. The Secretary of State's Office will provide this information over the telephone free of charge or you can send \$5.00 and a request for this information to: Corporation Information, Secretary of State's Office, 615 East 13th Street, Room 513, Kansas City, Missouri 64106.

8. If the business is not incorporated, but is a partnership, you must find out who the partners are. You must sue and serve each partner individually. (The Secretary of State's Office may also be able to help you with this information.)

Information about ownership may also be available through City Hall, OCCUPATIONAL LICENSES, in the city where the business is located. If the business is located in Kansas City, the number is (816) 513-1135; in Independence the number is (816) 325-7079; in Lee's Summit the number is (816) 969-7722 and in Blue Springs the number is (816) 228-0131.

If you are suing more than one defendant, list each by number on your petition.

B. YOUR COMPLAINT

1. When writing out your claim against the defendant, please be brief and to the point. Use exact dates and locations; do not stray off the subject.
2. Be sure and sign the petition at the bottom. If you are acting as an agent for a business or corporation, be sure and sign your name, your capacity in the business, and the business' legal name.

C. FILING THE PETITION

1. Where to file (venue)
 - a) You can file your small claim: (i) in the county where the defendant resides; (ii) in the county where the transaction occurred; or (iii) in the county where the plaintiff resides and defendant may be served.
 - b) In Jackson County, venue is split between the Western and Eastern portions of the County. If your venue lies on the Western side of Jackson County (Kansas City, Grandview, etc.) then you should file your claim at the Kansas City Courthouse located at 415 East 12th Street. If your venue lies on the Eastern side, (Blue Springs, Independence, Lee's Summit, etc.) then you should file your claim at the Independence Courthouse located at 308 West Kansas.

2. Fee Information

Filing Fees:

- \$20.00 + service fee

Service Fees:

- a) Certified Mail - \$ 7.00 (1st Defendant)
- \$ 8.00 (each Defendant after first)
- b) Out of County Service - You must call the sheriff of the county where the defendant will be served to inquire about service fees.
- c) Personal Service - \$22.00 (1st Defendant)
- (Jackson County only) - \$23.00 (each Defendant after first)
- d) Private Process Server - No Fee (1st Defendant)
- (A service return must be filed with the Court. This form is available from the Small Claims clerk).

Garnishment Fees:

- a) Request for Execution, Garnishment or Sequestration - \$22.00
- b) The Garnishee is the City or State - \$29.00

3. The Court accepts personal checks number over 500.

All checks or money orders should be made payable to the Department of Civil Records.

4. Although not required, we recommend personal service in almost all cases to avoid possible delays.

5. Your defendant must receive a copy of the summons and your petition or make an appearance in court before your case will be heard. At least one week before your court date, call to make sure the defendant has been served. In Kansas City, call 881-3983 for service information. At Independence call 881-4569, for service in Jackson County, 881-4430 for out of county service information.

If the defendant has not received his summons and petition, you may have to provide our clerk with another address at which to attempt service, and request an "alias summons". You will need to complete form #1699 for this request and pay an additional service fee.

6. You will receive a copy of your petition at the time your case is filed. The court date, time, and division in which your case will be heard is listed in the upper right hand corner.

7. There is a phone recording which provides the public with general small claims information. The number is: 881-4239. If you have

specific questions regarding your claim or court fees, you should call either the Kansas City Courthouse Small Claims clerk at 881-3983 or the Independence Courthouse Small Claims clerk at 881-4493.

MAIL-INS

The Court Administrator's Office suggests that you not mail your small claims petition. However, if you do mail in your petition, please mail all copies back to the court, along with a stamped, self-addressed envelope so we can return a copy to you with a case number, court date, time of hearing and division assignment.

II. THE COURT HEARING

A. BEFORE COURT

Mark your court date on a calendar which you look at often. **IF YOU MISS YOUR COURT DATE, YOUR CASE MAY BE DISMISSED.** If you fail to show up and your case is dismissed, you cannot refile your claim in Small Claims Court.

Write the details of your claim down on a piece of notebook paper. This will help you in court when the judge asks you questions.

B. DURING COURT

Show up on time.

Please observe proper dress and decorum in the courtroom.

Be courteous to both the judge and the defendant.

Have all your evidence (pictures, papers, estimates, witnesses, et.) available to the judge.

Once the judge announces his decision, he cannot help you any further. If you have any questions, please direct them to the Small Claims clerk who helped you file this claim.

C. AFTER COURT

Pursuant to Section 482.365 RSMo no judgment of a small claims court shall be a lien on real estate.

It is not uncommon for the defendant to leave the courtroom without volunteering payment even though you obtained a judgment against him.

The best, and often only, way of collecting a small claims court judgment is by GARNISHMENT. After you obtain a judgment against the defendant, you should wait 10 days before you come back to court to begin garnishment procedures. Forms are provided for this by the Small Claims clerk.

Each party has the right to appeal. The cost is \$72.00 (cash or check at the time of filing) and the appeal form is called an "Application for Trial de Novo." It must be filed within 10 days of the day judgment is rendered. (The ten day period INCLUDES weekends. Do not count the day you received your judgment.)

NOTE: To prevent execution (i.e., garnishment) a bond must be posted at the time a trial de novo is filed. See the Small Claims Clerk regarding this.

If an appeal is filed by either party, your case is then assigned to a circuit judge and the Court Administrator's Office can no longer provide you with assistance or forms.

III. COLLECTING YOUR JUDGMENT

A. SUGGESTIONS TO HELP YOU IN COLLECTING YOUR JUDGMENT

As mentioned above, once you have a judgment against the defendant, you may have to use legal procedures to collect your money.

In Small Claims cases the most frequently used procedure is called a GARNISHMENT. In order to garnish you have to first locate some CASH ASSETS of your debtor in the State of Missouri. These might be found in the form of a PAYCHECK from an employer or a BANK ACCOUNT. A Missouri judgment will not automatically transfer to another state. If your debtor's assets are located out of Missouri, you may have problems collecting.

EMPLOYEE WAGES are the surest form of collection. If you must garnish a BANK ACCOUNT, you should be aware that the defendant's spouse cannot also be named on the account, unless the judgment is against the spouse as well. For example, if you sue John Jones, you can only garnish the bank account of John Jones. If he has a joint account with his wife, Mary, and you do not have a judgment against her too, then you cannot garnish the account.

You should also be aware that a judgment debtor has the right to certain statutory exemptions from garnishment that may limit your ability to collect the debtor's monies.

The following may be helpful in discovering where someone banks or works:

- Has the defendant ever written you a check or given you records which might indicate where he banks or works?
- Did you ever write the defendant a check? If so, look at the reverse side to see if it was deposited in the defendant's bank.
- Talk to businesses or other persons who might know about the defendant. Be careful not to harass the defendant.
- Examine court records. These might help to provide you with more details concerning the location of the debtor's assets.
- Check with the Recorder of Deeds to conduct a search of personal property liens on the first floor of the courthouse in the Records Department.

B. EXECUTING ON YOUR JUDGMENT

When you have located assets of your judgment debtor in the State of Missouri, you can use legal means to collect the money owed you. **FOLLOW THESE INSTRUCTIONS:**

1. REQUEST FOR EXECUTION

Complete the Request for Execution, Garnishment, or Sequestration form. This form is available from the Small Claims clerk.

- a) Provide the name and address of the Garnishee, i.e., the person or company who owes money to the judgment debtor. This is generally an employer or bank.
- b) Each execution "runs" for a specific length of time. In other words, an employer or bank (the GARNISHEE) will withhold money owed your debtor for not less than 30 or more than 90 days, as specified by you on your Request for Execution.
- c) Usually, if you are executing against a bank account, your garnishment should have a "return date" of no more than 30 days. However, if you are executing against the debtor's wages your garnishment should probably run for at least 90 days. **TALK TO THE SMALL CLAIMS CLERK IF YOU HAVE QUESTIONS ABOUT THIS.**

2. RETURN DATE & INTERROGATORIES

- a) The last day the garnishee may withhold money from your debtor is called the RETURN DATE.

For example: If you requested that your execution be

returnable in 60 days, then the 60th day from the date the garnishment is issued is the "return date".

- b) **One week after requesting your garnishment you should call the Small Claims clerk at 881-3983 (K.C.) or 881-4493 (Independence) to find out the return date of your garnishment.**
- c) **Before the garnishment will be issued, you must complete a portion of the INTERROGATORIES (i.e. questions) for service on the garnishee. This set of questions asks the garnishee exactly how much money has been withheld from your debtor. (The court clerk sends these interrogatories to the garnishee with the garnishment papers.) The garnishee must answer these interrogatories and return one copy to you and one copy to the court within ten (10) days of the return date.**
- d) **If you do not receive the completed interrogatories from the garnishee by 10 days after the return date, it is suggested you call the garnishee and see if there is a problem.**
- e) **If your garnishee refused to comply with your execution, you may have to retain an attorney. At this point, the Court Administrator's Office can no longer help you.**
- f) **Once you receive the answered interrogatories, completed by the garnishee, you should receive a check from the Court Administrator's Office approximately fourteen (14) days after the garnishee sends the money to the Court.**

