

## Notice to Those Wishing to File a Small Claim

The clerks of this office will explain and provide all forms and pleadings necessary for the presentation of your claim or counterclaim to the Court. The Court is open from 8:00 am to 5:00 pm. You may check your case status at any time via Missouri Case.net at <https://www.courts.mo.gov/casenet/>. You may follow your case and receive updates using the “Track This Case” option in Case.net.

If an attorney, party, or witness to any of the proceedings will require an accommodation for a disability as provided in the Americans with Disabilities Act, please contact the ADA Coordinator at (816) 881-3652.

Small Claims Court is designed to settle disputes of \$5,000 or less. Filing a small claims action, however, can be far from uncomplicated. The information below is important to the success of your claim.

### I. The Petition

#### a. The Plaintiff and the 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. The Court provides all forms necessary for the filing of a small claims case. They should be filled out by the plaintiff and must be legible, printed in black ink, or typed.
2. As the plaintiff, you must properly identify yourself both on the petition in the upper left-hand corner, then again when you sign the complaint. If there is more than one plaintiff; both must sign the petition.
3. It is essential for the plaintiff to properly name the defendant. If the defendant is improperly named, the judge may dismiss the case.
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:
  - An individual is listed as “John Doe.”
  - An unincorporated business or a partnership is listed as “John Doe and James Roe d/b/a Roe’s Tractor.”
  - A corporation is listed as:

Roe’s Tractor, Inc.  
(Serve) John Doe, Registered Agent  
(or) James Roe, President

5. To find out if a business is incorporated, contact the Missouri Secretary of State. Information is available at [www.sos.mo.gov](http://www.sos.mo.gov) or at (816) 889-2925.

- If you call, ask if the business is incorporated.
- If the business is incorporated, ask for the name of the registered agent and the agent's address. The Secretary of State will provide this information over the phone free of charge. The information is also free at [www.sos.mo.gov](http://www.sos.mo.gov).
- 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.
- Information about ownership may also be available through the Occupational License department in the city where the business is located.
  - Kansas City (816) 513-1135
  - Independence (816) 325-7079
  - Lee's Summit (816) 969-1220
  - Blue Springs (816) 228-0131

b. The 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 to sign the petition at the bottom. If you are acting as an agent for a business or corporation, be sure to sign your name, your capacity with the business, and the business's legal name.

c. Filing the Petition

1. Venue (Where to File)

a. You can file your small claims case:

- In the county where the defendant resides;
- In the county where the transaction occurred;
- In the county where the plaintiff resides and the defendant may be served.

b. In Jackson County, venue is divided into Western and Eastern portions.

- If your venue lies on the Western side (Kansas City, Grandview, etc.) you should file your claim at the Kansas City courthouse at 415 E. 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 at 308 W. Kansas.

2. Fees and Costs

**Filing Fee** \$27.50 + service fee

**Service Fees**

- Certified Mail \$10.00 (for each defendant)
- Personal Service (deputy) \$36.00 (for each defendant)

For Out-of-County service, you must call the sheriff of the county where the defendant will be served to ask about fees.

If you chose to hire a private process server, there is no fee. But you must file a Motion and Affidavit for Private Process Server and receive an order signed by the judge. If service is completed by a private process server, you must file a service return with the court.

**Garnishment Fees** \$10.00 + service fee

**Trial De Novo Fees** \$82.00 + Bond if applicable

3. Payment

The Court accepts personal checks numbered over 500.

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

All cash transactions should be made with exact change. The Department of Civil Records has limited access to funds for change.

4. Although not required, the Court recommends personal service in almost all cases to avoid possible delays. Plaintiffs should be aware that service is not guaranteed by the Jackson County Circuit Court.

5. The Defendant must receive a copy of the summons *and* the petition or make an appearance in court before your case can be heard. At least one week before your court date, check case.net to make sure the defendant has been served. Information is available at [www.16thcircuit.org](http://www.16thcircuit.org). If you requested personal service by a Jackson County deputy, call Civil Process at (816) 881-3644 for information.

If the defendant has not received a summons and petition, you may have to request an “alias summons” and provide our clerk with another address for another attempt at service. You will need to complete Form 1699 and pay an additional service fee.

6. After the petition is filed, you will be mailed a receipt showing the court date, time, and division where the case will be heard.
7. If you have specific questions regarding your claim or court fees, you may call the Small Claims Clerk at either courthouse:
  - Kansas City (816) 881-3983
  - Independence (816) 881-4493

Please note that the clerks are not permitted to provide legal advice.

8. The Court Administrator’s Office suggests that you not mail your small claims petition to the court for filing. If you do mail the petition, however, please mail all copies to the court with a stamped, self-addressed envelope, so that the Court can return a copy to you with the case number, court date, time of hearing, and division assignment.

## **II. The Court Hearing**

### **a. Before Court**

1. Make sure to mark your court date on a calendar. If you miss your court date, the judge may dismiss your case. If your case is dismissed because you failed to appear in court, you cannot refile your claim in Small Claims Court.
2. Write down the details of your claim. This will help you when the judge asks questions during your hearing.

### **b. During Court**

1. Please be on time. The Court recommends arriving at the court house at least 15 minutes before you are scheduled to appear. If you arrive late, your case may be dismissed.

2. Please observe proper dress and decorum in the courtroom.
  3. Be courteous to both the judge and the defendant.
  4. Have all of your evidence (pictures, documents, estimates, witnesses, etc.) ready and available for the judge. If you intend to submit cell phone photographs as evidence, please download and print them before appearing in court.
  5. Once the judge announces a decision, he or she cannot help you any further. If you have any questions, please direct them to the Small Claims Clerk.
- c. After Court
1. The losing party has 10 days (including weekends) to request a trial de novo from the court. A trial de novo is a form of appeal. In order to file an application for trial de novo, the requesting party may be required to post a bond in order to delay any garnishment or other execution action. If the application for trial de novo is filed, the case will be re-assigned to a different judge.

### III. Collecting Your Judgment

- a. General Considerations
1. Once you obtain a judgment, you may use legal procedures to collect your money from the opposing party—who becomes a debtor (a person who owes a debt) under Missouri law. In a small claims case, the most common way to collect money awarded by the judgment is through garnishment.
  2. To proceed with a garnishment, you must first locate cash assets of the debtor within Missouri. Commonly, these are in the form of a paycheck from an employer or a bank account. A judgment from a Missouri court will not automatically transfer to another state. If your debtor's assets are located out of Missouri, you may have problems collecting your money.
  3. If you garnish a bank account you should be aware that you may have issues collecting if someone other than the debtor is also named on the account. For example, if you obtain a judgment against John Smith, you can garnish John Smith's bank account. If John Smith has a joint account with his wife Mary, however, you will have difficulty garnishing the account if you do not have a judgment against her too.

4. A judgment debtor has the right to certain statutory exemptions that may limit your ability to collect money.
5. Some tips that may be helpful in discovering where someone banks or works:
  - Has the defendant ever written you a check which might indicate which bank they use?
  - Have you ever written the defendant a check? If so, your bank records may show where the check was deposited.
  - Talk to businesses or other persons who might know about the defendant—but do not harass the defendant.
  - Examine court records. These might provide information regarding the location of the debtor’s assets.

b. Executing a Judgment

When you have located assets of your judgment debtor in Missouri, you can use legal means to collect any money owed to you. The process involves two important steps:

1. Request for Execution

To begin the process, you must complete a Request for Execution or Garnishment (Form 1695) and the Interrogatories to Garnishee (Form 1665). These forms are available at [www.16thcircuit.org](http://www.16thcircuit.org).

- A. The ‘garnishee’ is the person or company who owes money to the debtor. Most of the time, this is the debtor’s employer or a bank.
- B. An execution lasts for a specific length of time. An employer or bank acting as garnishee will withhold money owed to your debtor for not less than 30 days—as may be specified in the Request for Execution.
- C. Usually, if you are executing against a bank account, the garnishment should have a ‘return date’ of not more than 30 days. But if you are executing against the debtor’s wages from an employer, the garnishment should run for at least 180 days.
- D. When garnishing wages, you may request a ‘continuous’ garnishment. If this is requested, you will be required to file a Statement of Judgment Balance as required by law or else the

garnishment may be dismissed. The form may be found on the Court's website.

2. Return Date and Interrogatories

- a. The 'return date' is the last day the garnishee may withhold money from your debtor.

Example: If you requested that your execution be returnable in 60 days, then the 60<sup>th</sup> day from the date the garnishment is issued is the 'return date.'

- b. One week after requesting a garnishment, you should check Missouri CaseNet (<https://www.courts.mo.gov/casenet>) to determine the return date of your garnishment. The return date shows how long your garnishment will be active and will allow a garnishee to withhold funds from the judgment debtor.
- c. Before the Court can issue a garnishment, you must complete a portion of the "Interrogatories" for service on the garnishee. Interrogatories are a series of questions asking the garnishee how much money has been withheld from your debtor. The garnishee must answer the interrogatories and return one copy to you and one copy to the Court within the following time:

|                         |         |
|-------------------------|---------|
| Standard garnishment:   | 10 days |
| Continuous garnishment: | 20 days |

- d. If you do not receive completed interrogatories within the required time, you should contact the garnishee and see if there is a problem.
- e. If the garnishee refuses to comply with your execution, you may have to retain an attorney.
- f. Once you receive the completed interrogatories, you should receive a check from the Court Administrator's Office approximately two weeks after the garnishee sends the money to the Court.

c. Satisfying the Judgment

Once you have completely collected all of the money awarded by the Court through garnishment or other means of collection, you must file a "Satisfaction of Judgment" form with the Court. This form is available at [www.16thcircuit.org](http://www.16thcircuit.org).