

[CAPTION]

SUMMONS

To: \_\_\_\_\_  
(Defendant's name)

A lawsuit has been filed against you.

Within (21) (30) (40) days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached petition or a motion under K.S.A. 60-212. The answer or motion must be served on the plaintiff's attorney, or the plaintiff if plaintiff has no attorney, at the following address:

\_\_\_\_\_  
(Attorney's name) (Plaintiff's name)

\_\_\_\_\_  
(Attorney's address) (Plaintiff's address)

If you fail to file an answer or motion as described above, judgment by default will be entered against you for the relief demanded in the petition. You also must file your answer or motion with the court.

If you file an answer, any related claim which you may have against the plaintiff must be stated as a counterclaim in your answer. If you fail to do so you will thereafter be barred from making such claim in any other action.

Date \_\_\_\_\_

Clerk's Seal

Clerk of the District Court.

By \_\_\_\_\_  
Deputy

**RETURN OF SERVICE OF SUMMONS ON AN INDIVIDUAL**

I hereby certify that I served a copy of this summons and a copy of the petition (and \_\_\_\_\_ insert any other documents served \_\_\_\_\_) on \_\_\_\_\_ (name of defendant) \_\_\_\_\_ in the following manner:

\_\_\_\_\_(1) **Personal Service** - on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, b y delivering or offering to deliver the documents to the above-named person;

\_\_\_\_\_(2) **Residence Service** - on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, b y leaving the documents at the dwelling or usual place of abode of the above-named person, with some person of suitable age and discretion who resides there;

\_\_\_\_\_(3) **Residence Service** - on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, b y leaving a copy of the documents at the dwelling or usual place of abode of the above-named person and mailing to that person by first-class mail a notice that the copy has been left at the individual's dwelling or place of abode;

\_\_\_\_\_(4) **Return Receipt Delivery** - by causing to be delivered on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, the documents by return receipt delivery to the above-named person at the following address: \_\_\_\_\_ with delivery being made by the following person or entity: \_\_\_\_\_. A copy of the return receipt evidencing delivery is attached to this Return of Service.

\_\_\_\_\_(5) **Return Receipt Delivery Refused** - by mailing on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, the documents by first-class, postage prepaid, to the above-named person at the following address: \_\_\_\_\_.

\_\_\_\_\_(6) **Other Method of Service** - \_\_\_\_\_ (Describe other method of service allowed by law).\_\_\_\_\_

\_\_\_\_\_(7) **No Service**. The above-named person was not served for the following reason(s): \_\_\_\_\_





electronic mail [K.S.A. 60-303(f)].

An acknowledgment of service on the summons is equivalent to service. The voluntary appearance by a defendant is equivalent to service as of the date of appearance. K.S.A. 60-303(e).

K.S.A. 60-308 provides that service of process may be made upon any party outside the state. If service of process is made upon a person domiciled in this state or upon a person who has submitted to the jurisdiction of the courts of this state, it shall have the force and effect of service of process within this state; otherwise it shall have the force and effect of service by publication.

Service of process outside the state shall be made (A) in the same manner as service within this state, by an officer authorized to serve process in this state or in the state where the party is served or (B) by service by return receipt delivery. No order of a court is required.

Pursuant to K.S.A. 60-203 a civil action is commenced at the time a petition is filed with the court if service of process is obtained or the first publication is made for service by publication within 90 days after the petition is filed, except that the court may extend that time an additional 30 days upon a showing of good cause by the plaintiff. If service of process or first publication is not made within the 90 day time period, or within the 30-day extension of time for service, the action is deemed commenced as of the date of service of process or first publication.

An officer or other person receiving a summons or other process must file a return of service not later than 14 days after the service is effected. If the process cannot be served it must be returned to the court within 30 days after the date issued with a statement of the reason for the failure to serve it, except the court may extend the time for service up to 90 days after the date issued. Upon receipt of the return on any summons or other process, the clerk must serve a copy of the return on the attorney for the party requesting issuance of the summons or other process or, if the party has no attorney, on the requesting party. K.S.A. 60-312(d).

K.S.A. 60-303 provides for service of process by return receipt delivery which is effected by certified mail, priority mail, commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt showing to whom delivered, the date of delivery, the address where delivered, and the person or entity effecting delivery. K.S.A. 60-303(c)(1).

After service and return of the return receipt, the sheriff, party, or party's attorney must execute and file a return of service. The return of service must state the nature of the process, to whom delivered, the date of delivery, the address where delivered, and the person or entity effecting delivery. It must include a copy of the return receipt evidencing delivery. K.S.A. 60-303(c)(4).

If the sealed envelope is returned with an endorsement showing refusal to accept delivery, the sheriff, party, or the party's attorney may send a copy of the process and petition or other document by first-class mail, postage prepaid, addressed to the party to be served, or may elect other methods of service. If mailed, service is considered to be obtained three days after the mailing. Mailing must be evidenced by a certificate filed with the clerk. If the unopened envelope sent by first-class mail is returned as undelivered for any reason, service is not obtained and the sheriff, party, or party's attorney must file an amended certificate with the clerk indicating nondelivery. Mere failure to claim the sealed envelope sent by return receipt delivery is not refusal of service within the meaning of this subsection. K.S.A. 60-303(c)(5).

Proof of personal and residence service must be filed with the court and made as follows:

- (1) Every officer to whom summons or other process is delivered for service must make a statement subject to penalty of perjury as provided in K.S.A. 21-3805, and amendments thereto, as to the time, place, and manner of service. K.S.A. 60-312(a)(1).
- (2) If process is delivered to a person, other than an officer, for service, the person must make an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, showing as to the time, place, and manner of service. K.S.A. 60-312 (a)(2).

When service is made outside this state, the server must file an affidavit or a declaration pursuant to K.S.A. 53-601, and amendments thereto, or any other competent proof, stating the time, manner, and place of service. The court may consider the affidavit or declaration or any other competent proof in determining whether service has been properly made. K.S.A. 60-308(a)(2).