

[CAPTION]

NOTICE OF SUIT

To _____ (names of defendants to whom notice is given) _____ and all other concerned persons:

You are notified that a (petition or other pleading) has been filed in (name of court) by (name of pleader) praying for (state briefly the nature of the pleading and the judgment or other relief sought), and you are hereby required to plead to the (petition or other pleading) on or before _____, 2 ____ , in the court at _____, Kansas. If you fail to plead, judgment will be entered upon the (petition or other pleading).

(Signature of attorney)
(Name), Attorney for (party)
Bar Registration Number
Address
Telephone
[Facsimile number]
[Email address]

Authority

K.S.A. 60-307.

Notes on Use

This notice must be published once a week for three consecutive weeks in a newspaper published in the county where the action is filed and which newspaper is authorized by law to publish legal notices. See K.S.A. 64-101 and 64-102. The notice must name the defendants to be served and notify all persons who are or may be concerned that the defendants have been sued and must respond on or before the date stated or judgment will be rendered according to the petition or other pleading filed. The date by which defendants must respond must be at least 41 days after first publication of the notice. The notice does not need to expressly describe property unless otherwise required by law – a reference to the pleading is sufficient. K.S.A. 60-307(d).

In addition to the publication of this notice, a copy of the notice must be mailed within 7 days after first publication to each defendant whose address is stated in the affidavit for service by publication. K.S.A. 60-307(e). Service by publication is deemed complete when the notice has been properly published and mailed, and the service has been proved. No default judgment can be entered until the proof of service is approved by the court and filed. K.S.A. 60-307(f).

Comment

The requirement in K.S.A. 60-307(e) that a copy of the notice be mailed to each defendant whose address is stated in the affidavit for service by publication is mandatory, and the failure to do so is a denial of due process. *Board of County Commissioners v. Knight*, 2 Kan.App.2d 74, 80, 574 P.2d 575 (1978). “Where personal service is unsuccessful, but a defendant’s mailing address is known to plaintiff, though not listed in an affidavit for service by publication, due process requires utilization of that address. A plaintiff may not overcome its duty to provide defendant the best notice reasonably possible under the circumstances by merely listing a defendant’s residence as unknown in its affidavit for service by publication. Mailing a copy of that publication notice to a known mailing address is also necessary.” *Federal Nat’l Mtg. Ass’n v. Beard*, 8 Kan. App. 2d 371, Syl. ¶ 3, 659 P.2d 232 (1983).