

61-2714. Use of attorneys; certification by plaintiff of compliance with act; defense related to limit on number of claims. (a) Notwithstanding any other provision of the small claims procedure act, if any party in small claims litigation: (1) Uses any person in a representative capacity if such person representing the party is an attorney or was formerly an attorney; or (2) is an attorney representing the attorney's self in a small claims action, all other parties to such litigation shall be entitled to have an attorney appear on their behalf in such action.

(b) When appropriate, the court shall advise all parties of this right to hire counsel pursuant to this section and shall, if requested by any party, grant one reasonable continuance in such matter to afford a party an opportunity to secure representation of an attorney.

(c) The filing of a small claims action is a certification by the plaintiff that such plaintiff is complying with the provisions of the small claims procedures act, specifically with the provisions of K.S.A. 61-2704, and amendments thereto, relating to the limited number of claims a person may file in the same court during any calendar year.

(d) Any defendant may raise as a defense to a small claims action that the plaintiff has filed or caused to be filed more claims than allowed by the small claims act. When such defense is raised, if the court finds the plaintiff to have filed more claims than allowed by law, the court shall dismiss the action with prejudice and such a finding shall be considered a violation of the unconscionable acts and practices section of the Kansas consumer protection act. The defendant may file a collateral action under the Kansas consumer protection act.

(e) As used in this section, "attorney" means persons licensed to practice law in Kansas or in any other state whether on active or inactive status, or persons otherwise qualified to take the Kansas bar examination and acting under the supervisory authority of a licensed attorney.

History: L. 1994, ch. 273, § 22; July 1.