

ARTICLE 16: SMALL CLAIMS

16.01 FORM OF SUMMONS AND COMPLAINT

(a) An approved summons form provided by the Clerk of the Court, substantially in the form set forth in Supreme Court Rule 101(b), shall be served upon each defendant together with a copy of the complaint.

(b) The form of complaint to be used in small claims actions shall provide for a statement of claim setting forth the elements provided in Supreme Court Rule 282 on approved forms provided by the Clerk of the Court.

16.02 (RESERVED)

16.03 RETURN DAY PROCEDURES

(a) *Failure of Defendant to Appear*: If the defendant fails to appear as required by a duly served summons, the Court may enter judgment for the plaintiff upon a verified complaint or proof by affidavit or testimony upon an unverified complaint.

(b) *Written Appearance by Defendant*: If the defendant files a written appearance on or before the return date, unless the Court orders the filing of a written answer, the defendant's appearance shall stand as an answer denying the allegations of the complaint.

(c) *Plaintiff's Failure to Appear*: If the plaintiff fails to appear on the return date, the case will be dismissed for want of prosecution.

(d) *Plaintiff's Diligence*: If service of process has not been had on the defendant, the plaintiff may request a single diligence date not to exceed six (6) months after the initial return date. The plaintiff must request the issuance of an alias summons and attempt service during the diligence period or the case may be dismissed for want of diligence. Except for good cause shown, no more than one diligence date will be given. Summons shall not issue for a return date beyond the due diligence date set by Court.

(e) *Continuances*: Motions for continuances shall be governed in accord with Supreme Court Rule 231 and Local Rule 9.01.

(f) *Case not Tried on the Return Date*: Cases not tried or otherwise disposed of on the return date will be set for trial by order of the Court.

(g) *Pre-Judgment Court Costs*: Any litigant seeking court costs shall, at the time judgment is entered, tender an affidavit specifically and individually listing each and every cost incurred and the amount sought, together with a statement by affiant that these costs have been paid by affiant.

The Court will only take judicial notice of the filing fee and certified mail cost.

16.04 JURY DEMANDS

Supreme Court Rule 281, small claims actions in which a jury demand is filed, shall be subject to Mandatory Arbitration under Article 13 of these Rules. The judge to whom the case is assigned shall promptly assign an arbitration hearing date before a trial is scheduled. *(added effective 1/23/06)*