

**61-3301. Default judgment.** (a) The court may enter a default judgment in the following situations:

(1) If a defendant fails to either appear or file a written answer on or before the time specified in the summons, judgment may be entered against the defendant upon proof of service and at such time as the plaintiff requests same, without further notice to the defendant.

(2) If a defendant fails to appear at the time set for a pretrial or trial hereunder, judgment may be entered against the defendant at the request of the plaintiff without further notice to the defendant.

(3) If the defendant has filed a counterclaim against the plaintiff and the plaintiff fails to appear at the time set for a pretrial or trial hereunder, judgment may be entered against the plaintiff at the request of the defendant without further notice to the plaintiff.

(b) A default judgment shall not be different in kind from or exceed the amount of the relief sought in the demand for judgment.

(c) If a defendant seeks to set aside a default judgment for failure to appear at the time specified in the summons, the defendant shall file a motion not more than 14 days from the date of such judgment in a lawsuit where the defendant was personally served with summons within the state, or not more than 45 days where service of summons was by other than personal service within the state. If any party seeks to set aside any other default judgment, that party shall file a motion not more than 14 days from the date of such judgment. Any motion to set aside a default judgment, except for the time limits set forth above, shall be in accordance with the applicable provisions of subsection (b) of K.S.A. 60-260, and amendments thereto.

(d) In cases where no service is had, for good cause shown, the court may set aside a default judgment pursuant to the applicable provisions of subsection (b) of K.S.A. 60-260, and amendments thereto.

**History:** L. 2000, ch. 161, § 33; L. 2010, ch. 135, § 206; July 1.