

2012 Kansas Statutes

60-213. Counterclaims and cross-claims. (a) *Compulsory counterclaims.* (1) *In general.* A pleading must state as a counterclaim any claim that, at the time of its service, the pleader has against an opposing party if the claim:

- (A) Arises out of the transaction or occurrence that is the subject matter of the opposing party's claim; and
- (B) does not require adding another party over whom the court cannot acquire jurisdiction.

(2) *Exceptions.* The pleader need not state the claim if:

- (A) When the action was commenced, the claim was the subject of another pending action; or
- (B) the opposing party sued on its claim by attachment or other process that did not establish personal jurisdiction over the pleader on that claim, and the pleader does not assert any counterclaim under this section.

(b) *Permissive counterclaims.* A pleading may state as a counterclaim against an opposing party any claim that is not compulsory.

(c) *Relief sought in a counterclaim.* A counterclaim need not diminish or defeat the recovery sought by the opposing party. It may request relief that exceeds in amount or differs in kind from the relief sought by the opposing party.

(d) *Effect of death or limitations.* If a party's claim arises out of the contract or transaction that is the basis of an opposing party's claim or is connected with the subject of the action and it could have been asserted as a counterclaim or crossclaim against a person if the person had asserted a claim against the party previously, the party's claim is not extinguished by: (i) An assignment by the person; (ii) the death of the person; or (iii) the expiration of the statute of limitations. However, the party's claim may be asserted in these circumstances only to the extent that it does not exceed the amount awarded to the opposing party.

(e) *Counterclaim maturing or acquired after pleading.* The court may permit a party to file a supplemental pleading asserting a counterclaim that matured or was acquired by the party after serving an earlier pleading.

(f) *Compulsory crossclaim against a co-party.* When a claim is governed by K.S.A. 60-258a, and amendments thereto, a party must state as a crossclaim any claim that party has against any co-party, if the claim arises out of the transaction or occurrence that is the subject matter of the claim governed by K.S.A. 60-258a, and amendments thereto.

(g) *Permissive crossclaim against a co-party.* A pleading may state as a crossclaim any claim by one party against a co-party, if the claim arises out of the transaction or occurrence that is the subject matter of the original action or of a counterclaim, or if the claim relates to any property that is the subject matter of the original action. The crossclaim may include a claim that the co-party is or may be liable to the crossclaimant for all or part of a claim asserted in the action against the crossclaimant.

(h) *Joining additional parties.* K.S.A. 60-219 and 60-220, and amendments thereto, govern the addition of a person as a party to a counterclaim or crossclaim.

(i) *Separate trials; separate judgments.* If the court orders separate trials under subsection (b) of K.S.A. 60-242, and amendments thereto, it may enter judgment on a counterclaim or crossclaim under subsection (b) of K.S.A. 60-254, and amendments thereto, when it has jurisdiction to do so, even if the opposing party's claims have been dismissed or otherwise resolved.

(j) *Appealed and removed actions.* When an action filed pursuant to chapter 61 of the Kansas Statutes Annotated is transferred as provided in K.S.A. 61-2910, and amendments thereto, or an action heard by a district magistrate judge is appealed, any counterclaim or crossclaim made compulsory by subsection (a) or (f) must be stated in an amended pleading within 21 days after service of the order of transfer or notice of appeal, or such other time as the court allows. Other counterclaims and crossclaims are permitted as provided in this chapter.

History: L. 1963, ch. 303, 60-213; amended by Supreme Court order dated July 17, 1969; L. 1976, ch. 251, § 3; L. 1986, ch. 115, § 90; L. 1986, ch. 215, § 2; L. 1986, ch. 215, § 3; L. 2000, ch. 161, § 110; L. 2010, ch. 135, § 80; July 1.