



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

January 6, 1977

ATTORNEY GENERAL OPINION NO. 77- 7

The Honorable Ruth Luzzati
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Courts--Small Claims Procedure Act--Assistance to Parties

Synopsis: The Small Claims Procedure Act, K.S.A. 61-2701 et seq., does not prohibit a handicapped person who appears as a party in an action under that act from utilizing the assistance of some other individual in the presentation of the party's claim or defense in such an action, where such assistance is designed to permit the handicapped party to present his or her claim effectively despite speech, hearing or other impairments which would otherwise hinder or prevent such handicapped person from utilizing the small claims procedure act for the resolution of disputes.

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Dear Representative Luzzati:

You inquire concerning the difficulties encountered by some handicapped persons in prosecuting claims under the Small Claims Procedure Act, K.S.A. 61-2701 et seq.

As you point out, some handicapped persons have difficulty in communication skills, due to speech or hearing impairments, or other problems which make it difficult for them to understand questions or to present their claim effectively to the court in their own behalf.

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You advise that it has come to your attention that in some instances, courts hearing matters under the small claims procedure act are refusing to permit impaired individuals to obtain the assistance of other persons to assist them in presenting their claims to the court. You inquire whether, under the Small Claims Procedure Act, a handicapped person who suffers from an impairment which interferes with his or her ability to communicate efficiently is prohibited from obtaining the assistance of another individual to assist in presenting his or her claim to the court.

K.S.A. 61-2702 states thus:

"It is the purpose of this act to provide a forum for the speedy trial of small claims, and to this end, the court may make such orders or rulings, consistent with the provisions of this act, as are necessary to promote justice and fairly protect the parties."

The only provision of the Act which appears applicable to your question is K.S.A. 61-2707(a), which provides that "no party in any such action shall be represented by an attorney prior to judgment." It may be argued whether the term "attorney" refers only to attorneys-at-law, or whether it also encompasses attorneys-in-fact. Even given the more inclusive construction, however, this provision does not prohibit a party in an action under the small claims procedure act from being assisted in the presentation of his or her claim or defense by another person, where the assistance does not entail representation of legal interests of the party, but only the furnishing of such assistance in communication as will permit the effective presentation of the position of the handicapped party, and will enable that party to appear in the court despite the impairments which would otherwise hinder or in some cases completely prevent him or her from utilizing this forum for the resolution of disputes.

Yours very truly,

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj