



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

February 7, 1977

ATTORNEY GENERAL OPINION NO. 77- 49

Mr. M. Moran Tomson
Stanton County Attorney
Post Office Box 310
Johnson, Kansas 67855

Re: Small Claims Procedure Act--Assistance of Counsel--
Execution

Synopsis: Under the Small Claims Procedure Act, K.S.A. 61-2701 et seq., a party may obtain the assistance of counsel in post-judgment proceedings, e.g., involving attachment, levy and garnishment.

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Dear Mr. Tomson:

K.S.A. 61-2707, of the Small Claims Procedure Act, K.S.A. 61-2701 et seq., provides that "no party in any such action shall be represented by an attorney prior to judgment." You inquire whether a litigant in a small claims action may be represented by an attorney after judgment has been taken, for the purpose of execution such as attachment, garnishment and the like. There is no prohibition under the act against such assistance, and in my judgment, absent such a prohibition, the assistance of counsel is permitted in such circumstances. I enclose a copy of Opinion No. 77-3, which deals with the question of assistance of counsel under the act in processing claims under the act.

In addition, you request my opinion what obligation, if any, the magistrate court has to assist a litigant in actions under the small claims procedure in completing attachment papers, garnishment papers and other related items. The act imposes no such

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obligation on the judge. To what extent the court provides assistance to litigants in particular circumstances must be determined by the court itself, mindful of its duty both to be and to give the appearance of neutrality in all disputes which come before it. It is difficult to address this general question with more specific terms. Surely, however, it is unlikely that the judge should furnish legal advice and counsel to any party who seeks such assistance in order to execute upon a judgment rendered in that court. The judge might, of course, assist the litigant in obtaining any necessary forms which may be available from the office of the clerk or elsewhere. To respond specifically to your question, however, I find no provision under the act which requires the judge to provide any assistance whatever to a litigant who seeks to execute upon a judgment rendered in that court.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj