

NOTICE OF SMALL CLAIM TRIAL		DOCKET NUMBER [REDACTED]	Trial Court of Massachusetts District Court Department		
CASE NAME [REDACTED], Kia Motors America Inc					
ATTORNEY (OR PRO SE PARTY) TO WHOM THIS COPY OF NOTICE IS ISSUED Kia Motors America Inc C/O James Bell Director of Corporate Communication 111 Peter Canyon Rd Irvine, CA 92606			COURT NAME & ADDRESS Lowell District Court 41 Hurd Street Lowell, MA 01852 JUDGE OR MAGISTRATE (if already assigned) 		
DATE AND TIME OF SMALL CLAIM TRIAL Magistrates Hearing - Small Claims 06/04/2018 at 08:30 AM Small Claims Magistrate Session			RECEIVED MAR 02 2018 CONSUMER AFFAIRS		
COUNSEL FOR ALL PARTIES (OR PRO SE PARTY) MUST APPEAR ON THE DATE & TIME SHOWN ABOVE					
TO THE PARTIES TO THIS CASE: The purpose of this notice is to inform you that this court has scheduled a SMALL CLAIM TRIAL in the above captioned small claims case on the date and time indicated above. You are required to be present at this event. Please also find enclosed a copy of the "Statement of Claim and Notice" form which the plaintiff who has brought this action has filed with the court. The plaintiff named on this form has sued the defendant in small claims court for the amount and reasons stated. Please review carefully the enclosed document entitled "INSTRUCTIONS TO THE PLAINTIFF AND THE DEFENDANT". Further information concerning small claims process and procedure can be found on the Trial Court website at: http://www.mass.gov/courts/selfhelp/small-claims					
FURTHER ORDERS OF THE COURT REPORT TO 4TH SESSION COURT ROOM					
DATE ISSUED 2/22/18		CLERK-MAGISTRATE/ASST. CLERK William A Lisano			
ATENCION: ESTE ES UN AVISO OFICIAL DE LA CORTE. SI USTED NO SAVE LEER INGLÈS, OBTENGA UNA TRADUCCIÒN.					

INSTRUCTIONS TO THE PLAINTIFF AND THE DEFENDANT

1. WHAT IS THE "NOTICE OF SMALL CLAIM TRIAL" FORM?

This is your copy of the event notice that the court has issued in this case. This notifies you when you must appear for trial at the court.

2. WHAT IS THE "STATEMENT OF CLAIM AND NOTICE" FORM?

This is your copy of the claim form that the plaintiff who has brought this action has filed with the court. This describes the nature of the claim, including the amount of and reasons for the claim.

3. WHAT IS SMALL CLAIMS COURT?

The small claims court is not a separate court, but a special session of the District Court, the Boston Municipal Court or the Housing Court. It is designed to resolve smaller cases, making it easier and less expensive for the public to use the court.

4. HOW IS THE DEFENDANT NOTIFIED OF THIS CLAIM?

The defendant is sent a copy of the "Statement of Small Claim and Notice" and "Notice of Small Claim Trial" forms by first class mail. If Plaintiff inquires, the court will tell the plaintiff if the Post Office is unable to notify ("serve") the defendant.

5. ARE ATTORNEYS NEEDED IN SMALL CLAIMS COURT?

No, but you may hire one if you wish.

6. WHAT ARE "COSTS"?

If the plaintiff prevails, or if both sides settle the claim, the plaintiff may recover from the defendant as "costs" the court filing fee and postage. By court order the plaintiff may sometimes recover certain other costs of bringing the claim.

7. IS THE DEFENDANT REQUIRED TO FILE AN ANSWER?

The defendant may send a signed letter to the court, saying clearly and simply why the plaintiff should not prevail. This "answer" should state those specific parts of the claim that are denied. However, the defendant is not required to file an answer. The defendant must send the plaintiff a copy of the answer, if one is filed. In the answer, or in a separate letter sent to the court, the defendant may set forth in writing any claim against the plaintiff within the jurisdiction of the small claims court. Both claims will be treated as one case if the defendant mails a copy of his or her claim to the plaintiff at least ten days before the scheduled trial date, or if the magistrate orders that they be so treated. Such claims are not compulsory. The plaintiff need not file a written answer to the defendant's claim.

8. WHAT IF THE DEFENDANT ADMITS HE OWES ALL THE MONEY?

He or she should contact the plaintiff and arrange to make payment. If payment is not made before the trial date, both the plaintiff and the defendant must appear in court.

9. WHAT IF THE DEFENDANT ADMITS HE OWES THE MONEY BUT NEEDS TIME TO PAY?

He or she must appear in court on the trial date and give his or her reasons for requesting time to pay.

10. WHAT IF THE DEFENDANT BELIEVES HE OWES NOTHING, OR ONLY SOME OF THE MONEY CLAIMED?

He or she must appear in court on the trial date. He or she will be able to question how the plaintiff arrived at the amount claimed.

11. WHAT IF THE DEFENDANT BELIEVES THE PLAINTIFF OWES HIM MONEY?

The defendant should indicate in his or her answer, or tell the court, that the plaintiff owes him or her money. The plaintiff's original claim and the defendant's claim against the plaintiff (called a "counterclaim") may be treated as one case and tried on the date the original claim was scheduled. If the defendant files a written counterclaim, the defendant must send the plaintiff a copy.

12. WHEN AND WHERE DO THE PLAINTIFF AND THE DEFENDANT HAVE TO GO TO COURT?

Unless the plaintiff and defendant settle this case before the trial date, both sides must appear in court on the date the case is scheduled for trial. The date, time and the court location to which both sides must report are shown on the "Notice of Small Claim Trial" form.

13. WHAT IF I CANNOT COME TO COURT ON THE TRIAL DATE?

You should call or write the person on the opposing side and ask him or her to agree to postpone ("continue") the case. Continuances should be only for a good reason, such as illness, an emergency, or the unavailability of a witness. If both sides agree, or if the opposing side does not agree, or if you are unable to reach the person on the opposing side, you must write the Clerk-Magistrate of the court to ask that the court give you a continuance. Do not wait until the last minute. If the other side makes a reasonable request for a continuance, it may save you some inconvenience if you agree to the request.

14. WHAT IF I DO NOT COME TO COURT ON THE TRIAL DAY?

If the plaintiff does not appear for trial and the defendant does appear, the case will be dismissed. If both the plaintiff and the defendant do not appear for trial the claim will also be dismissed. If the defendant does not appear for trial, and the plaintiff does appear, the court can enter a default judgment and order the defendant to pay the amount claimed. The magistrate may ask the plaintiff to present some evidence of the claim, even if the defendant is not present.

15. HOW SHOULD I PREPARE FOR TRIAL?

It may be helpful to write down ahead of time the facts of the case in the order in which they occurred. This will help you organize your thoughts and make a clear presentation of your story. On the trial date, you must bring with you any witnesses, checks, bills, papers, photographs or letters that will help you prove your case. If you need a witness to come to court but the witness will not come, ask the clerk magistrate's office for a witness summons which you must then arrange to have an officer deliver to the witness. You may need an expert witness to prove any matter not within common experience. The laws governing small claims are the same as those for major lawsuits, except that simplified procedures are used. The plaintiff must prove that the claim is one which the law recognizes and that the defendant is liable, or the magistrate will enter a decision for the defendant.

16. WHAT WILL HAPPEN ON THE DAY OF TRIAL?

Be sure to arrive on time. If your case is not resolved by a mediator, a trial will be held before a magistrate. The plaintiff will be asked to tell his or her side of the story, then the defendant will tell his or her side. Each will have an opportunity to ask questions of the other side and the other side's witnesses. To prevail, the law requires the plaintiff to prove the validity of his or her claim.

17. WHAT WILL THE MAGISTRATE DO?

The magistrate will make a decision. Notice of the decision (called a "judgment") will be given or sent to each side.

18. CAN I APPEAL THE JUDGMENT?

By bringing his or her claim in small claims court, the plaintiff (and the defendant on any counterclaim) gives up any right (1) to have the claim decided by a jury and (2) to appeal if he or she loses. If the defendant loses the case (or the plaintiff loses on any counterclaim) before the magistrate, he or she can appeal for a new trial by a judge or a jury on any disputed questions of fact, but he or she must post a bond, unless waived.

STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL

For Court Use Only.

DOCKET NO.

**Trial Court of Massachusetts
Small Claims Session**



PART 1

☐ BOSTON MUNICIPAL COURT

☐ DISTRICT COURT

Division

☐ HOUSING COURT

Division

PLAINTIFF'S NAME, ADDRESS, ZIP CODE AND PHONE

PLAINTIFF'S ATTORNEY (if any)

PART 2

PHONE NO.

DEFENDANT'S NAME, ADDRESS, ZIP CODE AND PHONE

ADDITIONAL DEFENDANT (if any)

Name:

Address:

PHONE NO.

PHONE NO.

PART 4

PLAINTIFF'S CLAIM. The defendant owes \$ 5,000.00 plus \$ 100.00 court costs for the following reasons:
Give the date of the event that is the basis of your claim.

On Dec 7, 2017 my (kia sout 2015) that was only 2 yrs. old and had only 20,000 miles on it; that I bought brand new, caught on fire. The motor totally disintegrated (20 foot flames) Fireman came, police, we had to call 911. This car sat in my daughters drive way over 2 months because I could not get the problem resolved that it was due to a recall. I had a recall on a recall that came after the fire.

SIGNATURE OF PLAINTIFF X

DATE Jan 29, 2018

PART 5

MEDIATION: Mediation of the dispute on mutually agreed terms. If the plaintiff or the defendant desires mediation, the defendant may consent to mediation on the trial date.

☐ The plaintiff is willing to attempt to settle this claim through court mediation.

for \$5,000.00 settlement

PART 6

MILITARY AFFIDAVIT: The plaintiff states under the pains and penalties of perjury that the:

☐ above defendant(s) is (are) not serving in the military and at present live(s) or work(s) at the above address.

☐ above defendant(s) is (are) serving in the military

X

SIGNATURE OF PLAINTIFF

DATE

NOTICE OF TRIAL

NOTICE TO DEFENDANT:

You are being sued in Small Claims Court by the above named plaintiff. You are directed to appear for trial of this claim on the date and time noted to the right.

If you wish to settle this claim before the trial date, you should contact the plaintiff or the plaintiff's attorney.

SEE ADDITIONAL INSTRUCTIONS ON THE BACK OF THIS FORM

NAME AND ADDRESS OF COURT

DATE AND TIME OF TRIAL

DATE

AT

TIME

ROOM NO.

BOTH THE PLAINTIFF AND THE DEFENDANT MUST APPEAR AT THIS COURT ON THE DATE AND TIME SPECIFIED

COURT USE ONLY

INSTRUCTIONS FOR FILING A SMALL CLAIM — You must complete Parts 1-6 of this form. See instructions on reverse.