

61-2905. Counterclaims and cross-claims. (a) (1) Upon timely application of the plaintiff and in the discretion of the court, a defendant may be required to plead any counterclaim which such party has against the plaintiff, if it arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim and does not require for its adjudication the presence of third parties of whom the court cannot acquire jurisdiction, except that the defendant shall not be required to plead any such claim if: (A) At the time the action was commenced the claim was the subject of another pending action; or (B) the plaintiff brought suit upon such plaintiff's claim by attachment or other process by which the court did not acquire jurisdiction to render a personal judgment on that claim, and the defendant is not pleading any other counterclaim.

(2) A defendant shall not be estopped from asserting in a subsequent action any claim which such defendant may have against the plaintiff, if such defendant is not required to plead such claim pursuant to this section. Except as provided in subsections (a) and (k), the provisions of K.S.A. 60-213, and amendments thereto, relating to counterclaims and cross-claims, shall apply to proceedings pursuant to the code of civil procedure for limited actions, subject to the provisions of K.S.A. 61-2911, and amendments thereto.

(b) Notwithstanding the provisions of subsection (a), in an action involving a claim governed by K.S.A. 60-258a, and amendments thereto, a party shall state as a counterclaim any claim that party has against any opposing party arising out of the transaction or occurrence that is the subject matter of the claim governed by K.S.A. 60-258a, and amendments thereto.

History: L. 2000, ch. 161, § 11; Jan. 1, 2001.