

Rule 118

STATEMENT OF DAMAGES WHEN PLEADING DOES NOT DEMAND SPECIFIC AMOUNT

- (a) **Request for Actual Amount of Money Damages.** When a pleading contains a demand for money damages which states only that the amount sought as damages is in excess of \$75,000, as provided in K.S.A. 60-208(a)(2), a party against whom relief is sought may serve on the party seeking relief a request for the actual amount of monetary damages sought. No later than 14 days after service of the request, the party seeking relief must serve a statement of the total amount of monetary damages sought and file a copy of the statement. The amount recited in the statement may be amended downward at any time before the action is submitted to the trier of fact. The amount may be amended upward on motion if the court determines the reason stated in the motion justifies the amendment.
- (b) **Disclosures Allowed in Jury Trial.** A statement filed under subsection (a) may not be admitted in evidence during a jury trial or referred to in the jury's presence. The final amount sought may be disclosed to the jury, but earlier amounts sought, and whether the amount has been amended, may not be referred to in the jury's presence.
- (c) **Frivolous Damages Amount.** If the court—on a party's motion or on its own—finds the amount of damages stated in the last statement filed under subsection (a) was chosen frivolously, the court must apportion the costs as justice requires.
- (d) **Default Judgment.** Before a default judgment is taken in an action subject to this rule, the party seeking relief must notify the party against whom relief is sought of the amount of money for which judgment will be taken. Notice must be given by return receipt delivery, or as the court orders, at least 14 days before the date judgment is sought.

[**History:** Am. effective September 14, 1978; Am. effective February 1, 1988; Am. effective March 5, 1991; Am. (a) effective March 11, 1999; Am. (a) effective May 28, 1999; Am effective September 8, 2006; Am. (a) and (d) effective July 1, 2010; Restyled rule and amended effective July 1, 2012.]