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HOW TO PROCEED AGAINST A MINOR DEFENDANT IN SMALL CLAIMS COURT

The process for proceeding against a minor is essentially the same as proceeding against an adult except for the following:

- 1) Designate the minor defendant as follows: “John Doe, a minor of the age of _____ years.”
- 2) Serving the Claim of Plaintiff on the minor must be done as follows:
 - a. A defendant’s copy of the claim must be served to the minor’s parent, guardian or conservator. If after reasonable diligence such a person over 18 who has the care of or control of the minor; or someone over 18 whom the minor resides; or the minor’s employer. And;
 - b. If the minor is 12 years of age or older, than the minor must also be served.
 - c. If the minor is under the age of 12, only the parent etc., in 2a. above need be served.
- 3) Proof of service as follows:
 - A. One proof of service for the parent, guardian etc. as follows:
 1. I served the defendant: “John Doe’s minor of the age of _____ years.”
 2. By serving “Person other than the defendant. Jane Doe mother of defendant etc.”
 3. The remaining portion of the proof of service must be completed also
(Items 1-5)
 - B. One proof of service for the minor (if 12 or older).
 - C. If parent etc. is also named as defendant then 1 proof of service for parent etc. as defendant, 1 proof of service for parent as for the minor, 1 proof of service for the minor.

After the minor is served, a guardian ad litem must be appointed by the court to represent the minor in court. Appointment can be at the minor’s request if 14 years of age or older, and if the minor applies to the court within 10 days after service. After the 10 day period or if minor is under 14 years old, then the plaintiff may ask the court to appoint a guardian ad litem. **Failure to have a guardian ad litem appointed means that the court will not allow the plaintiff to proceed against the minor.**