

SMALL CLAIMS CASES

INSTRUCTIONS AND INFORMATION REGARDING FILING SUIT

(PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION.)

1. A Small Claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000.00 excluding statutory interest and court costs but including attorney fees, if any.
2. In all civil suits, the Defendant has the right to be sued in the county and precinct in which he resides. You must have a physical address (not just a post office box) for the Defendant in order for him to be served in person. The last three numbers of the Defendant's driver's license and the last three numbers of the Defendant's social security number needs to be furnished if available.
3. In order for any potential judgment you may receive to be valid, it is necessary that you sue the Defendant in his/their legal capacity as listed below:

Personally: An individual is responsible to you for damage he may have caused you as an individual. (e.g. John Doe)

Proprietor or partnership: A business that is not incorporated but does have on file with the County Clerk an assumed name. (e.g. John Doe dba Greenhouse Supplies)

Corporation: The business which has allegedly caused you damage is incorporated, and therefore it is necessary to know the individual's name who is able to accept service on behalf of the corporation. You may obtain the name of the authorized agent for service from the Secretary of State at 1-800-252-1386. (e.g. Greenhouse, Inc. Serve: John Doe)

It is also possible for an incorporated entity to have an assumed name. (e.g. Greenhouse, Inc. dba Greenhouse Supplies. Serve: John Doe)

4. If as a Plaintiff, you are in the business of lending money and charging interest on that money, either primarily (banks, credit unions, savings & loans), or secondarily (credit cards), you must file a Debt Claim suit instead of a Small Claims suit. The same applies to suits brought by an assignee of a claim, by a person seeking to bring an action on an assigned claim, or by a collection agency.
5. When you file your suit, a Case Information Sheet and a Military Affidavit (for individual only) must be filed with the petition. Once you have filed a suit, this Court will give you a receipt and the office phone number so that you may call in periodically to determine your cause number and the progress of your case. **It is of utmost importance that you refer to your cause number when calling or transacting business with the Court.**

6. When you have completed the petition stating the facts and circumstances of your suit, a citation along with a copy of your petition will be served to the Defendant notifying him that a suit has been filed against him in this Court. The citation will order the Defendant to file a written answer with the Court no later than fourteen (14) calendar days following his receipt of the citation. If he fails to do so, you then become eligible for a default judgment up until the time an answer is filed.
7. If the Defendant answers the suit, a trial date will be set. The Plaintiff and the Defendant will be sent notice by mail of the court date. We discourage motions for continuance; however, if it becomes necessary, any requests for a continuance must be in writing and should be filed as soon as the need for continuance is known.
8. If you have witnesses to your suit who will not or cannot come to Court voluntarily, you may ask this Court to subpoena those individuals prior to trial. This request must be in writing and must include the names and addresses of all those you want to subpoena. The request should be filed as soon as possible allowing at least a week for service of subpoena.
9. This type of suit does not require hiring an attorney; however, you are free to do so if you wish.
10. **This Court does not collect the judgment for you, nor can we force the Defendant to pay the judgment.** If you receive a judgment for your claim against the Defendant, you may request an **Abstract of Judgment** and/or a **Writ of Execution** to help you in your collection of this judgment.

An **Abstract** puts a lien on any real property the Defendant may own in the county where the abstract is filed. Abstracts may be filed in more than one county. It is suggested that you wait until the appeal period has ended which is twenty-one (21) days after the judgment is signed.

A **Writ of Execution** may be obtained thirty (30) days after the judgment is signed. This document authorizes the Constable or Sheriff to seize any assets belonging to the Defendant **that are subject to this writ**. Those assets are then sold, and the proceeds are applied to the judgment. If your judgment is for recovery of a particular item, the Writ may specify that the item be seized and returned to you.

11. As a Plaintiff, **you** have the burden of proof to show by the weight of the evidence that the Defendant is the proximate cause of your damages in the capacity which the Defendant was sued. All damages and evidence necessary to meet your burden should be available at the time of filing.
12. It is **imperative** that you provide us with your day time phone number and notify us immediately of any changes in your number or address.

If you have any other procedural questions, please contact the Court, and we will try to answer them. **Any legal questions MAY NOT be answered by this Court.**

JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED _____

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		2. Names of parties in case:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>	
3. Indicate case type, or identify the most important issue in the case (<i>select only 1</i>):		
<p><input type="checkbox"/> Debt Claim: A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> Eviction: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	
<p><input type="checkbox"/> Repair and Remedy: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§
§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT NO. 3

FANNIN COUNTY, TEXAS

PETITION: SMALL CLAIMS CASE

Defendant(s) address:

COMPLAINT: The basis for the claim which entitles Plaintiff to seek relief against Defendant is:

RELIEF: Plaintiff seeks: damages in the amount of \$ _____, return of personal property as described as follows (be specific): _____, which has a value of \$ _____. Additionally, Plaintiff seeks the following:

SERVICE OF CITATION: Service is requested on Defendant(s) by: personal service at home or work, registered mail, certified mail, return receipt requested. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where Defendant(s) may be served: _____

_____. I hereby request a jury trial. The fee is \$22 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: _____.

Plaintiff's Printed Name

Signature of Plaintiff or Plaintiff Attorney

Defendant's Information (if known):

Date of birth: _____
Last three digits of Driver License: _____
Last three digits of Soc. Sec. No.: _____
Phone No.: _____

Address of Plaintiff or Plaintiff's Attorney

Phone & Fax No. of Plaintiff or Plaintiff's Attorney

AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)

CAUSE NUMBER: _____

_____, PLAINTIFF
VS.
_____, DEFENDANT

IN THE JUSTICE COURT
PRECINCT 3
FANNIN COUNTY, TEXAS

My name is (please print)_____.

I am (check one) ___the plaintiff or ___an authorized agent of the plaintiff in the case described above. I am capable of making this affidavit. I have been duly sworn on oath and the facts in this affidavit are within my personal knowledge and are true and correct

NOTE: You can search military status by using the following website: <https://www.dmdc.osd.mil/appj/scra/scarHome.do>
[check or fill in as applicable]

___1. No defendant in this case is on active duty in the U.S. military (Army, Navy, Air Force, Marines or Coast Guard). The facts on which I base my conclusion are as follows:_____.

___2. Defendant [insert name(s)]_____ is on active duty in the U.S. military.

___3. Defendant [insert name(s)]_____ has been deployed by the U.S. military to a foreign country.

___4. Plaintiff and the undersigned (if the undersigned is acting agent of plaintiff) are not able to determine whether any defendant is in the U.S. military – except for any defendant named in 2 above.

___5. Plaintiff and the undersigned (if the undersigned is acting agent of plaintiff) are not able to determine whether any defendant is in the U.S. military has been deployed to a foreign country – except for any defendant named In 3 above.

___6. Defendant [insert name(s)]_____ has signed, while on active duty, a separate written waiver if his or her rights under the U.S.Servicemembers Civil Relief Act of 2003.

Affiant (Plaintiff)

Sworn to and subscribed before me on this the ____ day of _____, 20__.

CLERK OF THE COURT
Justice Court, Precinct 3
Fannin County, Texas

NOTARY PUBLIC
IN AND FOR THE
STATE OF TEXAS