

## Justices of the Peace

### Small Claims Instructions

#### How to File a Small Claims Suit in the Justice of the Peace Court

**Plaintiff:** A person who brings a suit before the Court.

**Defendant:** One who is being sued.

**Small Claims:** Filing cases that do not have interest on the account or occurrence. No attorney is needed for filing.

**Court Costs:** Filing fee is \$106.00. If the Defendant is located in a different County make checks payable to that County for service, *please contact the Court for the right amount.*

**Jurisdiction:** Civil suits concerning amounts in controversy that do not exceed \$10,000.00.

**Venue:** A suit shall be brought in the county and precinct in which one or more defendants reside.

#### Preparation for Filing a Civil Suit

1. It is the Plaintiff's duty to provide the correct legal name and address of the person or business your claim is against. There are typically three proper names, they are as follows:
  - o **Personally:** Where an individual is responsible to you for damages he may have caused you as an individual.
  - o **Proprietor or Partnership:** A business that is not incorporated, but does have on file with the County Clerks and assumed name e.g. *John Smith D B A Greenhouse Supplies*. To determine whether or not this person has filed an assumed name you would contact the **County Clerk's Office** at the Liberty County Courthouse.
  - o **Corporation:** The business which has allegedly caused you damage is incorporated and therefore it is necessary to know the individual's name who will be able to accept service on behalf of the corporation. (The registered agent for service would be listed with the Secretary of State whose phone number is 1-800-252-1386 or on the internet at the Texas Comptroller of Public Accounts - Certification of Account Status Corporation Search (<http://ecpa.cpa.state.tx.us/coa/coaStart.html>) e.g. *Greenhouse, Inc. by serving John Smith*
2. It is the Plaintiff's duty to provide the correct address and place of employment or a location where service of a citation may be served by the Constable or Sheriff's office. **No post office box or rural route will be accepted without complete and clear directions.**
3. The Plaintiff can sue for Court cost, but they cannot add it to the amount they are suing for. The only way a Plaintiff can sue for attorney fees is if there is an attorney of record representing the

- Plaintiff.
4. For Small Claims a Small Claim Petition will be needed and signed by the Plaintiff.
  5. Once the Defendant is served the clerk will notify you of their answer date. On the Defendant's answer date, three things can happen:
    - o The Defendant can deny that they owe the Plaintiff. The case will be set for trial and both parties will be notified of a Court date by regular mail.
    - o The Defendant can agree to the suit and will sign an Agreed Judgment against them. The clerk will instruct the Defendant to contact the Plaintiff and work out a payment.
    - o If the Defendant does not make an answer, then a Default hearing will be held. The clerk of the Court will notify the Plaintiff as to the date of the hearing.
  6. Once the case is filed with the court, the plaintiff is to accept no payments from the defendant. Must go to court
  7. Ten days after the issuance of judgment (agreed or default) if no payment has been made, the Plaintiff can get an Abstract of Judgment from the clerk. The fee is \$5.00. The Abstract of Judgment will need to be filed with the County Clerk. This will be recorded on the Defendant's credit history.
  8. Thirty days after the issuance of a judgment. The Plaintiff can request a Writ of Execution. The fee is \$155.00, if the Defendant resides in Liberty County. This Writ enables the Constable or Sheriff to go out and levy on property of the Defendant's that is not exempt by the laws of the State of Texas. The clerk will notify the Plaintiff when the Writ has been returned and any property that can be taken will be sold to satisfy the judgment.

Please contact the appropriate court to receive information pertaining to your suit filed in their court.

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