

## **FILING A SMALL CLAIMS / DEBT CLAIM SUIT**

### **VENUE:**

Generally, a suit should be filed in the county and precinct where one or more of the defendant(s) reside. However, there are many exceptions to this rule. For further information see "VENUE IN JUSTICE COURT SUITS."

### **JURISDICTION:**

Jurisdiction (what the Court may render JUDGMENT for) in Small Claims Court is for civil matters in which the amount of controversy is not more than \$20,000.00. A judgment in Small Claims Court SHALL be for MONEY ONLY and for the return of personal property.

### **AN ACTION IN SMALL CLAIMS COURT MAY NOT BE BROUGHT BY:**

- A. An assignee of the claim or other person seeking to bring an action on an assigned claim;
- B. A person primarily engaged in the business of lending money at interest; or
- C. A collection agency or agent.

### **FILING SUIT:**

The responsibility for filing out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have PROCEDURAL questions. The filing fee is fifty-four dollars (\$54.00). In addition, there is a fee for serving the defendant which is one hundred dollars (\$200.00) per defendant to be served in Goliad County. If you are filing on a defendant that resided outside of Goliad County, contact this court for service fees.

### **CITATION:**

A citation is sent to the Constable for service on the defendant in Goliad County. Out of county service is sent to the Sheriff or Constable in the county in which the defendant resides.

### **ANSWER:**

The defendant in your suit is commanded to answer to the Court, in writing, on the Monday following the 14<sup>th</sup> day after the date the citation was served upon him/her.

### **REPRESENTATION:**

As an individual, you may represent yourself in a Small Claims Suit. If as Plaintiff, you are in the business of loaning money, either, (banks, credit union, savings and loans) or secondary (credit cards or interest charge accounts), you are not allowed to file suit on behalf of the above in Small Claims Court. Actions in Small Claims Court may not be brought by an assignee of the claim or other person(s) seeking to bring action on an assigned claim or a collection agency.

### **DEFAULT JUDGMNETS:**

If the defendant in your suit fails to file a written answer with the Court, only you as Plaintiff will be notified by the Court for an appearance on the Default Docket. You will be asked briefly to state the facts of your case and present any written documents you may have to support your case.

### **TRIAL BY JUDGE OR JURY:**

If the defendant in your suit files a written answer, there will be a least forty-five days (45), notice of docket setting. (See additional information below for alternative service that could delay service of citation). Notice will be mailed to the Plaintiff and the Defendant stating the date and time to appear in Court. Bring all information to support your claim. If you have any witnesses, you should bring them. If you have a witness to your suit who will not come voluntarily, you may request the Court to subpoena those individual(s) prior to trial. The fee in Goliad County for filing and serving a subpoena is \$45.00 per subpoena. Allow one week for service. Any party can demand a jury in writing up to fourteen days (14) before trial. Requesting party must pay \$22.00 jury fee per juror. **ALL MOTIONS FOR CONTINUANCE (resetting your court date) MUST BE IN WRITING AND RECEIVED NO LATER THAN FIVE (5) WORKING DAYS (weekend and holidays excluded) PRIOR TO YOUR COURT DATE.**

### **AFTER JUDGMENT:**

**THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU NOR CAN WE FORCE THE DEFENDANT TO PAY.**

If you receive a Judgment and the Defendant does not make a motion for a new trial within five (5) days or appeal the case within ten (10) days after the court date, the following remedies are available:

### **ABSTRACT OF JUDGMENT:**

You may obtain an Abstract of Judgment on the 11<sup>th</sup> day after judgment. The fee is \$5.00 for the JP Court to prepare. You should then record the Abstract with the County Clerk's Office in the County where the Defendant resides.

### **WRIT OF EXECUTION:**

If you are granted a judgment against the Defendant and if the Defendant does not appeal within ten (10) days after the court date, you may obtain and file a Writ of Execution any time after the 30<sup>th</sup> day from the date of judgment. A Writ of Execution allows a Sheriff or Constable in the State of Texas to try and seize certain non-exempt property from the defendant. The cost for filing a Writ of Execution varies from County to County.

**SHOULD THE DEFENDANT PAY ANY PORTION OF THE AMOUNT OWED AFTER YOU HAVE RECEIVED A JUDGMENT, IT IS NECESSARY FOR YOU TO NOTIFY THE COURT OF THE CREDIT OR NOTIFY THE COURT THAT THE JUDGMENT HAS BEEN SATISFIED IN FULL, IF THE DEFENDANT PAYS THE ENTIRE JUDGMENT AMOUNT. IF YOU ADDRESS CHANGES WITHIN A TEN (10) YEAR PERIOD FOLLOWING THE JUDGMENT, YOU SHOULD NOTIFY THE COURT OF YOUR NEW ADDRESS.**

### **ADDITIONAL INFORMATION:**

The defendant in a Small Claims Suit must be served personally by the Constable or Sheriff's Deputy of the County. Sometimes, service is avoided by the defendant; therefore, an alternative method of service is necessary. This method is referred to as "alternative service". The Constable or Sheriff's Deputy may request this alternative service which allows him/her to serve anyone over the age of sixteen (16) years of age at the Defendant's usual place of abode, business or in a method the Judge believes will be reasonably effective to give the Defendant notice of the suit. We will request that you come in and

sign the request for alternative service. If your request is approved, the Judge will sign an order and the citation will be returned to the Constable or Sheriff's Deputy for service as mentioned above.

**SUIT ON CORPORATION:**

It is important that you understand that for any potential Judgment you may receive to be valid, it is necessary for you to sue the Defendant in the proper legal capacity. They are as follows:

If the party you want to sue is a corporation, you must find the name of the officer of the corporation before you begin the suit. The Secretary of State (1-512-463-5555) or the State Comptroller's Office (1-800-252-2555) will give you the information. Follow the other instructions for the remainder of the suit.

**SUIT ON COMPANY:**

If the party you want to sue is an individual doing business under an assumed name (sole proprietor of the business) or a partnership, you must check with the County Clerk's Office in the county of the business to determine who the owner(s) are. Direct your letter (notice of suit) to the owner(s) of the business. Follow the other instructions for the remainder of the suit.

**INDIVIDUAL:**

Where an individual is personally responsible to you for damages he/she has caused you.

**IF YOU HAVE ANY ADDITIONAL PROCEDURAL QUESTIONS, PLEASE CONTACT THIS COURT AT (361) 645-3663.**

**LEGAL QUESTIONS WILL NOT BE ANSWERED BY THIS OFFICE.**

**ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:**

Sylvia A. Valdez  
Administrative Assistant  
P.O. Box 678  
Goliad, Texas 77963  
[svaldez@goliadcountytexas.gov](mailto:svaldez@goliadcountytexas.gov)

CAUSE NO. \_\_\_\_\_

PLAINTIFF § IN THE JUSTICE COURT

V. § PRECINCT \_\_\_\_\_

DEFENDANT § COUNTY, TEXAS

## PETITION: DEBT CLAIM CASE

**I. DEFENDANT(S) ADDRESS:**

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

**III. RELIEF:** Plaintiff seeks damages in the amount of \$ \_\_\_\_\_

**IV. SERVICE OF CITATION:** Service is requested on Defendant(s) by:

- Personal service at home or work,
- Registered mail, or
- 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 are:

For more information, contact the Office of the Vice President for Research and the Office of the Vice President for Student Affairs.

**V. ADDITIONAL INFORMATION (CASE BASED ON CREDIT CARD, REVOLVING ACCOUNT, OR OPEN ACCOUNT):**

**Account/Credit Card Name:** \_\_\_\_\_

**Account Number (may be masked):**

Date of Issue/Origination: \_\_\_\_\_

Date of Charge-Off/Breach: \_\_\_\_\_

Amount Owed: \$ \_\_\_\_\_ as of \_\_\_\_\_

**VI. ADDITIONAL INFORMATION (CASE BASED ON PROMISSORY NOTE OR OTHER PROMISE TO PAY PERSONAL OR BUSINESS LOAN):**

Date/Amount of Original Loan: \_\_\_\_\_, \$ \_\_\_\_\_

Repayment Accelerated? \_\_\_\_\_

Date Final Payment Due: \_\_\_\_\_

Amount Due on Final Payment Date: \$ \_\_\_\_\_

Amount Owed: \$ \_\_\_\_\_ as of \_\_\_\_\_

**VII. ONGOING INTEREST:** Plaintiff  does or  does not seek ongoing interest. If so:

The effective interest rate claimed is \_\_\_\_\_%; this interest rate is based upon  contract

statute and began accruing on \_\_\_\_\_; the dollar amount of interest

claimed as of \_\_\_\_\_ is \$ \_\_\_\_\_.

**VIII. ASSIGNMENT OF CLAIM:** Plaintiff  was or  was not assigned or otherwise transferred this claim. If so, the original claimant/creditor was \_\_\_\_\_

Subsequent holders were \_\_\_\_\_

The date the debt was assigned/transferred to Plaintiff was \_\_\_\_\_

**IX. JURY REQUEST**

I request a jury trial. (*The fee is \$22 and must be paid at least 14 days before trial unless you file a Statement of Inability to Afford Payment of Court Costs in compliance with Texas Rule of Civil Procedure 502.3.*)

I do not request a jury at this time.

**X. SERVICE BY EMAIL** (*Normally, documents in this case are sent by mail. If it is easier for you, you can choose to get some of the documents sent by email. If you choose to get documents by email, you must have an email account where you can receive, open, and view large attachments, and it is important that you check this email account every day. Even if you receive some documents by email, you will still receive some documents about the case by mail or personal service, so you must not ignore any documents from the court or other parties received by mail or personal service.*)

Yes, I would like to receive documents related to this case by email at this email address: \_\_\_\_\_

No, I do not want to receive any documents by email.

## XI. REMOTE PARTICIPATION

**Hearing by Phone Call:** (*When a hearing happens by phone call, you will be able to talk to and hear the judge, Plaintiff, or any witnesses, but you will not be able to see them. Copies of any evidence to be used must be exchanged by the parties and sent to the judge before the hearing.*)

Yes, I am able to have any hearings in this case, except a jury trial, by phone call with the judge and Plaintiff and understand that I must have a phone to use on the date and time of the hearing.

No, I am not able to have hearings by phone call.

**Hearing by Video Conference:** (*When a hearing happens by video conference, you can hear, see, and talk to the judge, Plaintiff, and any witnesses. You will be able to see any evidence presented during the hearing. You will need to have a computer, a smartphone, or tablet that has a camera feature. You will also need access to the internet to be able to have a video conference.*)

Yes, I am able to have any hearings in this case, except a jury trial, by video conference. I understand that I am responsible for having the equipment and internet access needed to participate in a video conference on the date and time of the hearing.

No, I am not able to have hearings by video conference.

*NOTE: Your responses in this section do not guarantee that hearings will be held remotely, but rather they help the court know how you are able to participate.*

Respectfully submitted,

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Signature of Plaintiff

Printed Name:

Address:

Email:

Telephone:

Fax:

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Signature of Attorney, if any

Printed Name:

Address:

Email:

Telephone:

Fax:

State Bar No.:

Case No: \_\_\_\_\_  
(Print court information exactly as it appears on your Petition)

\_\_\_\_\_

In the (check one):

\_\_\_\_\_

District  County  Justice Court of:

\_\_\_\_\_

County, Texas

## Certificate of Last Known Mailing Address

1. My name is: \_\_\_\_\_

First

Middle

Last

2. I am the Petitioner in this case.

3. The Respondent's name is: \_\_\_\_\_

First

Middle

Last

4. I certify that the last known mailing address I have for the Respondent is:

\_\_\_\_\_

Address

City

State

Zip

Respectfully submitted,



\_\_\_\_\_

Your Signature

\_\_\_\_\_

Date

\_\_\_\_\_

Your Printed Name

\_\_\_\_\_

Phone

\_\_\_\_\_

Your Mailing Address

City

State

Zip

\_\_\_\_\_

Email Address:

Fax # (if available)

CAUSE NO. \_\_\_\_\_

PLAINTIFF	§	IN THE JUSTICE COURT
	§	
	§	
V.	§	PRECINCT ONE
	§	
DEFENDANT	§	GOLIAD COUNTY, TEXAS

### SERVICEMEMBER'S CIVIL RELIEF ACT AFFIDAVIT

**Instructions:** The Servicemember's Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require the plaintiff to file a bond in an amount approved by the court. To obtain certificates of service or non-service under the Servicemember's Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/appli/scra/scraHome.do>. This website will provide the current active military status of an individual.

Plaintiff being duly sworn under oath swears that Defendant is: (check one)

- not on active duty in the military
- on active military duty and/or is subject to the Servicemember's Civil Relief Act of 2003
- has waived in writing his/her rights under the Servicemember's Civil Relief Act of 2003
- military status is unknown at this time

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PLAINTIFF

SWORN TO AND SUBSCRIBED before me on \_\_\_\_\_, 20\_\_\_\_.

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CLERK OF THE JUSTICE COURT OR NOTARY

*\*Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year or both.*

Case No: \_\_\_\_\_  
(Print court information exactly as it appears on your Petition)

In the (check one):

District  County  Justice Court of:  
County, Texas

## Military Status Affidavit

State of Texas, County of \_\_\_\_\_  
(Print the name of county where this Affidavit is notarized)

The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:

1. "My name is: \_\_\_\_\_  
*First* \_\_\_\_\_ *Middle* \_\_\_\_\_ *Last* \_\_\_\_\_
2. "The Respondent's name is: \_\_\_\_\_  
*First* \_\_\_\_\_ *Middle* \_\_\_\_\_ *Last* \_\_\_\_\_
3. "I am the Petitioner in this case. I am an adult and of sound mind. I have personal knowledge of the facts stated in this affidavit. "The facts stated in this affidavit are true and correct.

(Check all boxes that apply)

"I know that the Respondent is **not** in the military because I asked the U.S. Department of Defense to check their Defense Manpower Data Center (DMDC) database. DMDC notified me that the Respondent is not on active duty in any of the armed forces.

"I attached a true copy of the DMDC verification. (If you check this box, you **must** attach a copy of the DMDC verification. You can print a copy of the DMDC verification from this web address:  
<https://www.dmdc.osd.mil/appj/scra/scraHome.do>)

"I know that the Respondent is **not** now in the military because:

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"I do not know if the Respondent is in the military now.

***! Do not sign until you are in front of a notary !***

Signature of Person Signing Affidavit

Date

**Notary fills out below.**

State of Texas, County of \_\_\_\_\_

Sworn to and subscribed before me, the undersigned notary, on (date) \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.

by \_\_\_\_\_

(Print name of person who is signing this Affidavit, NOT the notary's name.)

Notary's Signature