

FILING A SMALL CLAIMS SUIT

VENUE:

Generally, 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 NOT MAY 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 filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have PROCEDURAL questions. The filing fee is forty six dollars (\$46.00). In addition, there is a fee for serving the defendant which is one hundred dollars (\$100.00) 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 14th 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 secondarily (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 persons seeking to bring action on an assigned claim or a collection agency.

DEFAULT JUDGMENTS:

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 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 at least 45 days, 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 individuals 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 14 days 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 THAT 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 11th 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 30th 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. If property is seized and auction is held, the proceeds of the sale will satisfy the Judgment. 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 YOUR 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 adobe, 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 A 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 an 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 A COMPNY:

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 AN 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:

Susan Moore
Justice of the Peace
Post Office Box 678
Goliad, Texas 77963