

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 \$116.00. 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 or where the transaction occurred.

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:

- **Personally:** Where an individual is responsible to you for damages he may have caused you as an individual.
- **Proprietor or Partnership:** A business that is not incorporated, but does have on file with the County Clerks an assumed name e.g. *John Smith D B A 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 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 a Small Claims a **Small Claim Petition** will be needed and signed by the Plaintiff.

5. After service of citation to the Defendant, the Defendant must give an answer to the Court at or before 10:00 a. m., on Monday next after the expiration of 10 days from the date of service of the citation.

- 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.
- The Defendant can agree to the suit and a Judgment for the Plaintiff will be rendered in favor of the Plaintiff. The clerk will instruct the Defendant to contact the Plaintiff to settle the claim.
- 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. 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.

7. Thirty days after the issuance of a judgment. The Plaintiff can request a Writ of Execution. The fee is \$205.00, if the Defendant resides in Colorado 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. For further information, you may contact the Civil Process Officer in the appropriate county.