

JAMES E POWELL  
Justice of the Peace, Precinct 6  
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## INSTRUCTIONS AND INFORMATION FOR FILING SMALL CLAIM CASES IN JUSTICE COURT

### **\*\*PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION\*\***

The Filing Fee and Service Fee for a Small Claims case is **\$129.00** (Ask clerk for out- of- county fees)

1. The maximum amount of money for which you may sue in Justice Court is limited to \$20,000.
2. You must have a valid physical address (not just a post office box) for the Defendant in order for him/her to be served.
3. In order for any potential judgment you may receive to be valid, it is necessary that, you the Plaintiff, sue the Defendant in his/her/their legal capacity as listed below:
  - a. **Personally** – An individual is responsible to you for damage he may have caused you as an individual. (Ex: John Doe).
  - b. **Proprietor or Partnership** – A business that is not incorporated, but does have on file with the County Clerk an assumed name. (Ex. John Doe D.B.A. Greenhouse Supplies)
  - c. **Corporation** – The business which allegedly caused you damage is incorporated, and therefore it is necessary to know the individual's name of the authorized agent for service from the Secretary of State at 1-800-252-1386. (Ex: Greenhouse Inc. D.B.A. Greenhouse Supplies. Serve: John Doe)
4. 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 appear in this Court or to file a written answer to the suit on or before the fourteenth (14) day after his receipt of the citation. If he fails to do so, you then may become eligible for a default judgment up until the time an answer is filed.
5. If the Defendant answers the suit, a trial date will be set. The Plaintiff and Defendant will be sent notice by mail of the court date. We discourage motions for continuance, however, if it becomes necessary, any request for a continuance must be a written affidavit in writing and timely filed at least three (3) working days prior to the trial date.
6. If you have witnesses to your suit who will not come to court voluntarily you may ask this Court to subpoena those individuals prior to trial. This request should be made as soon as possible allowing at least a week for service of subpoena. There is a fee for service of subpoena (\$75.00).
7. A Small Claims suit does not require hiring an attorney; however, you are free to do so if you wish.
8. **This Court does not collect the judgment for you, nor can the Court 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** (\$5.00 per Judgment) and/or a **Writ of Execution** (\$130.00) to help you in your collection of the judgment. There are other post judgment remedies available, but these are the two most common. An **Abstract** puts a cloud on the title to any real property the Defendant may own in the county where the abstract is filed and abstracts may be filed in more than one county. This can be obtained ten (10) 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 to seize any non-exempt assets belonging to the Defendant. Those assets are then sold, and the proceeds are applied to the judgment.
9. As a Plaintiff, you have the burden of proof to show by the preponderance of the evidence that the Defendant is the cause of your damages, in the capacity which the Defendant was sued. All damages and evidence necessary to meet your burden of proof must be available at the time of trial.
10. **DO NOT ASK TO SPEAK TO THE JUDGE.** The judge cannot listen to any portion of your case and then actually hear the case at trial. Any questions should be directed to the clerk and if there is a problem, this will be presented to the Judge by the clerk. **ANY LEGAL QUESTION MAY NOT BE ANSWERED BY THIS COURT.**
11. It is imperative that you provide us with your daytime phone number and notify us immediately of any changes in your number, address, and /or email.

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

\_\_\_\_\_  
PLAINTIFF

v.

\_\_\_\_\_  
DEFENDANT

§ IN THE JUSTICE COURT

§

§

§

PRECINCT NO. 6

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§

§

MATAGORDA 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 are:

\_\_\_\_\_  
\_\_\_\_\_

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's 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

\_\_\_\_\_  
City                      State                      Zip

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