

SMALL CLAIMS INFORMATION SHEET

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

The Filing Fee and Service Fee for Small Claims is \$121.00 (Ask clerk for out of county fees)

1. The maximum amount of money for which you may sue in Justice Court is limited to \$10,000.
2. You must have a valid physical address (not just a post office box) for the Defendant in order for him 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 in writing and timely filed (at least five (5) working days prior to the trial date or as soon as the need for continuance is known).
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** (\$200.00) 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. If you have any other procedural question, please call and we will try to assist you, although **THIS COURT MAY NOT ANSWER ANY LEGAL QUESTIONS.**
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.

Judge James E. Powell
Justice of the Peace No. 6
22001 FM 457
Sargent, TX 77414
979-245-0358

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§ IN THE JUSTICE COURT
§
§
§ PRECINCT NO. 6
§
§
§ 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

Case Number _____

Plaintiff Vs. _____
Defendant

AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)

<https://scra.dmdc.osd.mil/>

Before me the undersigned notary or clerk of the Justice Court on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury (fine and/or up to one year in jail), stated the following:

My name is _____ I am (check one)

- Plaintiff in the above cause
- Authorized agent for the plaintiff in the above cause

I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

CHECK OR FILL IN AS APPLICABLE

- The defendant is not in the military
- Defendant is on active duty in the U.S. Military
- Defendant has been deployed by the U.S. Military to a foreign country.
- Plaintiff / Agent for Plaintiff are not able to determine whether defendant is with the U.S. Military.
- Plaintiff / Agent for Plaintiff are not able to determine whether defendant who is in the U.S. Military has been deployed to a foreign country
- Defendant has signed, while on active duty, a separate written waiver or a written lease containing a waiver of his or her rights under the U.S. Service-Members Civil Relief Act of 2003.

Signature of Plaintiff / Agent for Plaintiff

Sworn and subscribed before me by _____ on the _____ day of _____, 20____.

Court Clerk or Notary Public