

## Small Claims Suit

The amount of debt or damages for which you may sue in Small Claims Court may not exceed the limit of the court, which is **\$10,000.00**. In all civil suits, the defendant has the right to be sued in the county and precinct in which he resides. There are exceptions to this rule.

It is your burden as a plaintiff to sue the defendant(s) in their proper legal capacity, of which there are typically three. 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 Clerk an assumed name e.g. John Smith d.b.a. Greenhouse Supplies. You may also file against the individual and his business, John Smith ind./dba Greenhouse Supplies. To determine whether or not this person has filed an assumed name, you would contact the County Clerk.

**Corporation:** The business which has allegedly caused you damage is incorporated and therefore it is necessary to know the individual's name who is able to accept service on behalf of the corporation. We also need the individual's address. (The authorized agent for service would be listed with the Secretary of State whose phone number is 1-512-463-5555) e.g. Greenhouse, Inc. Serve: John Smith registered agent. <http://sos.state.tx.us/corp/sosda/index.shtml>

You are strongly urged to discuss your case with an attorney if you are suing a proprietor, partnership, or corporation. You are responsible for suing the correct party in their correct capacity. Nothing within this section should be construed as legal advice. Court costs in the amount of **\$121.00** are due at the time of filing (does not include Constable service fee of **\$75.00** per defendant).

If, as plaintiff, you are in the business of loaning money either primarily (banks, credit unions, savings and loans), or secondarily (credit cards) you are not allowed to file in the Small Claims Court; however, an attorney representing any of the above may file suits on the behalf of the above in the Justice Court. Also, an action in Small Claims Court may not be brought by an assigned claim or collection agency.

Once you have filed the petition stating the facts and circumstances of your suit, a citation will be served to the defendant(s) notifying them of the fact that suit has been filed against them in this court.

The citation will order the defendant to answer this suit on or before the expiration of fifteen days from the receipt of the citation. If defendant(s) fails to do so, you then become eligible for a default judgment up until the time an answer is filed.

If the defendant(s) answers the suit, this court will set your case for Mediation and will notify all parties of the setting by mail. Any request for a continuance must be in proper written form and timely filed. If the case is not settled in Mediation, a trial date will be set and a notice will be mailed to all parties.

Should you receive judgment, the court does not collect the judgment. However, you may request an Abstract of Judgment and/or Writ of Execution to help you in collection of this judgment.

If you have any other procedural questions, please call our Civil Department. Court personnel are strictly prohibited from answering any legal questions. More information about Abstracts and Writs may be found at the law library or the internet site referred to earlier in this section. or by consulting an attorney.

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
**(PLAINTIFF)**

VS

§  
§  
§  
§

JUSTICE OF THE PEACE

PRECINCT FOUR

\_\_\_\_\_  
**(DEFENDANT)**

MATAGORDACOUNTY, TEXAS

**ORIGINAL PETITION SMALL CLAIMS**

**Plaintiff Name:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_ **Address:** \_\_\_\_\_

**Describe the legal nature of Plaintiff:** individual sole proprietorship (d/b/a) partnership corporation  
limited partnership limited liability company

**Defendant Name:** \_\_\_\_\_

**Phone number:** \_\_\_\_\_ **Address:** \_\_\_\_\_

(if known): Date of Birth \_\_\_\_\_ Last 3 Numbers of Driver License \_\_\_\_\_ Last 3 Numbers of Social Security \_\_\_\_\_

**Describe the legal nature of Defendant:**  individual  sole proprietorship (d/b/a)  partnership  
 corporation  limited liability company  limited partnership

**Defendant may be served by serving:** (If an individual state the name of the Defendant. If a sole proprietorship (d/b/a), partnership, limited partnership, corporation, or limited liability company, state the name and title of the person authorized to receive service of process for the Defendant) \_\_\_\_\_

**Defendant may be served at:** address above / other: \_\_\_\_\_

**Complaint:** (State the basis for the claim in plain and concise language, sufficient to give fair notice of the claim and to provide enough information to enable the Defendant to prepare a defense.) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Relief Requested:** Plaintiff seeks damages in the amount of \$ \_\_\_\_\_, and/or return of personal property as described as follows: (be specific): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you wish to give your consent for the answer and any other motions or pleadings to be sent to your email address, please check this box, and provide your valid email address: \_\_\_\_\_

\_\_\_\_\_  
Signature of  Plaintiff  Agent  Attorney

\_\_\_\_\_  
Printed Name of Plaintiff / Agent/Attorney  
Agent/Attorney Address / Phone Number (if different)

\_\_\_\_\_  
Court notices, correspondence, and phone calls to be directed to  Plaintiff  Agent  Attorney



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

\_\_\_\_\_, Plaintiff

In the Justice Court

vs.

Precinct Four, Place One

\_\_\_\_\_ ET AL, Defendant

Matagorda County, Texas

**NON - MILITARY AFFIDAVIT**

STATE OF TEXAS  
COUNTY OF MATAGORDA

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned affiant, who, being by me duly sworn, on oath stated:

"I am the Plaintiff / attorney for plaintiff in the above –entitled and numbered cause. I am capable to making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

\_\_\_\_\_, Defendant, is not in the military.

\_\_\_\_\_, Plaintiff

Signed and sworn to this the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Exp. Comm. \_\_\_\_\_

Or

\_\_\_\_\_  
Court Clerk/Justice of the Peace  
Precinct Four, Place One  
Matagorda County, Texas