



JUDGE CELINA VASQUEZ
JUSTICE OF THE PEACE
BRAZOS COUNTY, PRECINCT 4
300 East 26th Street, Suite 460
Bryan, TX 77803
Office (979) 361-4405 * Fax (979) 361-4502

Instructions and Information for Filing a Small Claims Suit Please Read Carefully Before Completing the Petition

On September 1, 2013, a new set of Civil Rules took effect for Justice of the Peace courts across Texas. A complete set of rules is available on my webpage on the Brazos County website <http://brazoscountytexas.gov/index.aspx?NID=136>. Once on the website, click the link that says "NEW RULES". Small claims cases are governed by the rules listed in Chapters 500~507. If you do not have internet access, we have a copy of these rules in my office.

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**, excluding statutory interests and court costs, but including attorney fees.

Every Civil Suit must include these documents (included in this packet):

- Sworn Petition for a Small Claims Lawsuit
- Service Members Civil Relief Affidavit
- Civil Process Additional Information Sheet
- Certificate of Last Known Address

FREQUENTLY ASKED QUESTIONS:

1. How do I know whether I should file in SMALL CLAIMS?

Most cases filed in J.P. Courts after September 1, 2013 will be in SMALL CLAIMS court. If the matter in controversy is NOT a debt collection case or a LANDLORD AND TENANT issue.

2. Where do I file?

In all cases, the defendant (person being sued) has the right to be sued in the county or precinct where they live. There are some exceptions or optional. If a lawsuit involved a paint job at a house, the suit could be filed where the house is located. If the lawsuit involved an auto accident, it could be filed in the county and precinct where the accident took place. It is your responsibility to file in the correct precinct. There could be additional costs and circumstances if you file in the wrong precinct.

3. Who do I sue?

It is your burden as a plaintiff to sue the defendant in their proper legal capacity, of which there are typically three.

- **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 and dba Greenhouse Supplies. To determine whether or not this person has filed an assumed name, you would contact the County Clerk at the Brazos County Courthouse.
- **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. 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.

4. How much will this cost me?

Effective September 1, 2013, the court cost for filing a civil suit with service by Constable is \$116.00. You may also hire a private process or attempt to have the suit served by certified mail, return receipt requested. The certified mail option often is unsuccessful.

5. What happens after I file?

Once you have filed the petition stating the facts and circumstances of your suit, a citation 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 answer this suit at the end of the 14th day from the receipt of the citation. If he fails to do so, you then become eligible for a default judgment up until the time an answer is filed.

If the defendant answers contesting your suit, a hearing will be set by Judge or jury, or your case may be referred to mediation if the judge deems it proper.

If you have witnesses who will not come to court voluntarily, you may come in at least one week prior to the trial and ask that a subpoena be prepared to secure their presence. A cost is involved.

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. An Abstract of Judgment a relatively inexpensive option you can get once you have a judgment and the time to appeal has passed. The Abstract creates a lien against the party for ten years.

A Writ of Garnishment is also available 30 days after final judgment has been entered. This Garnishment proceeding is a separate suit. You are strongly urged to contact an attorney to file a Writ of Garnishment.

THIS COURT MAY NOT ANSWER ANY LEGAL QUESTIONS

CAUSE NO. _____

Plaintiff § IN THE JUSTICE COURT
VS. § PRECINCT ___ PLACE ___

Defendant(s) § BRAZOS COUNTY, TEXAS

SWORN PETITION FOR A SMALL CLAIMS LAWSUIT

I hereby state that I am filing a Small Claims lawsuit: *A Small Claims case is a lawsuit brought to recover money damages, civil penalties, personal property or other relief allowed by law. The claim can be for no more than \$10,000.00, excluding statutory interest and court costs including attorney fees, if any.*

I, PLAINTIFF: _____ dba under
FIRM: _____ (individually, partnership, or corporation)

Whose address is: _____ (street, city, ZIP).

Phone numbers :(home), _____ (business), _____ (cell) _____;

HEREINAFTER called Plaintiff, being duly sworn, on my oath say that:

DEFENDANT: _____

Whose address is: _____ (street, city, ZIP).

Employed by: _____ (street, city, ZIP)

Phone numbers: (home), _____ (business), _____ (cell) _____.

IS JUSTLY INDEBTED TO THE PLAINTIFF IN THE SUM OF: _____ (\$ _____)

REASON FOR FILING THIS LAWSUIT (State the nature of the claim in concise form including all pertinent dates)

SERVICE OF CITATION: Service is requested on Defendant(s) by personal service at home or work or by alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where Defendant(s) may be served are: _____

ATTORNEY'S FEES: Plaintiff will be or will NOT be seeking applicable attorney's fees. Attorney's name, address, phone & fax numbers are: _____

REQUEST FOR JUDGMENT: Plaintiff prays that Defendant(s) be served with citation and that Plaintiff have judgment against Defendant(s) for: the amount or items above, attorney's fees, court costs, and interest on the above sums at the statutory rate for judgments under Civil Statutes Article 5069-1.05.

I consent for the answer and any other motions or pleadings to be sent to my email address which is: _____

Date signed: _____

DEFENDANT(S) INFORMATION (if known):

Plaintiff's Signature

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Sworn to and subscribed before me this _____ day of _____, 20____.

SERVICE MEMBER'S CIVIL RELIEF ACT

DOCKET NO. _____

CASE NO. _____

AFFIDAVIT
50 USC Sec. 520

Plaintiff being duly sworn on oath deposes* and says that defendant(s) is (are)
(CHECK ONE)

- not in the military
- not on active duty in the military and/or
- not in a foreign country on military service
- on active military duty and/or is subject to the Service Member's Civil Relief Act of 2003
- has waived his/her rights under the Service Member's Civil Relief Act of 2003
- military status is unknown at this time

PLAINTIFF

(Select the applicable title under the signature for the jurat below)

Subscribed and sworn to before me on this the _____ day of _____, 20_____.

NOTARY/CLERK

- Notary Public in and for the State of Texas
- Clerk of the Justice Court

SEAL

***Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year, or both.**

Cause _____

In the Justice Court

Plaintiff

Vs

Precinct Four

Defendant

Brazos County, Texas

Certificate of Last Known Mailing Address

The undersigned, _____, does hereby certify that the last known address of Defendant, _____, is as follows:

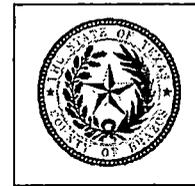
Signature

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

Notary Public



Isaac Butler Jr
Brazos County Constable Pct. 4



Civil Process Additional Information

Cause #

In order to expedite service and for the safety of our Deputies, we ask that you answer the following questions to the best of your ability.

1. Have you witnessed any "abnormal" behavior?

2. Have you known, or known of, the Respondent being violent with anyone?

3. Have you been verbally or physically assaulted by the Respondent?

4. Known of an occasion where the Respondent has, or brandishes a weapon of any kind?
(Please note if the weapon was a firearm, knife, or club or some other weapon.)

5. Does respondent have any dogs known to be aggressive?

6. Are you aware of any mental or emotional issues that the Respondent may have?

7. Are you aware of any police related calls regarding the Respondent?

8. Are there any other issues you think might be important for the Deputies to know?