

## FILING A SMALL CLAIMS SUIT

### VENUE:

Generally, suit should be filed in the county and precinct where one or more of the defendant(s) reside. However, there are many exceptions to this Rule. For further information see "VENUE IN JUSTICE COURT SUITS."

### JURISDICTION:

Jurisdiction (what the Court may render JUDGMENT for) in Small Claims Court is for civil matters in which the amount of controversy is not more than \$10,000.00. A judgment in Small Claims Court SHALL be for MONEY ONLY and for the return of personal property.

AN ACTION IN SMALL CLAIMS COURT NOT MAY BE BROUGHT BY:

- A. An assignee of the claim or other person seeking to bring an action on an assigned claim:
- B. A person primarily engaged in the business of lending money at interest; or
- C. A collection agency or agent.

### FILING SUIT:

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have PROCEDURAL questions. The filing fee is forty one dollars (\$41.00). In addition, there is a fee for serving the defendant which is one hundred dollars (\$100.00) per defendant to be served in Goliad County. If you are filing on a defendant that resided outside of Goliad County, contact this court for service fees.

### CITATION:

A citation is sent to the Constable for service on the defendant in Goliad County. Out of county service is sent to the Sheriff or Constable in the county in which the defendant resides.

### ANSWER:

The defendant in your suit is commanded to answer to the Court, in writing, on the Monday following the 14<sup>th</sup> day after the date the citation was served upon him/her.

### REPRESENTATION:

As an individual, you may represent yourself in a Small Claims Suit. If as Plaintiff, you are in the business of loaning money, either (banks, credit union, savings and loans) or secondarily (credit cards or interest charge accounts), you are not allowed to file suit on behalf of the above in Small Claims Court. Actions in Small Claims Court may not be brought by an assignee of the claim or other persons seeking to bring action on an assigned claim or a collection agency.

### DEFAULT JUDGMENTS:

If the defendant in your suit fails to file a written answer with the Court, only you as Plaintiff will be notified by the Court for an appearance on the Default Docket. You will be asked briefly state the facts of your case and present any written documents you may have to support your case.

**TRIAL BY JUDGE OR JURY:**

If the defendant in your suit files a written answer, there will be at least 45 days, notice of docket setting . (See additional information below for alternative service that could delay service of citation). Notice will be mailed to the Plaintiff and the Defendant stating the date and time to appear in Court. Bring all information to support your claim. If you have any witnesses, you should bring them. If you have a witness to your suit who will not come voluntarily, you may request the Court to subpoena those individuals prior to trial. The fee in Goliad County for filing and serving a subpoena is \$45.00 per subpoena. Allow one week for service. Any party can demand a jury in writing up to 14 days before trial. Requesting party must pay \$22.00 jury fee per juror. ALL MOTIONS FOR CONTINUANCE (Resetting your court date) MUST BE IN WRITING AND RECEIVED NO LATER THAN FIVE (5) WORKING DAYS (weekend and holidays excluded) PRIOR TO YOUR COURT DATE.

**AFTER JUDGMENT:**

**THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU NOR CAN WE FORCE THE DEFENDANT TO PAY.**

If you receive a Judgment and the Defendant does not make a motion for a new trial within five (5) days or appeal the case within ten (10) days after the court date, the following remedies are available:

**ABSTRACT OF JUDGMENT:**

You may obtain an Abstract of Judgment on the 11<sup>th</sup> day after judgment. The fee is \$5.00 for the JP Court to prepare. You should then record the Abstract with the County Clerk's Office in the County where the Defendant resides.

**WRIT OF EXECUTION:**

If you are granted a judgment against the Defendant and if the Defendant does not appeal within ten (10) days after the court date, you may obtain and file a Writ of Execution any time after the 30<sup>th</sup> day from the date of judgment. A Writ of Execution allows a Sheriff or Constable in the State of Texas to try and seize certain non exempt property from the Defendant. If property is seized and auction is held, the proceeds of the sale will satisfy the Judgment. The cost for filing a Writ of Execution varies from County to County.

SHOULD THE DEFENDANT PAY ANY PORTION OF THE AMOUNT OWED AFTER YOU HAVE RECEIVED A JUDGMENT, IT IS NECESSARY FOR YOU TO NOTIFY THE COURT OF THE CREDIT OR NOTIFY THE COURT THAT THE JUDGMENT HAS BEEN SATISFIED IN FULL IF THE DEFENDANT PAYS THE ENTIRE JUDGMENT AMOUNT. IF YOUR ADDRESS CHANGES WITHIN A TEN (10) YEAR PERIOD FOLLOWING THE JUDGMENT, YOU SHOULD NOTIFY THE COURT OF YOUR NEW ADDRESS.

**ADDITIONAL INFORMATION:**

The Defendant in a Small Claims Suit must be served personally by the Constable or Sheriff's Deputy of the County. Sometimes, service is avoided by the Defendant; therefore, an alternative

method of service is necessary. This method is referred to as "alternative service". The Constable or Sheriff's Deputy may request this alternative service which allows him/her to serve anyone over the age of sixteen (16) years of age at the Defendant's usual place of adobe, business or in a method the Judge believes will be reasonably effective to give the Defendant notice of the suit. We will request that you come in and sign the request for alternative service. If your request is approved, the Judge will sign an order and the citation will be returned to the Constable or Sheriff's Deputy for service as mentioned above.

**SUIT ON A CORPORATION:**

It is important that you understand that for any potential Judgment you may receive to be valid, it is necessary for you to sue the Defendant in the proper legal capacity. They are as follows:

If the party you want to sue is a corporation, you must find the name of an officer of the corporation before you begin the suit. The Secretary of State (1-512-463-5555) or the State Comptroller's Office (1-800-252-2555) will give you the information. Follow the other instructions for the remainder of the suit.

**SUIT ON A COMPNY:**

If the party you want to sue is an individual doing business under an assumed name (sole proprietor of the business) or a partnership, you must check with the County Clerk's Office in the county of the business to determine who the owner(s) are. Direct your letter (notice of suit) to the owner(s) of the business. Follow the other instructions for the remainder of the suit.

**INDIVIDUAL:**

Where an individual is personally responsible to you for damages he/she has caused you.

**IF YOU HAVE AN ADDITIONAL PROCEDURAL QUESTIONS PLEASE CONTACT THIS COURT AT (361) 645-3663.**

**LEGAL QUESTIONS WILL NOT BE ANSWERED BY THIS OFFICE.**

**ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:**

Susan Moore  
Justice of the Peace  
Post Office Box 678  
Goliad, Texas 77963

## JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED \_\_\_\_\_

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:	2. Names of parties in case:										
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Name: _____</td> <td style="width: 50%; border: none;">Telephone: _____</td> </tr> <tr> <td style="border: none;">Address: _____</td> <td style="border: none;">Fax: _____</td> </tr> <tr> <td style="border: none;">City/State/Zip: _____</td> <td style="border: none;">State Bar No: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Email: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Signature: _____</td> </tr> </table>	Name: _____	Telephone: _____	Address: _____	Fax: _____	City/State/Zip: _____	State Bar No: _____	Email: _____		Signature: _____		Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ [Attach additional page as necessary to list all parties]
Name: _____	Telephone: _____										
Address: _____	Fax: _____										
City/State/Zip: _____	State Bar No: _____										
Email: _____											
Signature: _____											
3. Indicate case type, or identify the most important issue in the case (select only 1):											
<input type="checkbox"/> <b>Debt Claim:</b> A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> <b>Eviction:</b> An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.										
<input type="checkbox"/> <b>Repair and Remedy:</b> A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> <b>Small Claims:</b> A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.										

Judge Susan Moore  
 Justice of the Peace, Pct. One Pl. One  
 PO Box 678  
 329 W. Franklin St  
 Goliad, Texas 77963

Chief Justice Court Clerk  
 Ermalinda Rodriguez  
 erodriguez@goliadcountytexas.gov  
 Phone: 361-645-3663  
 Fax: 361-645-8067

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

\_\_\_\_\_  
PLAINTIFF

v.

\_\_\_\_\_  
DEFENDANT

§ IN THE JUSTICE COURT

§

§

§ PRECINCT NO. ONE

§

§

§ GOLIAD 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:

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\_\_\_\_\_  
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

## THE SERVICEMEMBERS CIVIL RELIEF ACT

The Servicemembers Civil Relief Act ("SCRA") is a federal law which imposes certain procedural requirements in civil cases to protect members of the armed services and their families. These requirements apply to any court of any state whether or not the court is a court of record.

In any case in which the defendant does not make an appearance, before entering a judgment for the plaintiff the court "shall require the plaintiff to file with the court an affidavit:

- (A) stating whether or not the defendant is in military service and *showing necessary facts to support the affidavit*; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that *the plaintiff is unable to determine whether or not the defendant is in military service*.

If the plaintiff fails to file an affidavit under the SCRA in an eviction case, the court may not grant a default judgment. Likewise, if the plaintiff files an affidavit stating that the defendant is not in military service, but fails to "show necessary facts to support the affidavit," the court may not grant a default judgment.

*(Typically, plaintiffs will attach a printout from the Department of Defense website (<https://www.dmdc.osd.mil/scra/owa/home>) but they are not required to use that form as long as they show "necessary facts" to support the affidavit. For example, in one case a plaintiff attached an affidavit from the defendant's mother stating that he was not in military service.)*

A source that can be used to determine the Military Status of a Defendant, is the following *Service Member's Civil Relief Act* website:  
<https://www.dmdc.osd.mil/scra/owa/home>

*Or, if you are unable to use this website you may request Active Duty Verifications by mail:*

You must provide a SSN and a last name. The birth date is optional, but suggested when available. The SSN must match for the DMDC to identify an individual as on Active Duty.

Military verification requests by mail can be sent with a self-addressed stamped envelope to the following address.

**Defense Manpower Data Center Attn: Military Verification 1600 Wilson Blvd., Suite 400 Arlington, VA 22209-2593**

*Please note Defense Manpower will not process your request without a self-addressed stamped envelope.*

**NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA**



Cause Number: \_\_\_\_\_  
*(The Clerk's office will fill in the Cause Number when you file this form)*

Plaintiff: \_\_\_\_\_  
*(Print first and last name of the person filing the lawsuit.)*

And

In the (check one):  
Court \_\_\_\_\_  
Number \_\_\_\_\_  
 District Court  
 County Court / County Court at Law  
 Justice Court

Defendant: \_\_\_\_\_  
*(Print first and last name of the person being sued.)*

County \_\_\_\_\_ Texas

**Statement of Inability to Afford Payment of Court Costs or an Appeal Bond**

**1. Your Information**

My full legal name is: \_\_\_\_\_ My date of birth is: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
*First Middle Last Month/Day/Year*

My address is: (Home) \_\_\_\_\_  
(Mailing) \_\_\_\_\_

My phone number: \_\_\_\_\_ My email: \_\_\_\_\_

About my dependents: "The people who depend on me financially are listed below.

Name	Age	Relationship to Me
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____

**2. Are you represented by Legal Aid?**

I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.

-or-

I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

or-

I am not represented by legal aid. I did not apply for representation by legal aid.

**3. Do you receive public benefits?**

I do not receive needs-based public benefits. - or -

I receive these public benefits/government entitlements that are based on indigency:  
*(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)*

- Food stamps/SNAP       TANF     Medicaid     CHIP     SSI     WIC     AABD
- Public Housing or Section 8 Housing     Low-Income Energy Assistance     Emergency Assistance
- Telephone Lifeline       Community Care via DADS       LIS in Medicare ("Extra Help")
- Needs-based VA Pension     Child Care Assistance under Child Care and Development Block Grant
- County Assistance, County Health Care, or General Assistance (GA)
- Other: \_\_\_\_\_



**4. What is your monthly income and income sources?**

"I get this monthly income:

\$ \_\_\_\_\_ in monthly wages. I work as a \_\_\_\_\_ for \_\_\_\_\_  
Your job title Your employer

\$ \_\_\_\_\_ in monthly unemployment. I have been unemployed since (date) \_\_\_\_\_

\$ \_\_\_\_\_ in public benefits per month.

\$ \_\_\_\_\_ from other people in my household each month: *(List only if other members contribute to your household income.)*

- \$ \_\_\_\_\_ from  Retirement/Pension  Tips, bonuses  Disability  Worker's Comp  
 Social Security  Military Housing  Dividends, interest, royalties  
 Child/spousal support  
 My spouse's income or income from another member of my household *(If available)*

\$ \_\_\_\_\_ from other jobs/sources of income. *(Describe)* \_\_\_\_\_

\$ \_\_\_\_\_ is my **total monthly** income.

**5. What is the value of your property?**

"My property includes:	Value*
Cash	\$ _____
Bank accounts, other financial assets	\$ _____
_____	\$ _____
_____	\$ _____
Vehicles (cars, boats) <i>(make and year)</i>	\$ _____
_____	\$ _____
_____	\$ _____
Other property (like jewelry, stocks, land, another house, etc.)	\$ _____
_____	\$ _____
_____	\$ _____
<b>Total value of property</b>	<b>→ \$ _____</b>

**6. What are your monthly expenses?**

"My monthly expenses are:	Amount
Rent/house payments/maintenance	\$ _____
Food and household supplies	\$ _____
Utilities and telephone	\$ _____
Clothing and laundry	\$ _____
Medical and dental expenses	\$ _____
Insurance (life, health, auto, etc.)	\$ _____
School and child care	\$ _____
Transportation, auto repair, gas	\$ _____
Child / spousal support	\$ _____
Wages withheld by court order	\$ _____
Debt payments paid to: <i>(List)</i>	\$ _____
_____	\$ _____
_____	\$ _____
<b>Total Monthly Expenses</b>	<b>→ \$ _____</b>

\*The value is the amount the item would sell for less the amount you still owe on it, if anything.

**7. Are there debts or other facts explaining your financial situation?**

"My debts include: *(List debt and amount owed)* \_\_\_\_\_

*(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page.*

**8. Declaration**

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

- I cannot afford to pay court costs.  
 I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is \_\_\_\_\_ My date of birth is : \_\_\_\_ / \_\_\_\_ / \_\_\_\_.

My address is \_\_\_\_\_  
Street City State Zip Code Country

\_\_\_\_\_ signed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ in \_\_\_\_\_ County, \_\_\_\_\_  
Signature Month/Day/Year county name State