

FILING A SMALL CLAIMS SUIT

VENUE:

Generally, suits should be filed in the county and precinct where one or more of the defendants reside. However, there are many exceptions to this rule.

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 IS for MONEY ONLY (not for the return of personal property, etc.).

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

1. An assignee of the claim or other person seeking to bring an action on an assigned claim;
2. A person primarily engaged in the business of lending money at interest; or
3. 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 \$36.00. In addition, there is a fee for serving the defendant which is \$55.00 per defendant to be served in Galveston County. for a total of \$91.00. If you are filing on a defendant that resides outside of Galveston County, contact this office for service fee.

CITATION:

A citation is sent to the Constable for service on the defendant in Galveston County. Out of county service is sent to the Sheriff or Constable, depending on the information you provide to the Court.

ANSWER:

The defendant in your suit is commanded to answer to the Court, in writing, on the Monday following the expiration of 10 days from the date the citation was served upon him.

REPRESENTATION:

As an individual, you must represent yourself in a Small Claims Suit. If as plaintiff, you are in the business of loaning money, either primarily (banks, credit union, savings and loans) or secondarily (credit cards or interest charge accounts), you are not allowed to file in Small Claims Court; however, an attorney representing any of the above may file suits on behalf of the above in JUSTICE COURT. Action 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 to briefly state the facts of your case and present any written documents you may have to support your case.

ADDITIONAL INFORMATION:

The defendant in a Small Claims Suit must be served personally by the Constable or Sheriff of the County. Sometimes, service is necessary. This method is referred to as "alternate service". The Constable or Sheriff may request this alternate service which allows him to serve anyone over the age of 16 at the defendant's usual place of abode, 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 an order, and the citation will be returned to the Constable or Sheriff 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 (1-800-252-2555) will give you the information. Ask for the name and address of the **REGISTERED AGENT, PRESIDENT, or VICE-PRESIDENT** of the corporation. When you file your suit, you will be filing against the corporation and serving the citation on one of the above mentioned officers of the corporation. It is necessary to know the individual's name that is able to accept service on behalf of the corporation. **EXAMPLE: GREENHOUSE INC., SERVE JOHN DOE.** It is also possible for an incorporated entity to have an assumed name, i.e.; **GREENHOUSE, INC. dba GREENHOUSE SUPPLIES.** Follow other instructions for the remainder of the suit.

SUIT ON A COMPANY:

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 or owners are. Direct your letter (notice of suit) to the owner(s) of the business. **EXAMPLE: JOHN DOE dba GREENHOUSE SUPPLIES.**

INDIVIDUAL:

Where an individual is personally responsible to you for damages he may have caused you.

IF YOU HAVE ANY ADDITIONAL PROCEDURAL QUESTIONS, PLEASE
CONTACT THIS COURT AT (281) 316-8817.

LEGAL QUESTIONS CAN NOT BE ANSWERED BY THIS OFFICE.

ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:

JUDGE MARK A. FOSTER
4500 10TH STREET
P.O. DRAWER 8327
BACLIFF, TEXAS 77518



JUDGE MARK FOSTER
JUSTICE OF THE PEACE
PRECINCT 7
GALVESTON COUNTY

4500 10TH STREET
PO BOX 8327
BACLIFF, TEXAS 77518
(281) 316-8817

SMALL CLAIMS COURT

CAUSE NO. _____

Plaintiff(s) _____

Mailing Address _____

Home Phone Number _____ / Cell No. _____

Being duly sworn, on oath, deposes and says that:

Defendant _____

Residence Physical Address _____

Employment Physical Address (if known) _____

Name of Individual to be Served _____

Is/are justly indebted to Plaintiff in the sum of \$ _____ for:
(state the nature of the claim in concise form including all pertinent dates, locations, etc.)

() there are no counterclaims existing in favor of the Defendant and against the Plaintiff.

() yes there are counterclaims existing in favor of the Defendant and against the Plaintiff.

Plaintiff

Plaintiff

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

Court Clerk

Mark A. Foster, JP Pct 7