

**INSTRUCTIONS AND INFORMATION REGARDING FILING A
SMALL CLAIM OR A DEBT CLAIM SUIT**

PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION

NO CHECKS ARE ACCEPTED FOR THE FILING FEE – CASH OR MONEY ORDER ONLY

1. The amount of money which may be sued for in a **Small Claims** or **Debt Claim Case** is limited to damages that do not exceed **\$10,000.00.** (effective Jan. 1, 2008)
2. 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.
3. It is your burden as Plaintiff - and 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 their proper legal capacity, of which there are typically three. They are as follows:
 - a. Personally: Where an individual is responsible to you for damage he may have caused you as an individual.
 - b. 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 dba Greenhouse Supplies).
 - c. 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. (e.g. Greenhouse, Inc., Serve: John Doe).
**(The authorized agent for service would be listed with the Secretary of State whose phone number is (512) 463-5555) or log on to: <http://www.sos.state.tx.us/>
4. If, as Plaintiff, you are in the business of loaning money, primarily (banks, credit unions, savings & loans), 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 Debt Claim Court or an individual may file. Also, an action in Small Claims court may not be brought by an assignee of claim or other person seeking to bring an action on an assigned claim; or a collection agency.
5. When you have completed the petition *stating the facts and circumstances of your suit*, you must file the **Petition, Military Affidavit, Certificate of Last Known Address and Case Information Sheet.** You can go to: <https://www.dmdc.osd.mil/appj/scra/scraHome> to find the form for the Military Affidavit and print out the information. 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 to answer to the suit by the 14th day from his receipt of the citation. **THIS OFFICE WILL NOTIFY YOU OF YOUR COURT DATE.**

**IT IS IMPERATIVE THAT YOU PROVIDE US WITH YOUR DAY TIME PHONE NUMBER.
PLEASE NOTIFY US IMMEDIATELY OF ANY CHANGES IN YOUR PHONE NUMBER OR
ADDRESS.**

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. Allow at least a week for service of the subpoena. There is a fee for issuing subpoenas (see fee schedule). Notarized statements from individuals are of very little value. Personal appearance and testimony are much more beneficial.

7. This type of suit does not warrant 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 we 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 and/or a Writ of Execution to help you in your collection of this judgment.
 - a. Abstract of Judgment: puts a lien on any real property the Defendant may own in a particular county where the Abstract is recorded. This can be obtained ten (10) days after the judgment has been signed.
 - b. Writ of Execution: may be obtained thirty (30) days after the judgment has been signed. This document authorizes the Sheriff or Constable to seize any *non-exempt* property belonging to the Defendant. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

FEE SCHEDULE FOR SMALL CLAIMS AND DEBT CLAIMS:

DESCRIPTION	J.P. FEES	CONSTABLE FEES	TOTAL
FILING FEE (IN-COUNTY DEFENDANTS) SMALL CLAIMS & DEBT CLAIM COURT CASES	\$46.00	\$95.00	\$141.00
FILING FEE (OUT-OF-COUNTY DEFENDANT)	\$46.00	You must find out from the county where the defendant resides who will serve your papers and how much their fee will be.	
ABSTRACT OF JUDGMENT	\$ 5.00	-----	\$ 5.00
WRIT OF EXECUTION	\$ 5.00	\$250.00	\$255.00
CIVIL SUBPOENA	-----	\$ 95.00	\$95.00