

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

**PLEASE READ CAREFULLY**

**FILING FEE- EXACT CASH OR MONEY ORDER/CASHIER'S CHECK.  
NO PERSONAL CHECKS OR CREDIT CARDS ACCEPTED**

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 Plaintiff(s) has the right to sue the Defendant(s) in the county and precinct in which the Defendant(s) resides. Exceptions to the rule may apply.
3. It is the Plaintiff's burden that for any potential judgment that may be received to be valid, the Plaintiff must sue the Defendant(s) in their proper legal capacity. Of this, there are typically three, as follows:
  - a. Personally: Where an individual is responsible to the Plaintiff for damage the individual may have caused the Plaintiff 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 the Plaintiff 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, contact number is (512) 463-5555\*\*\* Website: <http://www.sos.state.tx.us/>*
4. If Plaintiff(s) is in the business of loaning money, primarily (banks, credit unions, savings & loans), Plaintiff is 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. Following documents are needed to complete the Small Claims/Debt Claim process:
  - Information Sheet- Plaintiff must keep the Court updated on all contact information.
  - Petition (*stating facts and circumstances of Plaintiff's suit*) **<Two Pages>**
  - Certificate of Last Known Address

The Defendant will be served a Citation, along with a copy of Plaintiff's Petition notifying the Defendant that a suit has been filed against them in the respected Court.

The Citation will order the Defendant to appear in Court to answer to the suit by the 14<sup>th</sup> day from the receipt of the Citation.

**THE PLAINTIFF WILL BE NOTIFIED BY MAIL OR E-MAIL AS INDICATED  
OF THE SCHEDULED COURT DATE.**

6. If Plaintiff(s) chooses to introduce witnesses to the suit, however, said witness(s) will not appear in court voluntarily, the Plaintiff(s) may ask of the Court to subpoena those individuals prior to trial. Allow minimum one week for service of the subpoena. Serving Fee(s) applied (see fee schedule below). Even though the Court will not object to notarized statements from individuals, personal appearance and testimony may be more beneficial to the suit.
7. Small Claim suits typically do not warrant hiring of an attorney; however, having an attorney represent a Plaintiff or Defendant is acceptable.
8. Suits may be dismissed in Open Court or by written *Motion for Dismissal*. If the case is settled prior to the Hearing date and an agreement has been established between said Plaintiff(s) and Defendant(s), notice of such may be submitted to the Court prior to the Hearing date.  
Note- agreed *Motion for Dismissal* must be signed by both parties of the suit.
9. ***If a Judgment is rendered, the Court does NOT collect said judgment, nor does it force it upon the parties to pay the judgment.*** If in the event the party the judgment filed against fails to pay in a reasonable amount of time, the receiving party may file the following documents in Court: an Abstract of Judgment and/or a Writ of Execution.
  - 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(s). Those assets are then auctioned at a public sale and the proceeds are applied to the judgment. Additional instructions provided at the time of filing.*

### **FEE SCHEDULE FOR SMALL CLAIMS AND DEBT CLAIMS:**

<b>DESCRIPTION</b>	<b>J.P. FEES</b>	<b>CONSTABLE FEES</b>	<b>TOTAL</b>
FILING FEE (IN-COUNTY DEFENDANTS) SMALL CLAIMS & DEBT CLAIM COURT CASES	\$46.00	\$95.00	<b>\$141.00</b>
FILING FEE (OUT-OF-COUNTY DEFENDANT)	\$46.00	Plaintiff must find out from the county where the defendant resides who will serve the papers and how much the fee will be.	
ABSTRACT OF JUDGMENT	\$ 5.00	-----	<b>\$ 5.00</b>
WRIT OF EXECUTION	\$ 5.00	\$250.00	<b>\$255.00</b>
CIVIL SUBPOENA	\$ 5.00	\$ 95.00	<b>\$100.00</b>