

FILING A SMALL CLAIMS/DEBT CLAIMS SUIT

JURISDICTION:

Small Claims Cases:

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 \$20,000.00, excluding statutory interest and court costs but including attorney fees, if any. Small Claims cases are governed by Rules 500-507 and 509 of Part V of the Rules of Civil Procedure.

Debt Claim Cases:

A debt claims 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 \$20,000.00, excluding statutory interest and court costs but including attorney fees, if any. Debt Claims cases are governed by Rules 500-507 and 509 of Part V of the Rules of Civil Procedure.

VENUE:

General Rule. Generally, a defendant in a small claims case or a debt claim case is entitled to be sued in one of the following venues.

- The county and precinct where the defendant resides;
 - The county and precinct where the incident, or the majority of the incidents, that gave rise to the claim occurred
- The county and precinct where the contract or agreement, if any, that gave rise to the claim was to be performed; or
- The county and precinct where the property is located, in a suit to recover personal property.

FILING SUIT:

The responsibility for filling out your petition and civil case information sheet rests in you. The filing fee of fifty four dollars (\$54.00) made payable to the 'Justice Court' and the service fee is one hundred dollars (\$100.00) per defendant made payable to 'Hill County Constable' to be served in Hill County. If the defendant(s) resides outside of Hill County, contact the county in which the defendant(s) resides for service fees of the other counties.

CITATION:

The citation is sent to the Hill County Constable for Service. Out of County Service is sent to the Sheriff or Constable of the county in which the defendant(s) reside or any manner authorized for service of citation in district, county or justice court. You as Plaintiff are responsible for providing a correct address for service.

DISCOVERY:

Pretrial Discovery. Pretrial discovery is limited to that which the judge considers reasonable and necessary. Any request for pretrial discovery must be presented to the court for approval by written motion. The motion must be served on the responding party. The discovery request must not be served on the responding party unless the judge issues a signed order approving the request. Failure to comply with a discovery order can result in sanctions.

REPRESENTATION:

You as an individual may represent yourself in Justice Court or you may have an attorney represent you. The Rules of Evidence do not apply in Justice Court.

ANSWER:

The defendant in the suit is commanded to answer the Court, in writing, on the fourteenth (14th) day from the date the citation is served upon him/her.

TRIAL BY JUDGE OR JURY:

If the defendant in your suit files a written answer, the court will set a trial date approximately six to eight weeks after service. Notice will be mailed to the Plaintiff and Defendant stating the date and time to appear.

If the defendant in your suit fails to file a written answer, a plaintiff who seeks a default judgment against a defendant must request a hearing, in writing. The purpose of this hearing is for you to prove up your damages in the suit.

Any party is entitled to a trial by jury. A written demand for a jury must be filed no later than 14 days before the case is set for trial. A party demanding a jury must pay a fee of \$22.00. If the demand is not timely filed, the right to a jury trial is waived.

AFTER JUDGMENT:**APPEAL:**

Either party may appeal the decision of the Justice Court to the County court by filing a written notice of appeal with the Justice Court within 21 days after the date the judge signs the judgment.

THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU.

If you receive a judgment and the defendant does not make a motion for a new trial within 14 day or appeal the case within 21 days after the judgment is signed, the following remedies are available;

ABSTRACT OF JUDGMENT:

The fee is \$5.00 for the JP Court to prepare. You should then record the Abstract Judgment in the County where the defendant resides.

WRIT OF EXECUTION

If you are granted a judgment against the defendant AND the defendant does not appeal within 21 days, you may request a Writ of Execution any time after the 30th day after the judgment is signed. A Writ of Execution allows a Sheriff or Constable in the State of Texas to seize nonexempt property from the defendant in order to satisfy the judgment.

The cost of filing a Writ of Execution is \$5.00 made payable to the 'Justice Court' for filing and \$200.00 made payable to the 'Hill County Constable' service in Hill County.

You may have other remedies available, but they are more complicated and are not covered here. Please consult an attorney for any other remedies you may have to collect your judgment.

If your address changes within a 10-year period following the judgment, it is your responsibility to notify the court of your new address.

LEGAL QUESTION WILL NOT BE ANSWERED BY THIS OFFICE.

JUSTICE COURT CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____

Styled: _____

(ex: 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 replaced 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 case:
Name: _____ Telephone: _____	Plaintiff(s): _____
Address: _____ Fax: _____	
City/State/Zip: _____ State Bar Number: _____	Defendant(s): _____
Email: _____	
Signature: _____	(Attach additional page as necessary to list all parties)

3. Indicate case type, or identify the most important issue in the case (select only 1):	
☐ Debt Claim: 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, \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	☐ Eviction: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant, and a claim for rent may be joined with an eviction case if the amount rent due and unpaid is not more than \$20,000, excluding statutory interest and court costs.
☐ Repair and Remedy: 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	☐ Small Claims: 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§
§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT NO. _____

§

_____ 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: _____

Plaintiff's Printed Name

Signature of Plaintiff
or Plaintiffs 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 Plaintiffs Attorney

City

State

Zip

Phone & Fax No. of Plaintiff
or Plaintiffs Attorney

MILITARY STATUS AFFIDAVIT

To determine if a person is in the military service, you may access the Defense Department's website at <https://www.drndc.osd.mil/scra/owa/home>.

Cause no. _____

----- (Plaintiff)	X	In the Justice Court
vs.		
	X	Precinct Two
----- (Defendant)		
	X	Hill County, Texas

BEFORE ME, the undersigned authority, on this day personally appeared _____
who under penalty of perjury, stated that the following facts are true:

I am the ☐ Plaintiff ☐ attorney of record for the Plaintiff in the proceeding.

☐ _____, Defendant **is not** in the military service.
☐ _____, Defendant **is** in the military service.

I know this because:

☐ I am unable to determine whether or not the Defendant in military service.

Plaintiff

Attorney of Record for Plaintiff

SWORN AND SUBSCRIBED BEFORE ME on _____

(seal)

NOTARY PUBLIC, State of Texas or Court Clerk

CERTIFICATE OF LAST KNOWN ADDRESS

The undersigned certifies that the last known address of the Defendant against whom judgment is taken in this proceeding is:

Defendant's Name: _____

Defendant's Address: _____

Plaintiff

Attorney of Record for Plaintiff

This document is required to be filed when judgment is taken by default so that the Court may notify the defendant of the entry of the default judgment.

The Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq, passed December 19, 2003, requires the plaintiff in any civil proceeding in which the defendant does not make an appearance to file with the court an affidavit (A) stating plaintiff whether or not the defendant is in military service and showing necessary facts to support the affidavit; (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. PENALTY FOR MAKING OR USING A FALSE AFFIDAVIT: A person who makes or uses a military status affidavit, or statement, declaration, verification, or certificate, 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.

Cost for an attorney ad litem may be assessed against the plaintiff as costs of court unless otherwise ordered by the court.

Defendant's Information:

Name:		DOB:		Sex/ Race:		Phone#:	
Height:	Weight:		Hair:	Eyes:	Address and Phone Number		

Defendant's Work Information:

Place of Employment:	Work Phone:
Work Address:	

Defendant's Vehicle Information:

License Plate #	Make:	Color:	Year:
License Plate #	Make:	Color:	Year:



Honorable Shane Brassell

Justice of the Peace, Pct. 2
IN. Waco St./P.O. Box 316
Hillsboro, TX. 76645
Phone: (254)582-4025, Fax (254)582-4005
www.jp2hillcounty.com

TO FILE A CASE WITH SERVICE ON DEFENDANT OUT OF COUNTY

1. LOCATE THE COUNTY THE DEFENDANT WILL BE SERVED.
2. CONTACT THE CONSTABLE FOR THAT COUNT AND GIVE THEM THE DEFENDANT'S ADDRESS. THEY WILL BE ABLE TO TELL YOU THE CONSTABLE'S OFFICE RESPONSIBLE FOR SERVING THE CITATION.
 - A. FIND OUT THE CONSTABLE'S NAME AND ADDRESS FOR THE COURT TO MAIL THE CITATION TO.
 - B. FIND OUT HOW MUCH THE CONSTABLE WILL CHARGE FOR SERVICE ON YOUR DEFENDANT.

*****MAKE SURE THAT THEY ARE AWARE YOU ARE FILING CASE IN HILL COUNTY JP COURT*****
 - C. FIND OUT IF YOU NEED TO GIVE THEM A MONEY ORDER OR A PERSONAL CHECK.
 - D. USE THE BACK OF THIS FORM FOR YOUR INFORMATION.
3. YOU CAN RETURN TO THE JUSTICE COURT WITH THE ABOVE INFORMATION AND FILE YOUR COMPLETED PETITION. YOU WILL NEED TO GIVE THE COURT A SEPARATE PAYMENT FOR THE JP FEE WHICH WILL BE \$54.00. THEREFORE, YOU WILL BE BRINGING 2 SEPARATE PAYMENTS; JP FEE (CHECK, MONEY ORDER, CASHIER'S CHECK, AND CREDIT CARD WILL BE ACCEPTED) AND THE CONSTABLE'S FEE **(CHECK OR MONEY ORDER ONLY)**. WE WILL SEND YOUR CHECK WITH THE CITATION TO THE ADDRESS YOU PROVIDE FOR THE OUT OF COUNTY CONSTABLE.

*****SPECIAL NOTE*****

SOME COUNTIES MAY BE VERY SMALL OR NOT HAVE A CONSTABLE. THEREFORE, YOU WILL NEED TO CONTACT THE COUNTY SHERIFF'S DEPARTMENT- CIVIL DIVISION FOR INSTRUCTIONS.

IT IS IMPORTANT THAT YOU GET THE CORRECT INFORMATION. INCORRECT INFORMATION MAY DELAY THE PROCESS OF YOUR CASE.

CASE NO. _____

DEFENDANT NAME: _____

INSTRUCTIONS IF YOUR DEFENDANT IS LOCATED OUT OF HILL COUNTY

IF YOU HAVE MULTIPLE DEFENDANTS, A COPY OF THIS FORM IS TO BE SUBMITTED FOR EACH

IF THE DEFENDANT UPON WHOM YOU ARE FILING IS TO BE SERVED OUT OF HILL COUNTY, IT IS THE PLAINTIFF'S RESPONSIBILITY TO PROVIDE THE COURT THE FOLLOWING INFORMATION;

1. THE NAME OF THE CONSTABLE, SHERIFF OR OTHER AGENCY THAT WILL BE SERVING THE CITATION.

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2. THE ADDRESS AND PHONE NUMBER OF THE CONSTABLE, SHERIFF, OR OTHER AGENCY TO SEND THE CITATION FOR SERVICE;

3. THE SERVICE FEE THAT THE ABOVE CONSTABLE, SHERIFF, OR OTHER AGENCY REQUIRES TO SERVE A SMALL CLAIMS OR DEBT CLAIM CITATION. **TIDIS PAYMENT MUST BE A MONEY ORDER OR CASHIER'S CHECK AND MADE PAYABLE AS INSTRUCTED BY SAID AGENCY. CASH WILL NOT BE ACCEPTED FOR OUT OF COUNTY SERVICE FEES.**

PLAINTIFF'S SIGNATURE. _____

DATE _____

• *IF YOU HAVE ANY QUESTIONS REGARDING THE ABOVE, PLEASE CONTACT THE JUSTICE COURT PCT. 2 OFFICE AT 254-582-4025. **