



**KATHERINE K. HANNA
JUSTICE OF THE PEACE, PCT. #3
BASTROP COUNTY, TEXAS**

THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO **SMALL CLAIM SUITS**. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATIONS SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER OR THE ADVICE OF YOUR ATTORNEY.

SMALL CLAIMS SUIT INFORMATION

VENUE: Generally, suit should be filed in the county and precinct where one or more of the defendants 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 in controversy is not more than \$10,000.00.

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. The Court Clerk will assist you if you have **PROCEDURAL** questions. **The cost for filing a suit is \$51.00 (MONEY ORDER OR CASHIER’S CHECK ONLY.)**

CITATION: A citation is sent to the Constable for service on the defendant in Bastrop County. Out of county service is sent to the Sheriff or Constable of the county in which the defendant lives. **The cost for service in Bastrop County is \$75.00 (MONEY ORDER OR CASHIER’S CHECK ONLY.)**
For citations going out-of-county check with the Court Clerk

ANSWER: The defendant in your suit is commanded to answer to the Court, in writing, by the 14th day from the date the citation was served upon him/her.

REPRESENTATION: As an individual, you may represent yourself in a Small Claims Suit.

MEDIATION: You may be referred to mediation. This is used to settle the matter prior to being heard before the court.

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. If a Default Judgment is rendered in your favor, then you **shall** file a Non-Military Affidavit before the Judgment can be signed.

TRIAL BY JUDGE OR JURY: If the defendant in your suit files a written answer, the court date should be at least 45 days after service. Notice will be mailed to you and to the defendant stating the date and time to appear in Court. Bring all information you need to support your claim. If you have witnesses, you should bring them. If you have witnesses to your suit who will not come to court voluntarily, you may ask the Court to subpoena those individuals prior to trial. **There is a \$75.00 service fee for a subpoena.** Allow at least a week for service of the subpoena.

CONTINUANCE: We discourage motions for continuance. However, ANY REQUESTS FOR A CONTINUANCE MUST BE IN PROPER FORM AND TIMELY FILED.

AFTER JUDGMENT: THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT. If you receive a judgment against the defendant, and if the defendant does not make a motion for new trial within 14 days or appeal the case within 21 days after the judgment has been signed, your remedies to collect the judgment are as follows:

ABSTRACT OF JUDGMENT: You may obtain an Abstract of Judgment on the 22nd day after judgment. You should then take the Abstract to the County Clerk's office in the County where the defendant lives or has real property. The purpose of filing an Abstract is to put a lien against REAL PROPERTY in the defendant's name. If the defendant sells any real property within 10 years from the date of the judgment, the amount of the judgment must be paid with interest. **The fee for obtaining an Abstract of Judgment is \$5.00 (money order or cashier's check).**

WRIT OF EXECUTION: If you are granted a judgment against the defendant and if the defendant does not appeal within 21 days after the judgment is signed, you may obtain and file a Writ of Execution any time after the 22nd 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, an auction is held and the proceeds from the sale satisfy the judgment. **The cost for filing for a Writ is \$5.00. The cost for service for a Writ is \$250.00 in Bastrop 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 TO THE CREDIT OR NOTIFY THE COURT THAT THE JUDGMENT HAS BEEN SATISFIED IN FULL, IF THE DEFENDANT PAY THE ENTIRE JUDGMENT AMOUNT. IF YOUR ADDRESS CHANGES WITHIN THE 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 of the County. Sometimes, the defendant avoids service; therefore, an alternate method of service is necessary. This method is referred to as alternate service.

NOTE: DO NOT ASK TO SPEAK TO THE JUDGE. THE JUDGE CANNOT LISTEN TO ANY PORTION OF YOUR CASE AND THEN ACTUALLY HEAR THE CASE UPON TRIAL.

LEGAL QUESTIONS WILL NOT BE ANSWERED BY THE COURT. CONSULT AN ATTORNEY.

**ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:
JUDGE KATHERINE K. HANNA
JUSTICE OF THE PEACE, PCT. #3
5785 FM 535
CEDAR CREEK, TEXAS 78612
512-332-7288**

CIVIL FILING & SERVICE FEES

FILING FEE:	SMALL CLAIMS	\$ 51.00
	DEBT CLAIM	\$ 51.00
	EVICTIONS	\$ 51.00
	ABSTRACTS	\$ 5.00
	WRIT OF EXECUTION	\$ 5.00
	WRIT OF POSSESSION	\$ 5.00
	WRIT OF GARNISHMENT	\$ 51.00

SERVICE FEE:	SMALL CLAIMS	\$ 75.00
	DEBT CLAIM	\$ 75.00
	EVICTIONS	\$ 75.00
	WRIT OF EXECUTION	\$250.00
	WRIT OF POSSESSION	\$250.00

FOR SERVICE OUT OF THE COUNTY-CHECK WITH COURT CLERK

THE FILING AND SERVICE FEE'S NEED TO BE IN TWO SEPARATE MONEY ORDER OR CASHIER'S CHECKS. NO PERSONAL CHECKS OR CASH!

CASE NO. _____

IN THE JUSTICE COURT
PRECINCT _____
BASTROP COUNTY, TEXAS

PLAINTIFF
VS.

DEFENDANT(S)

PETITION: SMALL CLAIMS CASE

Defendant(s) contact info: _____

COMPLAINT: The basis for the claim which entitles the plaintiff to seek relief against the defendant is:

RELIEF: Plaintiff seeks damages in the amount of \$_____, and/or 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 defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Address where the defendant(s) may be served is:

_____.

If you wish to give your consent for the answer and any other motions or pleadings to be sent to your email address, please check this box, and provide your valid email address: _____.

Petitioner's Printed Name

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

DATE OF BIRTH: _____

Address of Plaintiff's Attorney, if any, or Plaintiff if none

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

City State Zip

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Phone & Fax No. of Plaintiff's Attorney, if any, or Plaintiff if none

Sworn to and subscribed before me this _____ day of _____, 20_____.

CLERK OF THE JUSTICE COURT OR NOTARY

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):*
_____ District Court
Court _____ County Court / County Court at Law
Number _____ Justice Court

Defendant: _____ Texas
(Print first and last name of the person being sued.) _____
County

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."

<i>Name</i>	<i>Age</i>	<i>Relationship to Me</i>
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) <small>(make and year)</small>	\$ _____
_____	\$ _____
_____	\$ _____
Other property (like jewelry, stocks, land, another house, etc.)	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total value of property	→ \$ _____

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: <small>(List)</small>	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
Total Monthly Expenses	→ \$ _____

*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

AFFIDAVIT OF NON MILITARY SERVICE

- **Plaintiff must file an affidavit of non military service before a default judgment can be issued in any Civil case.**

In *any* civil action or proceeding in which any Defendant *does not appear*, the Plaintiff must file an affidavit, verified in writing, subscribed and certified or declared to be true under penalty of perjury prior to the entry of Judgment:

1. Stating whether or not the Defendant is in a military service and showing necessary facts to support the affidavit;
2. If the Plaintiff is unable to determine whether or not the Defendant is in a military service, stating that the Plaintiff is unable to determine whether or not the Defendant is in a military service.

SERVICE MEMBER AFFIDAVIT BY PLAINTIFF

Before me, the undersigned notary, on this day personally the affiant, a person whose identity is known to me. After I administered an oath to him/her, upon his/her oath, he/she states that to the best of his/her knowledge, the Defendant(s) is/are:

- _____ not in the military, per the attached affidavit
- _____ not on active duty in the military
- _____ not in a foreign country on military services
- _____ on active military duty and/or subject to the Servicemembers Civil Relief Act of 2003
- _____ has waived his rights under the Servicemembers Civil Relief Act of 2003
- _____ military status cannot be determined as Plaintiff is not privy to the Social Security Number of Defendant(s)

Plaintiff further states that he has performed a search of the Defense Enrollment and Eligibility Reporting System (DEERS) database which is maintained by the Defense Manpower Data Center (DMDC) and has attached the results hereto which reports, to the best of his knowledge, that Defendant(s) is/are currently not in the military. If there are no results attached hereto that is due to the unavailability of Defendant's Social Security Number, which is required to properly check DEERS.

Affiant

_____ SUBSCRIBED AND SWORN TO before me this the _____ day of _____,
_____ to certify which witness my hand and official seal.

Notary Public/Clerk
Justice of the Peace

Penalty for making or using a false affidavit—A person who makes or uses an affidavit knowing to be false shall be fined as provided in title 18 United States Code, or imprisoned for not more than one year, or both

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:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>	
3. Indicate case type, or identify the most important issue in the case (<i>select only 1</i>):		
<p><input type="checkbox"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> Eviction: 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.</p>	
<p><input type="checkbox"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	