

PETITION: SMALL CLAIMS CASE

CASE NO. (court use only) _____

In the Justice Court, Precinct 1, 3 & 4, Titus County, Texas

PLAINTIFF _____

VS.

DEFENDANT(S): _____

Defendant(s) address: _____

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. Other addresses where the defendant(s) may be served are:

Plaintiff(s) request(s):

Judgment against Defendant(s)

Pre-judgment interest Reasonable attorney fees

Costs of court

Post-judgment interest at the highest legal rate.

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

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:
Name: _____	Telephone: _____	Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ [Attach additional page as necessary to list all parties]
Address: _____	Fax: _____	
City/State/Zip: _____	State Bar No: _____	
Email: _____		
Signature: _____		
3. Indicate case type, or identify the most important issue in the case (select only 1):		
<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.	<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.	
<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.	<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.	

This affidavit is required in all civil filing in this Court.

You may take this affidavit to any legally qualified notary public or bring it to my office and we will have you swear to the affidavit before the Judge. Failure to submit this affidavit will invalidate your claim.

CASE NO. _____

AFFIDAVIT

PLAINTIFF BEING DULY SWORN ON HIS OATH DEPOSES AND SAYS UNDER PENALTY OF PERJURY THAT DEFENDANT(S):

_____ IS NOT IN THE MILITARY

_____ IS NOT ON ACTIVE DUTY IN THE MILITARY AND/OR

_____ IS NOT IN A FOREIGN COUNTRY ON MILITARY SERVICE

_____ IS ON ACTIVE MILITARY DUTY AND/OR IS SUBJECT TO THE SERVICE MEMBERS CIVIL RELIEF ACT OF 2003

_____ MILITARY STATUS IS UNKNOWN AT THIS TIME

PLAINTIFF

SUBSCRIBED AND SWORN BEFORE ME THIS _____ DAY OF _____, 20____.

NOTARY PUBLIC IN AND FOR STATE OF TEXAS
CLERK OF THE JUSTICE COURT
(STRIKE ONE)

Penalty for making or using 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.

FOR OFFICER SAFETY PLEASE ANSWER THE FOLLOWING QUESTIONS

Do You Know Or Suspect The Defendant Of Having

___ Warrants for Their Arrest

Explain _____

___ Any Mental Health Problems

Explain _____

___ Violent Behavior Or Threats Towards You Or Others

Explain _____

___ Any Weapons – Handguns, Rifles, Shotguns

Explain _____

___ Active Or Former Military / Law Enforcement

Explain _____

___ Threats Of Violence Towards Law Enforcement Or Government

Explain _____

___ Drug Or Alcohol Abuse

Explain _____

___ Suspected Drug Activity

Explain _____

___ Other Suspicious Activities

Explain _____

Signature _____

NOTICE TO PERSON FILING JUSTICE COURT ACTIONS & CROSS ACTIONS

The person filing a petition is totally responsible for deciding and stating **who to sue** and **where to serve them**. Court personnel do **NOT** take part in that decision. This is the only information you should receive from the Court about that subject. No other questions will be answered. If you need legal advice beyond this you will have to do your own research or consult an attorney. Assumed name records are kept in each County Clerk's office, and Corporation records are kept by the Texas Secretary of State in Austin.

If the **named Defendant** (the entity you want to sue) is **NOT** a **person**, but is a "DBA" ("Southside Cafe"), a partnership ("ARC Inc.") or some other non-person entity you should sue the **entity** in the right name and serve the **right representative** of that entity in order to have them properly in Court. If you don't do this, you may have your case delayed or dismissed. Meanwhile the statute of limitations on your claim could expire against the right party if they are not sued in time.

You should avoid suing "everyone" just to make sure you get the right one. By signing a petition, you certify to the Court that you have read the petition, and that to the best of your knowledge, information, and belief **formed after reasonable inquiry** the petition is not groundless and brought in bad faith or groundless and brought for the purpose of harassment. Violation of this requirement can result in Contempt of Court or other sanctions.

You will be charged a citation and service fee of **each and every name** (person or non-person) you list as a defendant in the suit, **unless they are named only** as a Registered Agent of another defendant. For Example:

"John Doe and Mary Smith" -2 citations

"John and Mary Doe" -2 citations

"Bill Doe and his father, John Doe" -2 citations

"Southside Cafe, John Doe" -2 citations

"John Doe d.b.a. Southside Cafe" -1 citation

"Southside Cafe, owner John Doe" -1 citation if you file it as a "d.b.a.", but if you are wrong you may not get a judgment.

"ABC Corporation, John Doe" -2 citations

"ABC Corporation, John Doe as Registered Agent" -1 citation

Do NOT try to explain your claim to the Clerks of the Court and ask who you should sue. You must make the decision.

This form must be read and signed by the filing person and put in the file before the Judge will sign the citation.

NAME

PHONE NUMBER

PLAINTIFF INFORMATION

1. Provide correct name of every defendant you want to sue. (Each defendant you want to sue must be separately named and served.)
2. Provide correct address or location for service of citation of the defendant or the defendant's proper agent if not an individual.
- 3 Filing a Small Claims or Justice Court suit only makes an allegation that you should recover from the defendant. Assume that the defendant will contest your allegation, rather than admitting it and proving your case for you. Properly prepare to prove your case at trial.
- 4 Remember that hearsay evidence is inadmissible and cannot be used if objected to by the defendant. Examples of heresay evidence are affidavits, garage estimates, police reports, and what other people not in Court orally said or wrote. There are some exceptions.
- 5 You may subpoena witnesses to Court by asking for the subpoena and paying the required fee at least ten (10) days prior to trial
- 6 After both plaintiff and defendant have presented their cases, the Court will usually enter a judgment that the plaintiff recovers from the defendant all, part, or none.
7. Either party usually has twenty-one (21) days in which to appeal to the County Court or the judgment in Justice Court is final
8. If you obtain a final judgment, you may file an Abstract of Judgment or a Writ of Execution. These are after judgment methods of collection.
9. An Abstract of Judgment may be issued ten (10) days from the date of judgment and recorded in the property county.
10. Writ of Execution may be issued thirty (30) days from the date of judgment.

CHRIS DURANT

CONSTABLE PCT. 1

TITUS COUNTY

100 S. MADISON SUITE 100

MT. PLEASANT, TEXAS 75455

(903)577-6762 OR (903)577-6760

FAX (903)572-0971

To Plaintiff filing suit,

Keep in mind that I may not know the person who you have brought suit against. You can help me, or if your suit is going out of County, some other Officer, get the Defendant served quicker by providing as much information on the defendant as possible such as, directions and description of the residence, place of employment, hours they may work, type of vehicle they may drive, age, date of birth, physical description, phone numbers, relatives, places they may frequent. All this information is not necessary but any of it will be helpful. Please attach any additional information to the paper work when you return it. This additional information may help to get your citation served quicker.

Respectfully,

Chris Durant
Constable Pct. 1
Titus County