

## SMALL CLAIMS & JUSTICE CIVIL INFORMATION SHEET

\*\*\*PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION\*\*\*

SMALL CLAIMS     \$91.00  
PALO PINTO COUNTY

JUSTICE CIVIL     \$91.00  
PALO PINTO COUNTY

### (ASK CLERK FOR OUT OF COUNTY FEES)

1. The amount of money for which you may sue in Justice Court is limited to \$10,000. You may sue for money only in Small Claims Court. Suit for money or other items may be filed in Justice Civil Court.
2. In all civil suits, the defendant has the right to be sued in the county or precinct in which he resides. You must have a physical address (not just a post office box) for the defendant in order for him to be served.
3. In order for any potential judgment you may receive to be valid, it is necessary that you sue the defendant in his/her/their legal capacity as listed below:
  - **Personally** – An individual is responsible to you for damage he may have caused you as an individual. (e.g. John Doe.)
  - **Proprietor or Partnership** – A business that is not incorporated, but does have on file with County Clerk an assumed name. (e.g. John Doe dba Greenhouse Supplies)
  - **Corporation** – The business which allegedly caused you damage is incorporated, and therefore it is necessary to know the individual's name who is authorized to accept service on behalf of the corporation. You may obtain the name of the authorized agent for service from the Secretary of State at 1-800-252-1386. (e.g. Greenhouse Inc. dba Greenhouse Supplies. Serve: John Doe)
4. If, as a plaintiff, you are in the business of loaning money either primarily (banks, credit unions, savings & loans) or secondarily (credit cards), you are not allowed to file in Small Claims Court, but must file in Justice Civil Court. In Small Claims & Justice Court an attorney is permitted, but **not** required.
5. When you have completed the petition stating the facts and circumstances of your suit, 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 or to file a written answer to the suit on or before the Monday following the tenth day after his receipt of the citation, unless the Monday falls on a

holiday. If he fails to do so, you then become eligible for a default judgment up until the time an answer is filed.

6. If the defendant answers the suit, a trial date will be set. The plaintiff and the defendant will be sent notice by mail of the court date. We discourage motions for continuance, however, if it becomes necessary, any request for a continuance must be in writing and timely filed. (At least 5 working days prior to trial date or as soon as the need for continuance is known.)
7. 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. This request should be made as soon as possible allowing at least a week for service of subpoena. There is a fee for the service of subpoena. (\$75.00)
8. A Small Claims suit does not require hiring an attorney; however, you are free to do so if you wish.
9. **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** (\$5.00 per Judgment) and/or a **Writ of Execution** (\$200.00) to help you in your collection of this judgment. There are other post judgment remedies available, but these are the two most common. An **Abstract** puts a cloud on the title to any real property the defendant may own in the county where the abstract is filed. Abstracts may be filed in more than one county. This can be obtained ten (10) days after the judgment is signed. A **Writ of Execution** may be obtained thirty (30) days after the judgment is signed. This document authorizes the Constable to seize any non-exempt assets belonging to the defendant. Those assets are then sold, and the proceeds are applied to the judgment.
10. As a plaintiff, you have the burden of proof to show by the weight of the evidence that the defendant is the cause of your damages in the capacity, which the defendant was sued. All damages and evidence necessary to meet your burden should be available at the time of trial.
11. If you have any other procedural question, please call and we will try to assist you, although **THIS COURT MAY NOT ANSWER ANY LEGAL QUESTIONS.**
12. It is imperative that you provide us with your daytime phone number and notify us immediately of any changes in your number or address.

Judge Bobby J. Hart  
Justice of the Peace, Pct. 5  
109 North Oak  
Mineral Wells, TX 76067  
(940) 325-3201

Case Number \_\_\_\_\_

Justice/Small Claims Court

\_\_\_\_\_  
Plaintiff

Vs

Precinct Five

Palo Pinto County, Texas

\_\_\_\_\_  
Defendant

I am filing in (MUST Check One)

Justice Civil

Small Claims

\_\_\_\_\_  
Plaintiff Name

\_\_\_\_\_  
Street Address

City, State

Zip Code

County

\_\_\_\_\_  
Day Phone with Area Code

Home Phone with Area Code

**HEREINAFTER CALLED PLAINTIFF, ON OATH DEPOSES AND SAYS THAT:**

\_\_\_\_\_  
Defendant Name

\_\_\_\_\_  
Street Address

City, State

Zip Code

County

\_\_\_\_\_  
Day Phone with Area Code

Home Phone with Area Code

Drivers License No. \_\_\_\_\_ State Issued \_\_\_\_\_

Defendant' s Social Security No. (Last 4 digits) \_\_\_\_\_

Defendant' s Date of Birth \_\_\_\_\_

\_\_\_\_\_

HEREINAFTER CALLED DEFENDANT IS JUSTLY INDEBTED TO PLAINTIFF IN THE SUM OF  
\$\_\_\_\_\_, principle; \$\_\_\_\_\_ Attorney fees and all court costs.

State the nature of the claim in concise form without technicality:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Service is requested on defendant(s) under rule 536 at home or work; or by alternate service  
under rule 536c. Defendant(s) work address is \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk of the Court or Notary Public

Seal

\_\_\_\_\_

Cause Number \_\_\_\_\_

Vs. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

**AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)**

Before me the undersigned notary or clerk of the Justice Court on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury (fine and/or up to one year in jail), stated the following:

My name is \_\_\_\_\_

I am (check one)

- plaintiff in the above cause
- authorized agent for the plaintiff in the above cause

**I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.**

**CHECK OR FILL IN AS APPLICABLE**

- The defendant is not in the military
- Defendant is on active duty in the U.S. Military
- Defendant has been deployed by the U.S. Military to a foreign country.
- Plaintiff / Agent for Plaintiff are not able to determine whether defendant is with the U.S. Military.
- Plaintiff / Agent for Plaintiff are not able to determine whether defendant who is in the U.S. Military has been deployed to a foreign country
- Defendant has signed, while on active duty, a separate written waiver or a written lease containing a waiver of his or her rights under the U.S. Service-Members Civil Relief Act of 2003.

\_\_\_\_\_  
Signature of Plaintiff / Agent for Plaintiff

Sworn and subscribed before me by \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Court Clerk /Notary