

INFORMATION PACKET

1. The statute of limitations for filing a Debt Claim or Small Claim Suit is two years from the date the incident occurred.

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 **\$10,000.00**, excluding statutory interest and court costs but including attorney fees, if any.

Small Claim: 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 **\$10,000.00**, excluding statutory interest and court costs but including attorney fees, if any.

2. The amount of money which may be sued for in Justice/Small Court is limited to **\$10,000.00**.
3. It is the burden as Plaintiff, and it is important, in order for any judgment you might receive to be valid, that you file the suit against the Defendant in their proper legal capacity. These capacities are as follows:

- A. **Personally:** Where the individual is responsible as an individual for the alleged damaged or wrong.
- B. **Company/Business:** a business owner that is not incorporated, but does have of file with the County Clerk an assumed name e.g. John Doe dba Greenhouse Supplies. To determine who the owner of an assumed name is, you should check that Assumed Name index at the Burleson County Clerk's Office.
- C. **Corporation:** if a business organization which has allegedly damaged you is incorporated, it is therefore, necessary to know the individual's name who is able to accept service on behalf of the corporation. He/she is known as the REGISTERED AGENT, and his/her identity can be obtained for the Texas Secretary of State at 1-512-463-5555 or State Controller at 1-800-252-1386. It is also possible for an incorporated entity to have an assumed name e.g. Greenhouse, Inc., d/b/a/ Greenhouse Supplies.
- D. **Partnership:** there are special rules governing partnerships, please consult legal counsel.

4. The court will give you a receipt showing your case number so that you may call periodically to determine the progress of our case. **IT IS THE UTMOST IMPORTANCE TO USE YOUR CASE NUMBER WHEN CALLING OR TRANSACTING BUSINESS WITH THE COURT.**
The court shall be notified immediately, in writing, of any change of address or telephone number. Please provide the court with a day telephone number for you so that communication will be easier.
5. When you have completed the petition stating the facts and circumstances of your suit, a citation will be issued to the constable who will serve the defendant notifying him/her that a suit has been filed against him/her in this court.
6. The citation will inform the defendant to answer to the suit on or before the Monday following the expiration date of fourteen (14) days from receipt of the citation. If the defendant fails to answer, a default judgment may be issued against him/her. It is the plaintiff who must request the default judgment.
7. If the defendant answers the suit, the court will notify all parties by mail as to the trial date.

Continuance: If you cannot keep the scheduled court date, Plaintiff or Defendant may request a continuance. Any request for continuance must be timely filed, **in writing with supporting documentation. (This must be done 76 working hours before the court date.)**

8. Both you and the defendant are allowed to hire an attorney if you desire.

Subpoena: if you have witnesses who will not come to court voluntarily, you may come within a reasonable time prior to the trial and request a subpoena be prepared to secure their presence. Because a subpoena must be served on the witness, it is your burden to make sure the proper fees and related cost are paid, and there is adequate time for that person to be served.

See attached fee schedule.

9. **Appeal:** after rendition of the judgment, and the judgment letter is signed, either party has ten (10) days to appeal the case to the County Court at Law where there will be a Trial De Novo, meaning as if the Justice Court trial had never occurred.)

Contact Court Clerk for instructions and filing fee(s)

10. The court does not collect the judgment for you, nor can the court force the defendant to pay the judgment. If you receive judgment which becomes final against the defendant, you may request an **Abstract of Judgment, Execution, and/or Garnishment** to help you collect the judgment in addition to other legal remedies that you may employ in your effort to collect the judgment.

A. **Abstract of Judgment** puts a lien on any real property the defendant may own in a particular county where the abstract is recorded. An abstract may be obtained ten (10) days after the judgment is signed if the case is not appealed. **See attached fee schedule**

B. **Writ of execution** may be obtained 30 days after rendition of the judgment. This document orders the Sheriff or Constable to seize any assets belonging to the judgment creditor (Defendant) that are not exempt from execution and to sell those assets at public auction and apply the proceeds to payment of the judgment. **See attached fee schedule.**

C. **Writ of Garnishment** may be obtained 30 days after rendition of the judgment. The garnishment proceeding is a separate suit in which you are the plaintiff and the defendant is a bank at which the judgment creditor has an account with money in it. You should be very careful and know what you are doing because if the judgment debtor does not have sufficient assets in his/her account, you might be required to pay the bank's attorney fees. You should consider hiring an attorney to help you with the garnishment proceedings. **See attached fee schedule.**

11. If you have any other procedural questions, please ask the clerks. **THE CLERKS CANNOT PROVIDE LEGAL ADVICE. ONCE A CASE IS FILED, THE JUDGE MAY NOT DISCUSS YOUR CASE WITH YOU PRIOR TO TRIAL UNLESS ALL PARTIES ARE PRESENT.**

12. **It is the Plaintiff responsible to ask for Default Judgment hearing if the Defendant does not answer citation service.**

FEE SCHEDULE

Debt/ Small Claims	(one defendant)	\$ 116.00
	(Each Additional Defendant)	\$75.00
Filing fee without service	(One Defendant)	\$41.00
Jury Fee (Texas Rules of Civil Procedure Rule 504.1(b))		\$22.00
Subpoena		\$75.00
Appeal		\$5.00
Abstract of Judgment		\$5.00
Writ of Execution		\$200.00
Writ of Sequestration		\$200.00
Writ of Garnishment		\$200.00

**PLEASE MAKE CHECKS PAYABLE TO:
BURLESON COUNTY**

*****NOTE: If the defendant's address is not in Burleson County, the Plaintiff will be charged for a filing and issued the citation for process. It will be the Plaintiff's responsibility to find out what County the defendant's address is in and the service fee for that county*****

WARNING

**Do not attempt to
contact the Judge by
mail, phone or in person**

**About any pending or
potential lawsuit!!!!!!**

JUSTICE COURT CIVIL CASE INFORMATION SHEET

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.

<p>1. Contact information for person completing case information sheet:</p> <p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>2. Names of parties in case:</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>
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3. Indicate case type, or identify the most important issue in the case (select only 1):

<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>

PETITION: DEBIT CLAIM CASE

CASE NO. (Court use only) _____
In the Justice Court, Precinct 1, Place 1, Burlleson County, Texas

PLAINTIFF: _____

VS.
DEFENDANT(S): _____

Defendant(s) address: _____

PLAINTIFF is (must check one) an assignee of the 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.
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 \$ _____

SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Rules of Practice in Justice Courts. Other addresses where the defendant(s) may be served are:

ADDITIONAL INFORMATION (CASE BASED ON CREDIT CARD, REVOLVING ACCOUNT, OR OPEN ACCOUNT):

Account/Credit card Name: _____ Account Number (may be masked): _____
Date of Issue/Origination: _____ Date of Charge-Off: breach: _____
Amount Owed \$ _____ as of _____

ADDITIONAL INFORMATION (CASE BASED ON PROMISSORY NOTE OR OTHER PROMISE TO PAY PERSONAL OR BUSINESS LOAN):

Date/Amount of Original Loan _____, \$ _____
Repayment Accelerated? _____ Date final payment Due: _____ Amount Due on
Final Payment Date \$ _____ Amount Due \$ _____ as of _____

ONGOING INTEREST: Plaintiff does, or does not seek ongoing interest. If so, this interest is based on the following contractual/ statutory reason: _____ and the rate is _____ % \$ _____ of interest was due as of _____.

ASSIGNMENT OF CLAIM: Plaintiff was, or was not assigned or otherwise transferred this claim. If so, the original claimant/Creditor was _____, subsequent holder's were _____ and the date the case was assigned/transferred to plaintiff was _____.

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
DEFENDANT(S) INFORMATION (if know)
Date of Birth: _____
*LAST 3 NUMBER OF DRIVER LICENSE: _____
*LAST 3 NUMBERS OF SOCIAL SECURITY: _____
*DEFENDANT'S PHONE NUMBER: _____

Signature of Plaintiff or Attorney

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

Phone & Fax No. of Plaintiff's Attorney, if