



**JUDGE MARGARET O'BRIEN**  
**Justice of the Peace 2-1**  
**140 N Garland Ave**  
**Garland, TX 75040**  
**(214) 643-4773 Ph. / (214) 643-4772 Fax**

### **SMALL CLAIMS**

Small Claims Courts are courts in which parties can settle small money disputes of no more than \$20,000 in a speedy, informal setting. To ensure that Small Claims Courts can be used without the help of an attorney, the Legislature established less formal procedures for these courts. The purpose of this pamphlet is to help you understand the basic procedures in these courts, but is not intended to present complete coverage of them. You should seek legal advice prior to filing a lawsuit.

#### **Who May Sue**

Any person over the age of 18 years can sue in Small Claims Court. The party filing the suit is the "PLAINTIFF."

#### **Whom May Be Sued**

Any person, association, partnership, or corporation over which the Court has jurisdiction may be sued. The person or business being sued is called the "DEFENDANT".

The Plaintiff is responsible to determine the correct legal name and address of the person or business being sued before going to the Clerk. If the business is a partnership, the partnership should be named by its correct legal name and all partners should be named individually; if the business is a corporation, the exact name of the corporation must be stated, including the word or abbreviation for "Incorporation" or "Company", and the corporation's named registered agent for service, obtainable from the Secretary of State, 1-800-252-1386). If it is an individual doing business as then the filing should be the defendant's full name dba the company name.

#### **Which Court to Use/Venue**

A small claim case is normally filed in the court of the precinct which covers the area where the Defendant lives. However, under some circumstances, the Plaintiff may have a choice of courts in which to bring a claim. For example, if the Defendant lives in one precinct but does business or contracted to perform services in another precinct, either precinct can be selected as the place to bring suit. (See Civil Practices Remedies Code Chapter 15)

#### **When to File Suit/Limitations**

For the Court to be able to act on a suit, the suit must be filed within time limits set by the Legislature. A court has no power to hear a suit that is filed after these set time periods. Many suits must be brought within 2 years after the dispute arose, others must be brought within 4 years. To be safe, you should file suit as soon as you are convinced you cannot recover the money on your own, and before 2 years have gone by. (See Civil Practices Remedies Code Chapter 16)

#### **Small Claims - How to Start the Suit**

In order to begin formal action, the Plaintiff must personally go to the Civil Clerk of the correct Justice of the Peace Court and do the following:

**Step 1** – The Plaintiff should complete a small claims petition. It is critical that the court is provided correct names and addresses of defendants for proper service because the Court cannot grant a judgment against a Defendant who is improperly named in the petition.

**Step 2-** The Plaintiff should pay the clerk a filing fee and the service of citation fee, to cover costs of serving citation on the Defendant. The Defendant must be served a citation before the suit can commence. (Fee information is available from the Clerk. All of these costs may be recovered at trial if the Plaintiff wins the suit.)

**Step 3** – The Plaintiff should check to see if the defendant was served. Call the Clerk in 4 or 6 weeks to see if the Defendant has been served and find out the exact date of service. The calculated date is called the "Appearance Date". Once the defendant is served they have 14 days to file an answer.

**Step 4** - The parties should appear at pretrial or a default hearing. If the Defendant files an answer the Court will set the parties for pretrial. If the Defendant fails to respond the Court will set the Plaintiff for a default/dismissal hearing.

### **Types of Trials**

The trial of the case may be heard by the Judge of the Court sitting alone, or upon request of either party, by a six-person jury.

### **Less Formal Trial**

Proceedings in Small Claims Court are less formal than in other civil courts. The Plaintiff's side of the case will be presented first. The Plaintiff should offer any documents which support the plaintiff's claim and present any witnesses at this time. The Judge may ask some questions to clarify some of the points necessary to reach a fair decision. The Defendant is then entitled to ask questions of the Plaintiff and any witnesses.

After the Plaintiff's case is presented, the Defendant will have an opportunity to present the Defendant's side of the case. It may be the Defendant's position that the Plaintiff is wrong in the way the Plaintiff says the events occurred. The Defendant may say that the Plaintiff's account of the events is correct, but that the Plaintiff is demanding too much money. The Judge can ask the Defendant and any witnesses questions.

After the Judge has heard the testimony of the witnesses and the facts presented by both sides, and both parties have asked all the questions they want to ask, the trial will end. The Judge will announce the decision in the case if there is no jury. If it is a jury trial, the jury will deliver the verdict.



**JUDGE MARGARET O'BRIEN**  
**Justice of the Peace 2-1**  
**140 N Garland Ave**  
**Garland, TX 75040**  
**(214) 643-4773**

CAUSE No. \_\_\_\_\_

\_\_\_\_\_  
**PLAINTIFF**

**VS.**

\_\_\_\_\_  
**1<sup>ST</sup> DEFENDANT**

\_\_\_\_\_  
**2<sup>ND</sup> DEFENDANT**

*\*Use second page if needed for additional defendants*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**IN THE JUSTICE COURT**

**PRECINCT 2, PLACE 1**

**DALLAS COUNTY, TEXAS**

**Small Claims Petition**

*(For all addresses, you must include number, street, apartment number, city, state, & Zip Code.)*

<p><b>Defendant 1:</b></p> <p><b>Name:</b> _____</p> <p><b>Address:</b> _____</p> <p>_____</p> <p><b>Phone:</b> _____</p>	<p><b>Registered Agent for service (If defendant is a company or business): Name:</b></p> <p>_____</p> <p><b>Address:</b> _____</p> <p>_____</p> <p>_____</p>
<p><b>Defendant 2:</b></p> <p><b>Name:</b> _____</p> <p><b>Address:</b> _____</p> <p>_____</p> <p><b>Phone:</b> _____</p>	<p><b>Registered Agent for service (If defendant is a company or business): Name:</b></p> <p>_____</p> <p><b>Address:</b> _____</p> <p>_____</p> <p>_____</p>

**Service of Citation:** Service is requested on Defendant(s) by:  personal service at home or work,  certified mail, return receipt requested.

**Relief:** Plaintiff seeks the following: (CHECK ONE)

money in the amount of \$ \_\_\_\_\_

return of personal property as described as follows (be specific):

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

\_\_\_\_\_ which has a value of \$ \_\_\_\_\_

**Complaint:** The basis for the claim which entitles Plaintiff to seek relief against Defendant is:

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

**AND** there are no counterclaims existing in favor of the Defendant(s) against Plaintiff(s) except: \_\_\_\_\_

I consent for the answer and any other motions or pleadings to be sent to my email address as follows:

\_\_\_\_\_

**Respectfully Submitted,**

X \_\_\_\_\_ X \_\_\_\_\_  
Signature of Plaintiff, Plaintiff's authorized agent, or Signature of Plaintiff's Attorney (if applicable)

\_\_\_\_\_  
Address and Apartment or Suite No.

\_\_\_\_\_  
City State Zip

PHONE \_\_\_\_\_ FAX \_\_\_\_\_

Bar Card # (If attorney): \_\_\_\_\_



**JUDGE MARGARET O'BRIEN**  
Justice of the Peace 2-1  
140 N Garland Ave  
Garland, TX 75040  
(214) 643-4773

CAUSE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

Vs.

\_\_\_\_\_  
*Defendant(s)*

§  
§  
§  
§  
§  
§  
§

IN THE JUSTICE COURT

PRECINCT 2, PLACE 1

DALLAS COUNTY, TEXAS

**AFFIDAVIT OF MILITARY STATUS**  
**(NOT REQUIRED FOR CORPORATE DEFENDANTS)**

I the undersigned affiant state the following facts are based upon my personal knowledge about the Defendant(s). I am over the age of 18 and am of sound mind and memory and make the following statement under penalty of perjury. To the Defendant (check one):

\_\_\_\_\_ Is NOT in the military on active duty.

\_\_\_\_\_ Military status is unknown at this time.

\_\_\_\_\_ Is on active military duty and/or is subject to the Service members Civil Relief Act.

Please state the necessary facts supporting how you personally know the military status of the defendant.

\_\_\_\_\_  
*Unsworn Declaration*  
*(Texas Civil Practice and Remedies Code, Section 132.001)*

My name and address are as follows:

\_\_\_\_\_  
*Plaintiff/Plaintiff's authorized Agent, or Attorney*

\_\_\_\_\_  
*Street Address / City / State / Zip / Country*

\_\_\_\_\_  
*Phone Number / Fax Number / Email*

\_\_\_\_\_  
*(Date of Birth) Month / Day / Year*

I declare under penalty of perjury that all information in the attached document titled, *Affidavit of Military Status*, is true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signed in (County of signature) County, State of (State of Signature)



**JUDGE MARGARET O'BRIEN**  
**Justice of the Peace 2-1**  
**140 N Garland Ave**  
**Garland, TX 75040**  
**(214) 643-4773**

**CAUSE NUMBER:** \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

**Vs.**

\_\_\_\_\_  
*Defendant(s)*

§  
§  
§  
§  
§  
§  
§

**IN THE JUSTICE COURT**  
**PRECINCT 2, PLACE 1**  
**DALLAS COUNTY, TEXAS**

**CERTIFICATE OF LAST KNOWN ADDRESS**

I, the undersigned affiant state the following facts are based upon my personal knowledge about the Defendant(s). The Defendant(s) last known address is:

\_\_\_\_\_  
*Defendant's Name*

\_\_\_\_\_  
*Street Address / City / State / Zip / Country*

\_\_\_\_\_  
*City / State / Zip*

My name and address are as follows:

\_\_\_\_\_  
*Plaintiff/Plaintiff's authorized Agent, or Attorney*

\_\_\_\_\_  
*Street Address / City / State / Zip / Country*

\_\_\_\_\_  
*Phone Number / Fax Number / Email*