

JUDGE CULLEN TITTLE
JUSTICE OF THE PEACE PCT. 1
BURLESON COUNTY TX
PO Box 136 Deansville TX 77852
(979) 535-4761 Office
(979) 535-7344 Fax
jp1@burlesoncounty.org

SMALL CLAIMS INFORMATION

SMALL CLAIM: a Small Claim case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The Statute of limitations for filing a Small Claims is two (2) years from the date the incident occurred. The claim cannot exceed more than **\$20,000.00**, excluding statutory interest and court costs, but including attorney fees, if any.

PLEASE READ CAREFULLY BEFORE FILING THE PETITION

THE FOLLOWING INFORMATION IS FURNISHED TO YOU AS A COURTESY OF THE JUSTICE OF THE PEACE OFFICE. THE COURT CANNOT ADVISE YOU WHAT YOU SHOULD DO AND ARE BARRED BY LAW FROM GIVING YOU LEGAL ADVICE OR HELP YOU FILL OUT THE FORMS.

PLEASE PRINT CLEARLY AND PRESS FIRMLY.

You are the PLAINTIFF and the person or entity you are suing is the DEFENDANT. The Defendant has a right to be sued in the county and precinct in which they reside; there are exceptions to the rule. Should there be a motion by the Defendant to transfer venue, a hearing will be set to determine if a transfer of venue will be granted; a motion to transfer venue may delay the proceedings 6-8 weeks.

- **PLEASE NOTE: YOU MUST HAVE COPIES FOR THE COURT'S FILE OF ANY DOCUMENTS YOU INTEND TO SUBMIT TO THE COURT AS EVIDENCE.**

IT IS YOUR BURDEN AS PLAINTIFF TO MAKE SURE YOU ARE SUING THE DEFENDANT IN THEIR PROPER LEGAL CAPACITY. It is very important that you understand that for any potential judgment you may receive to be valid, it is necessary for you to sue the defendant in their proper legal capacity, of which there are typically three:

1. **Personally:** Where an individual is responsible to you for damages they may have caused you as an individual.
2. **Proprietor or Partnership:** A business that is not incorporated, but does have on file with the County Clerk as assumed name, Ex: John Smith dba Greenhouse Supplies.
3. **Corporation:** The business which has allegedly caused you damage is incorporated and therefore it is necessary to know the individual's name who is authorized to accept civil process on behalf of the corporation. The authorized agent for service would be listed with the Secretary of State, whose phone number is 1-800-252-5555. The website is www.sos.state.tx.us. Ex: Greenhouse, Inc.

through its agent, John Smith. It is also possible for an incorporated entity to have an assumed name, ex: Greenhouse, Inc, dba Greenhouse Supplies.

- On the Petition, under the complaint section, make a very short statement concerning the nature of your claim.
- Under relief section, put the **PRINCIPAL AMOUNT** of your claim against the Defendant. **DO NOT ADD COURT COSTS** to the amount. If you wish to have the judgment include court costs, you would state “plus court costs”. The Additional Information, Interest and Assignment section **MUST** also be completed.
- The Affidavit of Military Status of Defendant form **MUST** accompany the petition.
- The Certificate of Last Known Address **MUST** accompany the petition.
- After the Petition is completed, a citation along with a copy of your petition will be served to the Defendant notifying them that a suit has been filed against them in the Court. The citation will order the Defendant to file an answer with the court by the end of the 14th day **AFTER** the day they were served with the citation. You will then be notified by this office of your Court Date which is 45 days **AFTER** the citation was served.
- Continuance: If you cannot keep the scheduled Court Date, the Plaintiff or Defendant may request a continuance. Any request **MUST** be timely filed, **IN WRITING** with supporting documentation with 76 working hours of the Court Date.
- Subpoena: If you have a witness who will not voluntarily come to Court, you may come within a reasonable time prior to the Court Date and request a subpoena.
- If you should receive a judgment, please understand that the court **DOES NOT** collect the judgment for you, nor can we force the Defendant to pay the judgment. It is your responsibility to request any post-judgment remedies.

Remedies that are available to you:

1. **Abstract of Judgment:** Places a lien on any real property the Defendant may own in a particular county where is abstract is recorded. This may be obtained twenty-one (21) days after the judgment was signed.
2. **Writ of Execution:** Authorizes the Constable or Sheriff to seize an assets belonging to the Defendant that are not exempt under Texas Property Code, section 42.001 and 42.002. Those assets are then auctions at a public sale and those proceeds are applied to the judgment. This may be obtained thirty (30) days after the judgment was signed if the judgment was not paid or appealed.
3. **Writ of Garnishment:** This is a separate suit wherein you are the Plaintiff and the Defendants bank is the Defendant. You are actually suing the bank in which the original Defendant has their bank account, warning the bank to freeze the monetary assets of their bank account and to appear and make answer to the garnishment suit. **EXTREME CAUTION** should be used when filing a garnishment suit; if there are not sufficient funds in the account at the time the garnishment is served; the person filing the suit is liable for reasonable attorney fees for the garnishee which they may then tax as additional costs against the judgment debtor. An attorney may be required.

4. **Appeal:** After rendition of the judgment, and the judgment has been signed by the Judge, wither party has twenty-one (21) days to appeal the case to the County Court where there will be a Trial De Novo. Meaning as if the Justice Court trial had never occurred.
(Contact the Court Clerk for instructions and filing fees)

- It is the Plaintiff's responsibility to ask for a Default Judgment if the Defendant does not file a answer.
- If the Defendant's address is **NOT** in Burleson County, it is the Plaintiff's responsibility to find the county in which the Defendant's address is in and the Service Fee for that county.
- It is the Plaintiff's responsibility to find the address of the Defendant. If this office does not have an address on file for the Defendant, we **CAN NOT** issue a citation.

FEES

1. Filing Fee for **ONE** defendant is \$129.00. Each additional defendant is \$75.00
2. Subpoena is \$75.00 **PER** witness
3. Abstract of Judgment is \$5.00
4. Writ of Execution is \$200.00
5. Writ of Garnishment is \$200.00

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT 1
	§	
_____	§	
DEFENDANT	§	BURLESON COUNTY, TEXAS

PETITION: SMALL CLAIMS CASE

I. DEFENDANT(S) ADDRESS:

II. COMPLAINT: Plaintiff files this suit against Defendant based upon the following facts:

III. RELIEF: Plaintiff seeks:

- damages in the amount of \$ _____,
- return of personal property as described as follows (*be specific*): _____

_____, which has a value of \$ _____.

Additionally, Plaintiff seeks the following:

IV. SERVICE OF CITATION: Service is requested on Defendant(s) by:

- Personal service at home or work,
- Registered mail, or

Certified mail return receipt requested.

If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where Defendant(s) may be served are: _____

V. **ONGOING INTEREST:** Plaintiff does or does not seek ongoing interest. If so: The effective interest rate claimed is _____%; this interest rate is based upon contract statute and began accruing on _____; the dollar amount of interest claimed as of _____ is \$_____.

VI. **JURY REQUEST**

I request a jury trial. (*The fee is \$22 and must be paid at least 14 days before trial unless you file a Statement of Inability to Afford Payment of Court Costs in compliance with Rule 502.3.*)

I do not request a jury at this time.

VII. **SERVICE BY EMAIL** (*Normally, documents in this case are sent by mail. If it is easier for you, you can choose to get some of the documents sent by email. If you choose to get documents by email, you must have an email account where you can receive, open, and view large attachments, and it is important that you check this email account every day. **Even if you receive some documents by email, you will still receive some documents about the case by mail or personal service, so you must not ignore any documents from the court or other parties received by mail or personal service.***)

Yes, I would like to receive documents related to this case by email at this email address: _____.

No, I do not want to receive any documents by email.

VIII. **REMOTE PARTICIPATION**

Hearing by Phone Call: (*When a hearing happens by phone call, you will be able to talk to and hear the judge, Plaintiff, or any witnesses, but you will not be able to see them. Copies of any evidence to be used must be exchanged by the parties and sent to the judge before the hearing.*)

Yes, I am able to have any hearings in this case, except a jury trial, by phone call with the judge and Plaintiff and understand that I must have a phone to use on the date and time of the hearing.

No, I am not able to have hearings by phone call.

Hearing by Video Conference: (*When a hearing happens by video conference, you can hear, see, and talk to the judge, Plaintiff, and any witnesses. You will be able to see any evidence presented during the hearing. You will need to have a computer, a smartphone, or tablet that has a camera feature. You will also need access to the internet to be able to have a video conference.*)

Yes, I am able to have any hearings in this case, except a jury trial, by video conference. I understand that I am responsible for having the equipment and internet access needed to participate in a video conference on the date and time of the hearing.

No, I am not able to have hearings by video conference.

NOTE: Your responses in this section do not guarantee that hearings will be held remotely, but rather they help the court know how you are able to participate.

Respectfully submitted,

Signature of Plaintiff

Printed Name: _____

Address: _____

Email: _____

Telephone: _____

Fax: _____

Signature of Attorney, if any

Printed Name: _____

Address: _____

Email: _____

Telephone: _____

Fax: _____

State Bar No.: _____

SWORN TO AND SUBSCRIBED before me on _____, 20____.

CLERK OF THE JUSTICE OF THE PEACE OR NOTARY

Case No. _____

Plaintiff

§
§

In the Justice Court, Pct. 1

VS.

Burleson County, Texas

§

Defendant

§
§

NON-MILITARY AFFIDAVIT

Service-members Civil Relief Act

Plaintiff being duly sworn on oath deposes* and says that Defendant(s) is (are)

(CHECK ONE)

- Not in the military
- Not on active duty in the military and/or
- Not in a foreign country on military service
- On active military duty and/or is subject to the Service-members Civil Relief Act of 2003
- Has waived his/her rights under the Service-members Civil Relief Act of 2003
- Military status is unknown at this time

PLAINTIFF

Subscribed and sworn to, before me on this the ____ date of _____ 20 ____

NOTARY PUBLIC/CLERK OF THE COURT

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

<https://scra.dmdc.osd.mil>

Jason Muzny
Burleson County Constable, Pct. 1

Additional Civil Process Information

Cause Number:

In order to expedite service and for the safety of our Deputies, we ask that you answer the following questions to the best of your ability.

1. Have you witnessed any abnormal behavior?

2. Have you known, or known of, the Defendant being violent with anyone?

3. Have you been verbally or physically assaulted by the Defendant?

4. Known of an occasion where the Defendant has, or brandishes a weapon of any kind?
(Please note what type of weapon)

5. Does the Defendant have any dogs known to be aggressive?

6. Are you aware of any mental or emotional issues that the Defendant may have?

7. Are you aware of any police related calls regarding the Defendant?

8. Are there any other issues you think might be important for the Deputies to know?

Cause # _____

Plaintiff

In the Justice Court

VS

Precinct One

Defendant

Burleson County, Texas

Certificate of Last Known Mailing Address

The undersigned, _____, does hereby certify that the last known address of

Defendant, _____, is as follows:

Signature

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

Notary or Court Clerk