

JUDGE JASON M. CHARBONNET
JUSTICE OF THE PEACE, PRECINCT 6
TARRANT COUNTY, TEXAS

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INSTRUCTIONS AND INFORMATION FOR FILING CIVIL LAWSUITS

PLEASE READ CAREFULLY BEFORE FILING YOUR CASE

1. 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 \$20,000 excluding post judgment interest and court costs but does include attorney fees, if any. There is a fee for filing this suit and you may check with the Court Clerk for the current fee information. Please indicate how many people/businesses you will be suing and whether service will be in Tarrant County or out of county.
2. 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 \$20,000 excluding post judgment interest and court costs but does include attorney fees, if any. There is a fee for filing this suit, please check with the Court Clerk for the current fee information. Please indicate how many people/businesses you will be suing and whether service will be in Tarrant County or out of county.
3. In all civil lawsuits, the defendant has the right to be sued in the county and precinct in which he resides or is doing business. There are exceptions to this rule and you may check with the Court Clerk where to find this rule.
4. You are the **PLAINTIFF**, the person you are suing is the **DEFENDANT**.
5. YOU MUST HAVE THE FOLLOWING INFORMATION ON THE DAY YOU FILE:
 - A. The correct name and address of the person or entity you are suing.
 - B. The exact amount of money or property you are suing for.
 - C. The details and basis of the lawsuit including names and dates
 - D. The amount of the filing fee on the day you file payable by cash, check, money order or credit card (2.35% service fee) Please check with Court Clerk for current fee information.
 - E. If filing a Debt Claim case, you will need more specific information regarding the debt. See Texas Rules of Civil Procedure, Rule 508.2
6. As Plaintiff it is very important and your responsibility to sue the right person or entity as well as understand that for any judgment to be valid, it is necessary for you to sue the defendant in their proper legal capacity, of which there are typically three:
 - A. PERSONALLY: where an individual is responsible to you for damages
 - B. PROPIETOR OR PARTNERSHIP: a business that is not incorporated, but does have on file with the County Clerk an assumed name. For example: JOHN SMITH DBA GREENHOUSE SUPPLIES. You can verify information on file with the Tarrant County Clerk's office.
 - C. CORPORATION: the business has allegedly caused you damage is incorporated or a corporation. It is possible for an incorporated entity to have an assumed name also, e.g. GREENHOUSE, INC. DBA GREENHOUSE SUPPLIES. To find out if a business is acting under an assumed name, contact the County Clerk. If a business is incorporated, you must find out

the registered agent for service (a person who will accept lawsuits on behalf of a business). The registered agent will be listed with the Secretary of State and you may call 512-463-5586 or mail PO Box 13697, Austin, TX 78711.

- D. YOU MUST GET ADVICE FROM AN ATTORNEY IF YOU ARE UNCERTAIN AS TO WHO TO SUE, HOW TO STYLE YOUR CASE, IF THERE ARE ANY PREREQUISITES TO FILING SUIT, AND/OR IF YOU NEED HELP SEARCHING ANY INFORMATION REGARDING WHO YOU NEED TO SUE. THE COURT CLERK IN THE JUSTICE OF THE PEACE OFFICE CANNOT GIVE LEGAL ADVICE.**
7. Once your petition is filed, a citation and a copy of the petition will be prepared by the clerk and then served to the defendant notifying him/her that a suit has been filed. Once the citation has been served, the defendant has 14 days from the service date to file a written answer to the court.
 8. **You will be instructed by court personnel to contact the court 3 to 4 weeks after filing your lawsuit to check status of your case.**
 - A. If the defendant was served and does not file an answer, the case will be set on the Default judgment docket and you will be notified to appear to prove-up your case. You will need to bring with you all evidence to present to the Judge.
 - B. If there is no response from you, the court will schedule on the Dismissal docket (DWOP) and you will be notified to appear to show good cause why your case should be retained on the court's docket. If you do not appear, your case may or may not be dismissed.
 - C. If you need an interpreter for any kind of setting, please speak with the Court Clerk.
 9. If the defendant does file an answer at or before the appropriate time, the court will docket the case to be heard on the **Pre-trial/Prove-up hearing docket**. The first setting of any kind MUST be scheduled at least 45 days in advance of notice. Litigants shall wear appropriate business attire and conduct themselves in a dignified and courteous manner at all times. The following is not appropriate: flip flops, shorts, sweat suits, athletic attire and no derogatory words on clothing.
 10. At the Pre-trial/Prove-up hearing, the Judge will speak to both parties and you will be given an opportunity to speak with the defendant to discuss any agreements prior to trial. If an agreement cannot be made, the case will be set on the trial docket for a later date. You will also be able to file all evidence related to your case. If you have a witness, they will not need to appear for the pre-trial. But, keep in mind they will need to appear in person for their testimony at the trial. Please ask the court clerk if you need to subpoena a witness.
 11. Either party to the suit may request a trial by jury. The request must be in writing and must also pay a jury fee of \$22.00 to the court.
 12. Before trial, each party will have a seat at one of the two tables in the courtroom. When speaking, each party will need to speak clearly into the microphones set up on each table. At the trial, the Judge or Jury will hear the facts and evidence from both sides and will enter a judgment after both sides have rested their case. **The Judge or Jury cannot try your lawsuit for you. You must properly prepare your case for trial. The burden of proof is upon you, the Plaintiff.**
 13. **To remain impartial, the Judge cannot and will not discuss the case with either party until the trial.**
 14. In civil cases, the losing party may appeal to the County Court at Law. If you desire to appeal, you must file an appeal bond in the amount fixed by the court and pay filing fees within 21 days from the date the judgment was entered. Please ask the Court Clerk for current fee information.

15. Once the appeal period has lapsed, no appeal has been filed and you are unable to collect judgment, there are a couple remedies to TRY to enforce the judgment. Those remedies include an **Abstract of Judgment** and a **Writ of Execution**.
 - A. An **Abstract of Judgment** is a lien on real estate owned by the defendant, but you must file the Abstract in the County Clerk's office for its purpose to be of any use to you. For an Abstract to be effective, it must be filed in *each county* where the defendant owns real estate. There is a fee for requesting in the Justice Court and filing with the County Clerk. Please ask the Court Clerk for current fee information. You may request an abstract no sooner than 21 days from the date of judgment.
 - B. A **Writ of Execution** may be issued no sooner than 30 days from the date of judgment. It authorizes the seizure and sale of the Defendant's NON-EXEMPT PROPERTY for the purpose of paying the judgment against him/her. You will need to speak with an attorney or a Constable's office regarding the definition of non-exempt property and how it applies to your Defendant(s). There is a fee for this service, please check with the Court Clerk for the current fee information.
16. **YOU MUST ALSO UNDERSTAND THAT THE COURT CANNOT ACT AS A COLLECTION AGENCY FOR YOU AND THERE IS NO LAW WHICH ENABLES THE COURT TO FORCE THE PERSON INTO PAYING YOU THE AMOUNT HE/SHE OWES. YOU ARE RESPONSIBLE FOR EXECUTING EACH ACTION AND THERE ARE NO GUARANTEES YOU WILL COLLECT.**