

Justice of the Peace
Pct. 2 Pl.1
300 W. Hall Acres Ste F.
Pharr, Texas 78577
Office: 956-784-3540
Fax: 956-784-3541

PLEASE READ

INSTRUCTIONS AND INFORMATION FOR FILING A JUSTICE COURT SUIT

The amount of money which may be sued for may not exceed the limit of the Court which is \$10,000.00.

PLEASE SUBMIT THE FOLLOWING:

- * **1 ORIGINAL PETITION WITH 2 COPIES OF PETITION**
- * **ORIGINAL SERVICEMEMBER'S CIVIL RELIEF ACT per defendant**
- * **PLEASE MAKE MONEY ORDERS OR CASHIER CHECKS PAYABLE TO:
Justice of the Peace 2-1. (NO CASH ACCEPTED.)**

ANY OTHER DOCUMENTS PERTAINING TO YOUR CASE MAY BE BROUGHT TO COURT THE DAY OF THE HEARING.

TYPE OF CASES AUTHORIZED IN JUSTICE COURT

A. Debt Claim Case – A lawsuit brought to recover a debt by an assignee of claim, a debt collector or collection agency, financial institution, or a person or entity primarily engaged in the business of lending money at interest

B. Small Claims Case – A lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law.

C. Forcible Entry and Detainer (Eviction) Cases – A lawsuit to recover possession of property

D. Repair & Remedy Cases – 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.

TYPE OF CASES PROHIBITED

- | | |
|--|--|
| A. Suit by state to recover penalty, forfeiture or escheat | F. By assignee of claim |
| B. Divorce | G. Person primarily engaged in business of loaning money |
| C. Slander | H. Collection agency or agent |
| D. Foreclosure lien on land | |
| E. Suit on trial of title to land | |

FILING FEES

CIVIL CASE

\$ 46.00 FILING FEE

\$100.00 COST OF SERVICE PER PERSON THAT RESIDES WITHIN HIDALGO COUNTY

\$146.00 TOTAL FOR 1 DEFENDANT THAT LIVES IN HIDALGO COUNTY.

For a Jury trial, please provide the additional:

Jury Fee - \$22.00

PLEADINGS

Must be in Writing for Petition and answer all others formal.
Pleadings may be informal, except Motion to change venue.

As a general rule, a civil suit in justice court must be brought in the county and precinct in which one or more defendants reside. Justice Court Rules of Practice/Civil Procedure, Rule 502.4

In all civil suits, the defendant has the right to be sued in the county and precinct in which he/she resides. There are some exceptions to this rule. Should you be filing this suit in this county and precinct because it is convenient to you, there may be a motion by the defendant to transfer venue (request that this suit be transferred to some other county and precinct). Should there be a motion to transfer venue, please be advised that after that motion is made, a hearing shall be set 45 days after motion is filed. Before filing the suit, it is recommended you notify the defendant by certified mail that he/she has ten (10) days in which to contact you concerning the claim, (for Repair & Remedy cases 7 days). If the defendant fails to contact you or satisfy the claim you would file on the eleventh day after the defendant signs the certified slip. It is your burden as a plaintiff to prove your case. It is necessary for you to sue the defendant in his/her property legal capacity of which there is typically three.

They are as follows:

INDIVIDUAL-Where an individual is personally responsible to you for damages he/she may have caused you.

PROPRIETOR OR PARTNERSHIP-A business that is not incorporated, but has filed an assumed name with the County Clerk in the county of his/her business. You may check with the County Clerk's office in the county of the business to determine who the owner(s) is (are).

CORPORATION - A business that is incorporated. It is necessary to know the Individual's name that is able to accept service on behalf of the corporation. The Authorized agent for service would be listed with the Secretary of State. This information May be obtained by calling 1-512-463-5555 or 1-800-252-55555 or <http://www.sos.state.tx.us/>

If the defendant upon whom you are filing resides outside of Hidalgo County. Call the county courthouse where the defendant is to be served. Ask for the name of the Constable or Sheriff in the precinct where the defendant is to be served. Call the Constable or Sheriff and find out the SERVICE FEE for serving a citation. Obtain their mailing address. Obtain a money order and make it payable to the Constable or Sheriff who will be serving the citation and bring it with you when you file your suit.

Once you have filed the petition stating the facts and circumstances of your suit, a citation along with a copy of the petition will be served to the defendant. The Constable or Sheriff will serve these papers and the Court must wait until they have been returned before further action may be taken. On Repair & Remedy cases a hearing will be set within 7-10 days from date defendant was served.

The defendant(s) in your suit is/are commanded to answer to the Court in person or in writing on the Monday following the expiration of ten (10) days from the date the citation is served upon him/her. THIS IS NOT THE TRIAL DATE.

If the defendant answers the suit, the Court will notify both parties by mail as to trial date. If either party wants a continuance (re-setting of hearing date), we recommend that it be requested at least one (1) week prior to the trial date.

Should you receive judgment, the Court DOES NOT COLLECT THE JUDGMENT FOR YOU NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT. However, you may request an Abstract of Judgment, Writ of Execution, Writ of Garnishment or Turnover Order to help you in collection of the judgment.

ABSTRACT OF JUDGMENT – Puts a lien on any real estate property the defendant may own in a particular county where the abstract is recorded. The abstract is only good in the county or counties where it is recorded. This can be obtained ten (10) days after the date of the judgment is signed.

WRIT OF EXECUTION – Allows a Constable or Sheriff to try to seize non-exempt property from the defendant. The property is seized, an auction is held and the proceeds from the sale satisfy the judgment. This can be obtained (30) days after the date the judgment is signed.

WRIT OF GARNISHMENT – This proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant (you need to know the name of the bank and the bank account number). You are actually suing the bank in which the original defendant has his/her bank account. This can be obtained thirty (30) days after the judgment is signed. **AN ATTORNEY SHOULD BE CONSULTED FOR THE PROCESS.**

TURNOVER ORDER – This proceeding is available after the judgment is signed and its purpose is to provide a court-ordered means of reaching property which cannot easily be reached through ordinary legal process and which is not exempt from attachment, execution, etc. AN ATTORNEY SHOULD BE CONSULTED FOR THIS PROCESS.

You may have other remedies available but they are more complicated and are not covered here. Our clerks will try to answer any PROCEDURAL question(s) you may have.

THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO THE JUSTICE COURT. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATIONS SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER OR THE ADVICE OF YOUR ATTORNEY.

IT IS NOT A GUARANTEE THAT YOUR MONEY WILL BE COLLECTED AND THE COURT CANNOT FORCE THE DEFENDANT TO PAY!

SAMPLE FORM

PETITION: SMALL CLAIMS CASE

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

PLAINTIFF: Your name _____

VS.

DEFENDANT(S): Name of person (s) / Company you are suing _____

Defendant(s) address: Complete Address of Person you are suing _____

COMPLAINT: The basis for the claim which entitles the plaintiff to seek relief against the defendant is:
BRIEF EXPLANATION OF THE REASON YOU ARE SUING THE PERSON (S)/ COMPANY.

RELIEF: Plaintiff seeks damages in the amount of \$Amount you are suing for, and/or return of personal property as described as follows (be specific): Describe the property you are trying to recover, which has a value of \$ value of property.
Additionally, plaintiff seeks the following: What do you want out this suit

SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are: address of the person you are suing

_____.

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

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

Address of Plaintiff's Attorney/ or Plaintiff

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

City State Zip

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____ Phone & Fax No. of Plaintiff's Attorney / Plaintiff

Small Claim Petition. 7/2013

**IF ADDRESS IS A P.O. BOX OR ROUTE #,
DIRECTIONS OR A MAP MUST ACCOMPANY
THIS PETITION**

PETITION: SMALL CLAIMS CASE

CASE NO. (court use only) _____

In the Justice Court, Precinct 2 Place 1, Hidalgo County, Texas

PLAINTIFF: _____

VS.

DEFENDANT(S): _____

Defendant(s) address: _____

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 \$ _____, and/or return of personal property as described as follows (be specific): _____, which has a value of \$ _____.

Additionally, plaintiff seeks the following: _____

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

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

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

Address of Plaintiff's Attorney/ or Plaintiff

DATE OF BIRTH: _____

City State Zip

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Phone & Fax No. of Plaintiff's Attorney / Plaintiff

**IF ADDRESS IS A P.O. BOX OR ROUTE #,
DIRECTIONS / A MAP MUST ACCOMPANY THIS PETITION**

SAMPLE FORM
PETITION: DEBT CLAIM CASE

CASE NO. (court use only) Court Provides this _____

In the Justice Court, Precinct 2 Place 1, Hidalgo County, Texas

PLAINTIFF: Your name _____

VS.

DEFENDANT(S): Name of person (s) / Company you are suing _____

Defendant(s) address: Complete Address of Person you are suing _____

COMPLAINT: The basis for the claim which entitles the plaintiff to seek relief against the defendant is:

BRIEF EXPLANATION OF THE REASON YOU ARE SUING THE PERSON (S)/ COMPANY

RELIEF: Plaintiff seeks damages in the amount of \$ Amount you are suing for.

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:

address of the person you are suing _____

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 (DATE) _____

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 should be at ____%. \$ _____ 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 holders 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: Your e-mail address _____

Print your name
Petitioner's Printed Name

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

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

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

City State Zip

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

Phone & Fax No. of Plaintiff's Attorney/ or Plaintiff

PETITION: DEBT CLAIM CASE

CASE NO. (court use only) _____

In the Justice Court, Precinct 2 Place 1, Hidalgo County, Texas

PLAINTIFF _____

VS.

DEFENDANT(S): _____

Defendant(s) address: _____

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 should be at ____%. \$ _____ 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 holders 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

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

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

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

City

State

Zip

DEFENDANT'S PHONE NUMBER: _____

Phone & Fax No. of Plaintiff's Attorney/ or Plaintiff if none

IF ADDRESS IS A P.O. BOX OR ROUTE #, DIRECTIONS / A MAP MUST ACCOMPANY THIS PETITION

TENANT: _____
 VS.
 Landlord: _____

In the Justice Court
 Precinct 2 Place 1
 Hidalgo County, Texas

PETITION FOR RELIEF UNDER SECTION 92.0563 OF TEXAS PROPERTY CODE

1. COMPLAINT: Tenant files this petition against the above-named Landlord pursuant to Section 92.0563 of the Texas Property Code because there is a condition in Tenant’s residential rental property that would materially affect the health or safety of an ordinary tenant.

Information Regarding Residential Rental Property:

Street Address	Unit No. (if any)	City	County	State	Zip
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Landlord’s Contact Information (to the extent known): _____

Business Street Address	Unit No. (if any)	City	County	State	Zip	Phone No.
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2. SERVICE OF CITATION: Check the box next to each statement that is true:

- Tenant received in writing Landlord’s name and business street address
- Tenant received in writing the name and business street address of Landlord’s management company.
- The name of Landlord’s management company is _____. To Tenant’s knowledge, this is the management company’s contact information:

Business Street Address	Unit No. (if any)	City	County	State	Zip	Phone No.
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The name of Landlord’s on-premise manager is _____. To Tenant’s knowledge, this is the on-premise manager’s contact information:

Business Street Address	Unit No. (if any)	City	County	State	Zip	Phone No
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The name of Landlord’s rent collector serving the residential rental property is _____. To Tenant’s knowledge, this is the rent collector’s contact information:

Business Street Address	Unit No. (if any)	City	County	State	Zip	Phone No
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3. LEASE AND NOTICE: Check the box next to each statement that is true:

- The lease is oral. The lease is in writing. The lease requires the notice to repair or remedy a condition to be in writing.
- Tenant gave written notice to repair or remedy the condition on _____ The written notice to repair or remedy the condition was sent by certified mail, return receipt requested, or registered mail on _____.
- Tenant gave oral notice to repair or remedy the condition on _____.

Name of person(s) to whom notice was given: _____

Place where notice given: _____

4. RENT: At the time Tenant gave notice to repair or remedy the condition, Tenant’s rent was current (no rent owed), not current but Tenant offered to pay the rent owed and Landlord did not accept it, or not current and Tenant did not offer to pay the rent owed. Tenant’s rent is due on the ___ day of the month week _____ (specify any other rent-payment period). The rent is \$ _____ paid per month week (specify any other rent-payment period). Tenant’s rent (check one): is not subsidized by the government is subsidized by the government as follows, if known: \$ _____ paid by government, and \$ _____ paid by Tenant.

5. PROPERTY CONDITION: Describe the property condition materially affecting the physical health or safety of an ordinary tenant that Tenant seeks to have repaired or remedied:

6. RELIEF REQUESTED: Tenant requests the following relief: a court order to repair or remedy the condition, a court order reducing Tenant’s rent (in the amount of \$ _____ to begin on _____), actual damages in the amount of \$ _____, a civil penalty of one month’s rent plus \$500.00, attorney’s fees, and court costs. Tenant stated that the total relief requested does not exceed \$10,000.00, excluding interest and court costs but including attorney’s fees.

Tenant Signature: _____

Date: _____

Street address _____

Phone Number _____

City _____ State _____ Zip _____

FORM 126 – SERVICEMEMBER’S CIVIL RELIEF ACT (FILL ONE OUT PER DEFENDANT)

DOCKET NO. _____

NAME: _____

**AFFIDAVIT
50 USC Sec. 520**

Plaintiff being duly sworn on oath deposed* and says that defendant(s) is (are)
(CHECK ONE)

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

PLAINTIFF

(Select the applicable title under the signature for the jurat below)

Subscribe and sworn to before me on this the ____ day of _____, 20__.

Notary Public in and for the State of Texas

SEAL

***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 of both.**