

# HIDALGO COUNTY JUSTICE OF THE PEACE SMALL CLAIMS

**THE CLERKS OF THIS COURT CANNOT GIVE LEGAL ADVICE.** They are prohibited by state law from providing any legal advice (Sec. 81.102 of Texas Government Code). If you have any other questions, you should seek the advice of an attorney or legal aid.

## 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.** (T.R.C.P. RULE 500-507)

**PLEASE SUBMIT THE FOLLOWING (forms must be filled out in blue ink):**

- 1 ORIGINAL PETITION
- ORIGINAL SERVICEMEMBER'S CIVIL RELIEF ACT FOR ALL CASES
- 1 COPY OF CERTIFIED LETTER (*if available*)
- 1 COPY OF RETURN RECEIPT OF LETTER (*if available*)

1 Original packet  
2 copies for each defendant

MONEY ORDERS OR CASHIER CHECKS WILL BE MADE PAYABLE TO:  
Hidalgo County J.P.-Pct. 3, Pl. 1  
**FORM OF REMITTANCE IS UP TO COURT'S DISCRETION**

**ANY OTHER DOCUMENTS PERTAINING TO YOUR CASE MAY BE BROUGHT TO COURT THE DAY OF THE HEARING, BUT IF ATTACHED TO ORIGINAL PACKETS, COPIES OF PACKETS MUST INCLUDE ADDITIONAL DOCUMENTS.**

## 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

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

## FEE SCHEDULE

CIVIL CASES	For a Jury trial (please provide the additional):
\$ 46.00 Filing Fee	\$22.00 Jury Fee
\$ 100.00 Service Fee (per person)	
<b>\$146.00 TOTAL</b>	

## 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, you need to 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 by the end of the 14<sup>th</sup> day after defendant has been served (if the 14<sup>th</sup> day is a Saturday, Sunday, or Legal Holiday the defendant's answer is due by the end of the day following the 14<sup>th</sup> day that is not a Saturday, Sunday, or Legal Holiday). 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!**

**OFFICE USE ONLY**

CAUSE NO. \_\_\_\_\_

DATE FILED: \_\_\_\_\_

**PETITION: SMALL CLAIMS CASE**

\_\_\_\_\_  
PLAINTIFF  
VS.

IN THE JUSTICE COURT  
PRECINCT 3 PLACE 1  
HIDALGO COUNTY

\_\_\_\_\_  
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

\_\_\_\_\_  
Address of Plaintiff( or attorney if any)

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

\_\_\_\_\_  
Phone No. & Fax No. of Plaintiff ( or attorney if any)

**DEFENDANT(S) INFORMATION (if known):**  
DATE OF BIRTH: \_\_\_\_\_  
LAST 3 NUMBERS OF DRIVER LICENSE: \_\_\_\_\_  
LAST 3 NUMBERS OF SOCIAL SECURITY: \_\_\_\_\_  
DEFENDANT'S PHONE NUMBER: \_\_\_\_\_

<b>OFFICE USE ONLY</b> CAUSE NO. _____
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**AFFIDAVIT  
50 USC Sec. 520**

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 Servicemembers Civil Relief Act of 2003
- has waived his/her rights under the Servicemembers Civil Act of 2003
- military status is unknown at this time

\_\_\_\_\_  
PLAINTIFF

Subscribed and sworn to before me on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
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 or both.**