DUSTY VINSON
JUSTICE OF THE PEACE
PRECINCT THREE

SMALL CLAIMS

- **SMALL CLAIMS CASE:** 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 **$10,000**, excluding statutory interest and court costs but including attorney fees, if any.

IMPORTANT NOTICE:

APPROPRIATE COURTROOM ATTIRE IS REQUIRED. All persons entering the courtroom should be dressed in clothing befitting the dignity and solemnity of the court proceedings. No shorts, tank tops, flip flops, hats, etc. Cell phones and other electronics must be turned off when in the courtroom. Food and drink is not allowed in the courtroom.

Courthouse Annex, 1112 Santa Fe Drive, Weatherford, TX 76086
(817) 598-6086 – civil **(817) 598-6112 - fax**

DUSTY VINSON
JUSTICE OF THE PEACE, PRECINCT THREE

Courthouse Annex
1112 Santa Fe Dr.
Weatherford, TX 76086

(817) 598-6192
(817) 598-6112 fax
(817) 598-6086 civil

*****PLEASE READ CAREFULLY BEFORE COMPLETING PETITION*****

FOR INFORMATION ON THE RULES OF PRACTICE IN JUSTICE COURTS, PLEASE CONSULT PART V OF THE TEXAS RULES OF CIVIL PROCEDURE, WHICH IS AVAILABLE ONLINE AND AT THIS COURT.

THE FOLLOWING INFORMATION IS FURNISHED TO YOU AS A COURTESY OF THE JUSTICE OF THE PEACE OFFICE. NEITHER I, NOR MY CLERKS, CAN ADVISE YOU WHAT YOU SHOULD DO AND ARE BARRED BY LAW FROM GIVING YOU LEGAL ADVICE. WE CAN ONLY ANSWER PROCEDURAL QUESTIONS.

- **SMALL CLAIMS CASE:** 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 **$10,000**, excluding statutory interest and court costs but including attorney's fees, if any.
- **DEBT CLAIM CASE:** 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 $10,000, excluding statutory interest and court costs but including attorney fees, if any.

Please determine which of the above case types is the correct one and complete the appropriate petition as well as the **Civil Information Sheet** and **Affidavit of Military Status of Defendant**. **PLEASE PRINT CLEARLY.** 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 this 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.

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 he 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 an 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 (512) 463-5555. 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.

- In the $ space, put the **PRINCIPAL AMOUNT** of your claim against the defendant. **DO NOT ADD COURT COSTS** to this amount. If you wish to have the judgment include court costs, you would state "plus court costs".
- Under **complaint** section, make a **very short statement** concerning the nature of your claim. Ex: unpaid past due account for roof repairs done June 3, 2001 at 123 Main St., Hometown, Texas 12345.
- Under **relief** section, you will state the amount you are suing for, or what property you are suing for and the value of each item.
- The **Justice Court Civil Information Sheet** must be completed, signed by the plaintiff or the plaintiff's attorney and accompany the filing of a petition. Select only **one** case type.
- The **Affidavit of Military Status of Defendant form** must be completed and either accompany the filing of a petition or be submitted prior to a default judgment being granted.
- After the petition is completed, ask my clerk to review the petition and accompanying forms. You will then be required to pay the fees for filing the petition and service of citation. ***If the citation is to be served out of Parker County, you will be required to pay the service fee in the form of a money order made payable to the out-of-county agency.*** Please check with the clerk for more information in that case. A citation along with a copy of your petition will be served to the defendant notifying him that a suit has been filed against him in this Court. The citation will order the defendant to file an answer with the court by the end of the 14th day after the day he was served with the citation. You will be notified by this office that one of the following will take place:
    1. The defendant has entered a denial and the case is set for trial. The trial notice will be mailed approximately 45 days prior to the trial date, or
    2. The defendant did not answer and a prove-up hearing needs to be set for you to present your facts to the Court as to why you should be granted a default judgment, or
    3. The defendant answered and acknowledged their indebtedness. An acknowledged judgment is prepared and sent to you and the defendant.

If you should receive a judgment, please understand that this 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. The following are some of those 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 the abstract is recorded. There is a fee of $5.00 for the Court to issue the abstract. You will also be required to pay a small fee to the County Clerk to record the abstract. This may be obtained ten days after the judgment was signed.
2. ***Writ of Execution*** authorizes the Constable or Sheriff to seize any assets belonging to the defendant that are not exempt under Texas Property Code, Section 42.001 and 42.002. Those assets are then auctioned at a public sale and those proceeds are applied to the judgment. This may be obtained thirty days after the judgment was signed if the judgment was not paid or appealed.
3. ***Writ of Garnishment*** is a separate suit wherein you are the plaintiff and the defendant's 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 court costs against the judgment debtor. An attorney, in my opinion, is required.

PETITION: SMALL CLAIMS CASE

CASE NO. (court use only) _____

In the Justice Court, Precinct Three, Parker 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):
DATE OF BIRTH:_____

*LAST 3 NUMBERS OF DRIVER LICENSE:_____
*LAST 3 NUMBERS OF SOCIAL SECURITY:_____

DEFENDANT'S PHONE NUMBER:_____

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

_____
City State Zip

_____
Phone & Fax No. of Plaintiff's Attorney, if any, or Plaintiff if none

Justice Court Civil Case Information Sheet (4/13)

CAUSE NUMBER ***(FOR CLERK USE ONLY)***: _____

STYLED

_____

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		**2. Names of parties in case:**
Name: _____	Telephone: _____	Plaintiff(s): _____
Address: _____	Fax: _____	Defendant(s): _____
City/State/Zip: _____	State Bar No: _____	_____
Email: _____		[Attach additional page as necessary to list all parties]
Signature: _____		

3. Indicate case type, or identify the most important issue in the case *(select only 1)*:

____***Debt Claim***: 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 $10,000, excluding statutory interest and court costs but including attorney fees, if any.	____***Eviction***: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than $10,000, Excluding statutory interest and court costs but including attorney fees, if any.
____***Repair and Remedy***: A repair and remedy case is 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. The relief sought can be for no more than $10,000, excluding statutory interest and court costs but including attorney fees, if any.	_____***Small Claims***: 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 $10,000, excluding statutory interest and court costs but including attorney fees, if any.

CAUSE NO._____

_____ Plaintiff	§	IN THE JUSTICE COURT
VS	§	PRECINCT THREE
_____ Defendant	§	PARKER COUNTY, TEXAS

AFFIDAVIT OF MILITARY STATUS OF DEFENDANT

Before me, the undersigned clerk of the justice court or notary public, on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury stated the following:

My name is ***[please print]*** _____; I am ***[check one]*** _____the plaintiff or _____and authorized agent or _____ attorney for the plaintiff in the above styled and numbered cause. I am over the age of 18 and am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

check below as applicable:

[ ] The defendant is not in the military
[ ] The defendant is not on active duty in the military and/or
[ ] The defendant is not in a foreign country on military service
[ ] The defendant is on active military duty and/or is subject to the Servicemembers Civil Relief Act of 2003.
[ ] The defendant has waived his/her rights under the Servicemembers Civil Relief Act of 2003.
[ ] The defendant's military status is unknown at this time.

_____
Signature of Plaintiff Agent Attorney

Subscribed and sworn to before me by _____ on this the _____ day of _____, 20____.

_____
Court Clerk Notary Public

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.