

Parker County

Small Claims Petition

Judge Kelly Green



PARKER COUNTY JUSTICE COURT
PRECINCT TWO
JUDGE KELLY GREEN

PLEASE READ CAREFULLY

FOR INFORMATION ON PROCEDURAL RULES IN JUSTICE COURTS, PLEASE CONSULT PART V OF "THE TEXAS RULES OF CIVIL PROCEDURE," WHICH IS AVAILABLE ONLINE, AND IN THIS COURT. THE FOLLOWING INFORMATION IS FURNISHED TO YOU AS A COURTESY. THE COURT CANNOT ADVISE YOU WHAT YOU SHOULD DO AND ARE BARRED BY LAW FROM GIVING YOU LEGAL ADVICE. THE COURT CAN ONLY ANSWER PROCEDURAL QUESTIONS. PLEASE READ CAREFULLY BEFORE COMPLETING THE STATEMENT OF CLAIM.

1. 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 attorney fees, if any.

2. 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. Complete the appropriate petition packet. PLEASE PRINT CLEARLY! You are the plaintiff and the person or entity you are suing is the defendant. Generally, the defendant has the right to be sued in the county and precinct where 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 will be granted; a motion to transfer venue may delay the proceedings six to eight weeks.

IT IS YOUR RESPONSIBILITY AS PLAINTIFF TO DETERMINE THE LEGAL CAPACITY IN WHICH YOU WILL SUE THE DEFENDANT. For any potential judgment to be valid, it is necessary 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 he may have caused you as an individual.
- B. **PROPRIETOR OR PARTNERSHIP:** A business that is not incorporated but does have on file with the County Clerk an assumed name. Example: John Smith d/b/a Greenhouse Supplies.
- C. **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 service 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 e-mail address is www.sos.state.tx.us. Example: Greenhouse, Inc. through its agent, John Smith. It is also possible for an incorporated entity to have an assumed name. Example: Greenhouse, Inc. d/b/a Greenhouse Supplies.

After the appropriate packet is completed submit it to the clerk for processing. Two complete copies are required. If you do not submit two complete copies you will be charged for copies. You will then be required to pay the fees for filing the claim and service of citation in the amount of \$141.00 for one individual or entity. Each additional person or entity to be served will be an additional \$100.00 provided all parties to be served are located in Parker County. A citation along with a copy of your statement will be served to the defendant by the Constable or Sheriff's deputy notifying him that a suit has been filed against him in this court. The citation will order the defendant to appear in this court to answer to the suit within 14 days of service of citation. The defendant is required to send a copy of their answer to you as plaintiff and one of the following will take place:

- A. If the defendant entered a denial, the case is set for trial. The trial notice will be mailed approximately 45 days prior to the trial date, or
- B. If the defendant did not answer, a prove-up hearing is set and notice of hearing mailed to you.

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. Following are some of those remedies that are available to you:

- A. 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 21 days after the judgment was signed.
- B. Writ of Execution authorizes the Constable or Sheriff to seize any assets belonging to the defendant that are not exempt under Texas Property Code, 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 (30) days after the judgment was signed.
- C. 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 his bank account, warning the bank to freeze the monetary assets of his 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 of the garnishee, which he may then tax as additional court costs against the judgment debtor. An attorney MAY BE required.

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 this case:
Name: _____ Phone #: _____ Fax #: _____ Address: _____ City/State/Zip _____ State Bar # _____ Email: _____ Signature: _____	Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ _____ (Attach additional pages as necessary to list all parties)
3. Indicate case type, or identify the most important issue in the case (select only 1)	
<input type="checkbox"/> 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.	<input type="checkbox"/> 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 of 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.
<input type="checkbox"/> 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.	<input type="checkbox"/> 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. _____

_____	§	IN THE JUSTICE COURT
VS	§	PRECINCT TWO
_____	§	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 _____ an 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 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 Service member Civil Relief Act of 2003.
- The defendant has waived his/her rights under the Service member 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.

PETITION: SMALL CLAIMS CASE

CASE NO. (Court Use Only) _____

In Justice Court Pct 2 Parker County, Texas

PLAINTIFF(S) _____

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:

Plaintiff's Printed Name

Signature of Plaintiff or Attorney

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

City State, Zip

Phone number of Attorney, if any, or Plaintiff if none

DEFENDANT(S) INFORMATION (if known):

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

* LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDENTS PHONE NUMBER: _____