

## JUSTICE COURT CIVIL SUITS-DEBT CLAIM CASE

Justice Court Pct 3 of Tom Green County, Texas

3052 N Bryant, San Angelo, TX 76903

[www.co.tom-green.tx.us](http://www.co.tom-green.tx.us)

Honorable Stacye W. Speck

Justice of the Peace

(325)657-9922

Instructions and information regarding filing Justice Court Suits. Please read carefully before completing a petition.

**PLEASE NOTE: EFFECTIVE AUGUST 31, 2013 ALL CIVIL SUITS IN JUSTICE COURTS WILL BE GOVERNED BY NEW RULES OF CIVIL PROCEDURE FOR JUSTICE COURT CASES ADOPTED BY THE SUPREME COURT OF TEXAS. TO REVIEW THE NEW RULES OR PRINT A COPY PLEASE VISIT THE TOM GREEN COUNTY WEBSITE AT [www.co.tom-green.tx.us](http://www.co.tom-green.tx.us). IT IS HIGHLY RECOMMENDED THAT YOU REVIEW THE NEW RULES PRIOR TO FILING YOUR CASE TO DETERMINE WHICH CATEGORY OF CASE TO FILE.**

**TO REVIEW ALL THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE PLEASE USE THE FOLLOWING LINK TO THE SUPREME COURT OF TEXAS. [www.supreme.courts.state.tx.us/rules/rules.asp](http://www.supreme.courts.state.tx.us/rules/rules.asp)**

THE JUDGE AND COURT PERSONNEL ARE PROHIBITED FROM GIVING "LEGAL ADVICE" TO ANYONE. ALTHOUGH AN ATTORNEY IS NOT REQUIRED, YOU MAY WISH TO CONSULT AN ATTORNEY FOR ANY AND ALL LEGAL ADVICE. IN ADDITION, AS A MATTER OF LAW, THE JUDGE IS PROHIBITED FROM DISCUSSING ANY MATERIAL FACT OF THE LAWSUIT WITH A LITIGANT OR DEFENDANT PRIOR TO TRIAL OR HEARING.

The new Rules for Justice Court classify 4 categories of civil cases .

### **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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any. Small claims cases are governed by Rules 500-507 of Part V of the Rules of Civil Procedure.

### **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 \$ 20,000, excluding statutory interest and court costs but including attorney fees, if any. Debt claim cases in justice court are governed by Rules 500-507 and 508 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 508 and the rest of Part V, Rule 508 applies.

### **Repair and Remedy Case**

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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any. Repair and remedy cases are governed by Rules 500-507 and 509 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 509 and the rest of Part V, Rule 509 applies.

### **Eviction Case**

An eviction case is a lawsuit brought to recover possession of real property under Chapter 24 of the Texas Property Code, often by a land lord 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 510 and the rest of Part V, Rule 510 applies.

In all civil suits, the defendant generally has the right to be sued in the county and precinct in which he resides. There are exceptions to this venue rule. For detailed information regarding Venue please refer to Rule 502.4 and Chapter 15, Subchapter E of the Texas Civil Practice and Remedies Code. The following link will provide you with access to ALL Texas Laws: <http://www.statutes.legis.state.tx.us/>. Click on Texas Statutes and choose the Texas Laws you wish to review.

Although not required by Law, it is requested that prior to filing this suit you send a **Demand letter** to the party you are contemplating suing giving the party at least 10 days to notify them of the potential for civil action and give them an opportunity to satisfy the claim prior to the still. **It is recommended that this be sent certified mail return receipt requested.**

It is your burden as a plaintiff and it is 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. Consult with your attorney if you are unsure of the defendant's proper legal capacity. Should you file against the wrong entity, you may have to begin again and will have to pay for trial expenses caused by filing against the wrong party. For Corporations and to determine the Agent for Service for a Corporation you should contact **Texas Secretary of State** at 1-800-252-1386.

AFTER REVIEWING THE RULES, PLEASE FULLY COMPLETE THE APPROPRIATE PETITION AND THE REQUIRED FORMS.

What must be filed :

*ONE ORIGINAL PETITIONS*

*ONE Copy of Demand Letter and signed return receipt, if available*

*ONE Military Affidavit*

*ONE Military Status Report*

*ONE Certificate of last known address*

*One Justice Court Information Sheet*

Always keep track of your case numbers so that you can refer to them when calling our office regarding your case. The case number will be on your receipt.

**This court does not collect the money judgment for you nor can we force an indigent defendant to pay the judgment.** If you receive a judgment against the defendant this court can issue various instruments to assist you in collecting the judgment. You may request an Abstract of Judgment, Writ of Execution, Writ of Garnishment, and Turnover Order. It is highly recommended that you consult with an attorney for any of these processes as in some instances an attorney is required.

An **Abstract of Judgment** puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only valid in the county or counties where it is recorded. This can be obtained ten days after the date the judgment is signed.

The **Writ of Execution** may be obtained thirty days after the judgment is signed. This document authorizes the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

A **Writ of Garnishment** is also available 30 days after the final judgment has been signed. This Garnishment proceeding is a Separate small claims suit. A writ of garnishment is a process for seizing assets, both money and property, held by a third party (the garnishee) but owed or belonging to the debtor. For example, a defendant against whom a judgment has been issued (the judgment debtor) may have a bank account. The bank holds the money in the account, but the money belongs to the defendant. The bank is therefore indebted to the defendant. A writ of garnishment is the legal process by which the plaintiff (garnishor) can require the bank (garnishee) to turn over the money in the account to satisfy the judgment. **An attorney is required.**

A **Turnover Order** 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 thorough ordinary legal process and which is not exempt from attachment, execution, etc. **An attorney should be used** because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

Please understand that as a plaintiff, **you have the burden of proof** to show by the preponderance of the evidence that the defendant you are suing is the proximate cause of your damage(s) in the legal capacity in which defendant is sued. All damages and evidence necessary to meet your burden should all be available at the time of filing and no later than the date of the trial.

**DISCOVERY: ANY AND ALL PRE TRIAL/PRE JUDGMENT DISCOVERY MUST BE APPROVED BY THE COURT. PLEASE REFER TO SECTION 500.9 OF THE NEW RULES.**

**RULE 501.4 REQUIRES YOU, AS PLAINTIFF OR DEFENDANT, TO SERVE THE OTHER PARTY WITH ANYTHING FILED WITH THE COURT IN THE MANNER PRESCRIBED BY THIS RULE.**

Should you be granted possession of the property and the defendant fails to move or fails to appeal to the County Court within 5 days, you may request a **Writ of Possession** ordering the defendant to move. The Writ may be requested (in writing) at the **beginning of the 6<sup>th</sup> day following the date the Judgment was signed by the Judge.**

This court does not collect the money judgment for you nor can we force an indigent defendant to pay the judgment. If you receive a judgment against the defendant, this court can issue various instruments to assist you in collecting the judgment. **IT IS RECOMMENDED THAT YOU CONSULT WITH AN ATTORNEY FOR THESE PROCESSES.** You may request an **Abstract of Judgment, Writ of Execution Writ of Garnishment, and Turnover Order.**

**An Abstract Judgment** puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only valid in the county or counties where it is recorded. This can be obtained ten days after the date the judgment is signed.

**The Writ of Execution** may be obtained thirty days after the judgment is signed. This document will authorize the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

**A Writ of Garnishment** is also available 30 days after the final judgment has been signed. This Garnishment proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant. You are actually suing the bank in which the original defendant has his bank account. You are warning the said bank to freeze the monetary assets of his account and to appear and make answer to the Garnishment suit. **An attorney is required.**

**A Turnover Order** 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 exempt from attachment, execution, etc. **An attorney should be used** because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

**A Subpoena** may be requested if you need a witness(s) in your case. Except as provided by Section 22.002, a witness is entitled to **\$10 dollars** for each day the witness attends court. This fee includes the entitlement for travel and the witness is not entitled to any reimbursement for mileage traveled. The **party who summons** the witness shall pay that witness's fee for one day, as provided by this section, at the time the subpoena is served on the witness. The witness fee must be taxed in the bill of costs as other costs.

**Fee Schedule for Eviction suits: (MONEY ORDERS ONLY – NO CASH OR CHECKS ACCEPTED)**

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Filing fee-Defendant in Tom Green Co.	\$54	\$ 85	<del>\$ 139</del>
2 Defendants (same case)	\$54	\$170	\$ 224
Defendant out-of-County	\$54	(call for amount)	

Jury Fee \$22.00

(Request for Jury must be made and fee paid no later than 14 days before the case is set for trial. If not timely made, the right to a jury trial is waived).

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Abstract of Judgment	<del>\$5.00</del>		\$5.00
Writ of Possession	\$5.00	\$200.00	\$205.00
Writ of Execution	\$5.00	\$200.00	\$205.00
Subpoena	Contact the Court		
Writ of Garnishment	\$54.00	\$200.00	\$254.00
Turnover Order	\$5.00	\$200.00	\$205.00

**PETITION: DEBT CLAIM CASE**

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

PLAINTIFF: \_\_\_\_\_ IN THE JUSTICE COURT PRECINCT 3 TOM GREEN COUNTY

ADDRESS: \_\_\_\_\_

VS.

DEFENDANT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**COMPLAINT:** The basis for the claim which entitles Plaintiff to seek relief against Defendant is: \_\_\_\_\_

**RELIEF:** Plaintiff seeks damages in the amount of \$ \_\_\_\_\_

**SERVICE OF CITATION:** Service is requested on Defendant(s) by:  personal service at home or work,  registered mail,  certified mail, return receipt requested. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where 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: \_\_\_\_\_ 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 \_\_\_\_\_

The date the debt was assigned/transferred to Plaintiff was \_\_\_\_\_

I hereby request a jury trial. The fee is \$22 and must be paid at least 14 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff's Printed Name

**Defendant's Information (if known):**

Date of birth: \_\_\_\_\_

Last three digits of Driver License: \_\_\_\_\_

Last three digits of Soc. Sec. No.: \_\_\_\_\_

Phone No.: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff or Plaintiff's Attorney

\_\_\_\_\_  
Address of Plaintiff or Plaintiff's Attorney

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

\_\_\_\_\_  
Phone & Fax No. of Plaintiff or Plaintiff's Attorney

Sworn to and subscribed before me to certify which, witness my official hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Justice of the Peace Clerk

In addition to the above information, the Service Member's Civil Relief Act has become law. The legislation, passed by Congress and signed by the President, took effect immediately when it was signed on December 19, 2003.

When filing any Civil Suits this form MUST be filled out with proof of military status, report and accompany the complaint upon filing. Military status can be determined at <https://scra.dmdc.osd.mil/> or <https://scra.dmdc.osd.mil/scra#/single-record>

Military Status Affidavit Sec.201 (b)

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

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT 3
	§	
_____	§	
DEFENDANT	§	TOM GREEN COUNTY, TEXAS

### SERVICEMEMBER'S CIVIL RELIEF ACT AFFIDAVIT

**Instructions:** The Servicemember's Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require the plaintiff to file a bond in an amount approved by the court. To obtain certificates of service or non-service under the Servicemember's Civil Relief Act, you may access the public website: <https://scra.dmdc.osd.mil/> or <https://scra.dmdc.osd.mil/scra#/single-record>. This website will provide the current active military status of an individual.

Plaintiff being duly sworn under oath swears that Defendant is: *(check one)*

- not on active duty in the military
- on active military duty and/or is subject to the Servicemember's Civil Relief Act of 2003
- has waived in writing his/her rights under the Servicemember's Civil Relief Act of 2003
- military status is unknown at this time

\_\_\_\_\_  
PLAINTIFF

**SWORN TO AND SUBSCRIBED** before me on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CLERK OF THE JUSTICE COURT PCT. 3 OR NOTARY

*\*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.*

**CONSTABLE INFORMATION SHEET**

PLEASE COMPLETE THIS INFORMATION TO EXPEDITE SERVICE OF YOUR PAPERS.

**PLAINTIFF NAME:** \_\_\_\_\_

**RESIDENCE:** \_\_\_\_\_

**PLACE OF EMPLOYMENT:** \_\_\_\_\_

**RESIDENCE PHONE:** \_\_\_\_\_ **WORK PHONE:** \_\_\_\_\_

**Number at which you can be reached or can leave a message:** \_\_\_\_\_

**DAYTIME FAX:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

\*\*\*\*\*

**DEFENDANT NAME:** \_\_\_\_\_

**RESIDENCE:** \_\_\_\_\_

**PLACE OF EMPLOYMENT:** \_\_\_\_\_

**RESIDENCE PHONE:** \_\_\_\_\_ **WORK PHONE:** \_\_\_\_\_

**MAIL ADDRESS IF DIFFERENT:** \_\_\_\_\_

**TYPE OF RESIDENCE:** \_\_\_\_\_

**Description of residence and any special direction:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## 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.

<p><b>1. Contact information for person completing case information sheet:</b></p> <p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p><b>2. Names of parties in case:</b></p> <p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>
<p><b>3. Indicate case type, or identify the most important issue in the case (select only 1):</b></p>	
<p><input type="checkbox"/> <b>Debt Claim:</b> 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 statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> <b>Eviction:</b> 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>
<p><input type="checkbox"/> <b>Repair and Remedy:</b> 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> <b>Small Claims:</b> 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 statutory interest and court costs but including attorney fees, if any.</p>

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

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

IN THE JUSTICE COURT  
PRECINCT 3  
TOM GREEN COUNTY, TEXAS

CERTIFICATE OF LAST KNOWN ADDRESS

I hereby certify that the last known mailing address of the Defendant, \_\_\_\_\_

\_\_\_\_\_, against whom suit is filed in the above  
numbered cause is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
Plaintiff

• Required before a default judgment may be issued