

INFORMATION FOR FILING A SMALL CLAIM CASE

A small claims case is a lawsuit brought for the recovery of monetary damages, civil penalties, personal property, or other relief allowed by law. The actual amount in controversy (not the amount sued for) cannot exceed \$20,000.00, excluding statutory interest and court costs but including attorney fees, if any.

THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO THE COURT. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATION SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER, OR THE ADVICE OF YOUR ATTORNEY. SMALL CLAIMS ARE GOVERNED BY RULES 500-507 of PART V of the TEXAS RULES OF CIVIL PROCEDURE.

VENUE: General Rule: Generally, a defendant in a small claims case or a debt claim case is entitled to be sued in one of the following venues:

1. The county and precinct where the ***defendant*** resides;
2. The county and precinct where the incident, or the majority of incidents, that gave rise to the claim occurred;
3. The county and precinct where the contract or agreement, if any, that gave rise to the claim was to be performed; or
4. The county and precinct where the property is located, in a suit to recover personal property.

WHO YOU MAY SUE:

1. INDIVIDUAL – list all known addresses on the form
2. SOLE PROPRIETORSHIP – contact the Assumed Names Dept. 830-997-6515 in the Gillespie County Clerk's office for more information
3. CORPORATION – *serve* its registered agent; the name and address can be obtained from the office of the Secretary of State by calling 512-463-5555, emailing corpinfo@sos.state.tx.us, or visiting their website at <https://www.sos.state.tx.us/corp/sosda/index.shtml>

FILING SUIT: The responsibility for filling out your petition rests with you, the plaintiff. For help with precinct information, please contact the Gillespie County Tax Assessor Collector, 830-997-6519, or visit our website at www.gillespiecounty.org and choose Precinct Maps then select Gillespie County JP Precinct Map or see the precinct map in the Gillespie County Annex 1 Building. The fee to file a suit is \$54.00. Personal service on the defendant by Constable is \$85.00; service on the defendant by certified mail is at the current postal rate. If the defendant resides outside of Gillespie County, personal service rates may vary, and it is your responsibility to obtain that information for the court.

APPEAL: After the trial, either party may appeal the judgment by filing a Notice of Appeal with the Court (\$54 filing fee required with the Justice Court), Appeal Surety Bond and a \$10 transcript fee, within (21) twenty-one days from the date of judgment. If the appeal is filed by the Plaintiff, the appeal bond amount shall be \$500.00. If the appeal is filed by the Defendant, the appeal bond amount shall be two (2) times the judgment amount. **Filing fees are also required to the County Court.**

AFTER THE JUDGMENT: This Court does not collect the judgment for you, nor can we force the 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.

- a) Abstract of Judgment: \$5.00; requested after (21) days from judgment. See clerk for more info.
- b) Writ of Execution: \$205.00; requested after (30) days from judgment. See clerk for more info.