

**Justice of the Peace, Pct. 2**  
102 Tam Rd Ste. A  
Huntsville, Texas 77320  
(936) 436-4977 Fax (936) 436-4980

**Small Claims Instructions**

1. The amount of Debt or Small Claims suit is limited to damages that **do not** exceed \$20,000.00. The cost to file a suit is \$54.00 with an additional service fee of \$100.00 per defendant, for service of citation served in Walker County. **If the defendant resides outside the County of Walker or State of Texas, you are responsible for the amount of service fee for that county or state.**
2. In all civil suits, the defendant(s) generally has the right to be sued in the county and precinct in which he resides. Though you may file a 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) If the defendant's motion is granted, you will have to pay the filing fees again in the county and precinct in which the case is transferred.
3. 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, of which there are typically three. They are as follows:
  - A. Personally or sole Proprietorship:** When an individual is responsible to you for damages he may have caused you. A business that is owned by one person may be sued in this capacity.
  - B. Partnership:** A business that is not incorporated, but does have on file with the County Clerk an assumed name and have two or more partners. (John Smith & Jack Jones Individually & DBA 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 able 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).
4. If, as a plaintiff, you are in the business of loaning money either primarily (Banks, Credit Unions, Savings & Loans, or Credit Cards), you are not allowed to file in Small Claims Court. Your case **must** be filed in Debt Claim.
5. When you have completed the petition stating the facts and circumstances of your suit, a citation 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 answer to the suit 14 days from the date of service. **If the Defendant answers suit**, this office will notify you of your court date by mail. **If the defendant does not answer**, a Default hearing will be set, this office will notify you of your court date by mail.

6. If you have witnesses, who will not come to court voluntarily, you may ask the Court to subpoena those individuals prior to trial. An application for subpoena must be filed with the court with appropriate fees attached. Allow at least a week for service of the subpoena.

7. You have a right to hire an attorney to represent you, however most plaintiffs represent themselves.

8. This court does not collect the judgment for you, nor can we force the defendant to pay the judgment. If you receive a judgment for your claim against the defendant, you may request an Abstract of Judgment. An Abstract of Judgment puts a lien on any real property the defendant may own in the county in which the abstract is recorded.

**The Abstract of Judgment** can be issued 21 days after the date of judgment. The cost for issuing an Abstract of Judgment is \$5.00.

### **Any Time After Filing**

1. If you and the defendant settle the matter before your court date you **must** send a notice requesting the case to be dismissed.

2. Once judgment is rendered and you receive satisfaction from the defendant it is your responsibility to give the defendant a “Release of Judgment.”

## **THIS OFFICE DOES NOT GIVE LEGAL ADVICE**

**However, please contact this office if you have any questions concerning procedures in filing your case.**

### **Fee Schedule**

#### **Filing Fee Constable Fee Total**

Debt Claim (in-county): \$54.00 + \$100.00 = \$154.00

Small Claims (in-county): \$54.00 + \$100.00 = \$154.00

Debt Claim (out-of-county): \$54.00 (out- of county fees varies)

Small Claims (out-of-county): \$54.00 (out- of county fees varies)