# Small Claims Suit

The amount of debt or damages for which you may sue in a Small Claims case may not exceed the limit of the court, which is $10,000, excluding statutory interest and court costs but including attorney fees, if any. In all civil suits, the defendant has the right to be sued in the county and precinct in which he resides. There are exceptions to this rule. Please consult Part V of the Rules of Civil Procedure for more information.

Court costs in the amount of **$51.00** are due at the time of filing (does not include service fee of **$80.00** per defendant). It is your burden as a plaintiff to sue the defendant in their proper legal capacity, of which there are typically three. They are as follows:

**Personally:** Where an individual is responsible to you for damages he may have caused you as an individual.

**Proprietor or Partnership:** A business that is not incorporated, but does have on file with the County Clerk an assumed name e.g. John Smith d.b.a. Greenhouse Supplies. You may also file against the individual and his business, John Smith ind./dba Greenhouse Supplies. To determine whether or not this person has filed an assumed name, you would contact the County Clerk.

**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. We also need the individual's address. (The authorized agent for service would be listed with the Secretary of State whose phone number is 1-512-463-5555) e.g. Greenhouse, Inc. Serve: John Smith registered agent.

You are strongly urged to discuss your case with an attorney if you are suing a proprietor, partnership, or corporation. You are responsible for suing the correct party in their correct capacity. Nothing within this section should be construed as legal advice.

Once you have filed the petition stating the facts and circumstances of your suit, a citation will be served to the defendant notifying him of the fact that suit has been filed against him in this court.

The citation will order the defendant to answer this suit by the end of the 14th day from the receipt of the citation. If he fails to do so, you then become eligible for a default judgment up until the time an answer is filed.

If the defendant answers the suit, this court will refer your case to the Fort Bend Dispute Resolution Center for mediation and will notify all parties of the setting by mail. We encourage Agreed Motions for Continuance. Any request for a continuance must be in proper written form and timely filed. This court requires five (5) days written notice for a continuance. For more information, please see Mediation Instructions for Case Parties.

If you have witnesses who will not come to court voluntarily, you may come in one week prior to the trial and ask that a subpoena be prepared to secure their presence. Notarized statements from individuals are of very little value. Personal appearance and testimony is much more beneficial.

Should you receive judgment, the court does not collect the judgment. However, you may request an Abstract of Judgment and/or Writ of Execution to help you in collection of this judgment.

If you have any other procedural questions, please call our Civil Department which will try to answer them. Court personnel are strictly prohibited from answering any legal questions. More information about Abstracts and Writs may be found at the law library or the internet site referred to earlier in this section, or by consulting an attorney.

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- Small Claims Petition [PDF]
- Defendant's Answer - Example [PDF]