

SMALL CLAIMS COURT

JEFFERSON COUNTY
FILING & SERVICE FEE IS
\$86.00



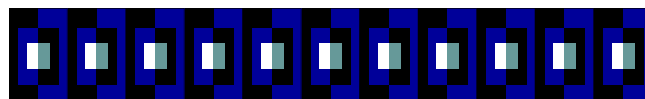
JUSTICE COURT, PCT. 6

Judge Ransom "Duce" Jones
Justice of the Peace, Pct. 6
1225 Pearl Street, Suite 118
Beaumont, Texas 77701

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This brochure is not a substitute for the advice of a lawyer and is intended for general information concerning how to sue in Small Claims Court.

**WE CANNOT GIVE LEGAL
ADVICE**



The Judge can ask the Defendant and his witnesses questions, and the Plaintiff can ask them questions also. If either party thinks the other party or his witnesses are not telling the truth, he should ask questions which would expose this fact to the Judge.

After the Judge has heard the testimony of the witnesses and the facts presented by both sides, and each party has asked all the questions he wants to ask, the trial will end. The Judge will announce his decision in the case if there is no jury. If it is a jury trial, the jury will deliver the verdict.

IF THE DEFENDANT WINS

If the Defendant wins, the Plaintiff will recover no money and must pay the court cost.

IF THE PLAINTIFF WINS

If the Plaintiff wins, the Defendant will be ordered to pay him the amount of money awarded by Court, plus court cost. **HOWEVER, WE CANNOT MAKE THE DEFENDANT PAY, NOR CAN THEY GO TO JAIL FOR NOT PAYING THE AMOUNT AWARDED.** If the Defendant does not pay the money awarded by the Court, then the Plaintiff can ask the Clerk for:

(1) an **abstract** judgment-which puts a lien against any real property that they own.



"JUSTICE FOR ALL PEOPLE"

(a) you need the correct address of the defendant if he has moved since the court date. The Plaintiff may ask the Clerk for an abstract any time from 10 days after the judgment has been signed. The cost of an abstract is \$5.00 to the Justice Court & \$16.00 to the County Clerk.

(2) a **Writ of Execution**-which orders the sheriff or constable to collect the amount of the judgment and court cost. The sheriff or constable either collects money or sells property belonging to the Defendant to satisfy the amount of the judgment. The Plaintiff may ask the Clerk to issue an execution any time from 30 days after the judgment has been signed. The cost of a Writ of Execution is \$130.00. An execution **cannot** be issued if the Defendant is appealing the Judgment.

APPEALS

Either party has the right to appeal to the County Court if the amount of the dispute exceeds \$250, excluding the court cost. To appeal, a party must file an appeal bond in the Small Claims Court within 10 days from the date of judgment. Appeal fee: \$10 filing fee to the Justice Court & \$202.00 fee to the County Clerk.

In County Court, there will be a new trial before another Judge or jury. That is, the entire case will be tried as a new case with the County Court as if it had never been tried before in the Justice Court.

If a party appeals the judgment of the Small Claims Court to the County Court, the Clerk of the County Court will notify the other party.

SMALL CLAIMS COURT PROCEDURES

Small Claims Court are courts in which citizens can settle money disputes in a speedy, informal setting. To ensure that Small Claims Court can be used without the help of an attorney, the Legislature established less formal procedures in these courts, but it is not intended to present complete coverage of them, nor to give you any type of legal advice.

A Small Claims Court is a judicial forum to hear and decide civil cases involving claims for **MONEY ONLY**, for \$10,000 or less. The court cannot require someone to return, replace, or repair property; to do something or, to refrain from doing something.

WHO MAY SUE

Any person over the age of 18 years can sue in Small Claims Court. The person filing the suit is the "Plaintiff". A minor can use the Court by having a parent or relative over the age of 18 go with him to file a claim and later go with him to trial. An association, partnership, or corporation may also file a claim in Small Claims Court. However, a partnership, association, or person engaged in the business of lending money at interest or functioning as a collection agency **may not** file a claim in this court.

WHOM MAY BE SUED

Any natural person, association, partnership or corporation over which the Court has jurisdiction may be sued. The person or business being sued is called the "Defendant".

The court only has the power to enter judgment against the Defendant if he is present in the State of Texas or makes his permanent home in the State. In the case of a business, if it is a sole proprietorship, the individual must be present in the State; or if it is a corporation, the corporation must be doing business within the State.

WHICH COURT TO USE

The Justice of the Peace in each county sits as Judges of the Small Claims Courts. The addresses and telephone numbers of these courts are in the city telephone directory. If there is more than one Justice of the Peace in a county, then a small claims normally must be filed in the court of the precinct which covers the area where the Defendant lives.

Under some circumstances, the Plaintiff may have a choice of courts in which to bring a claim. For example, if the Defendant lives in one precinct but contracted to perform services in another precinct, either precinct can be selected as the place to bring suit.

WHEN TO FILE SUIT

For the Court to be able to act on a suit, the suit must be filed within the time limits set by the legislature. A court has no power to hear a suit that is filed after these time periods. Many suits must be brought within 2 years after the dispute arose, others must be brought within 4 years. To be safe, the Plaintiff should file suit as soon as he is convinced he cannot recover the money on his own, and before 2 years have elapsed.

TYPES OF TRIAL

The trial of the case may be heard by the Judge of the Court, or upon request of either party, by a six person jury. The person requesting the jury trial must pay a \$5.00 fee prior to the trial. If a party chooses to have a jury, he should file a request for a jury trial with the Court not later than **FIVE DAYS** before the date on which the trial is to be held.

In a jury trial, the jury decides the facts of the case to determine who wins. When the Judge hears the case alone, he makes these determinations.

HOW TO START THE SUIT

In order to begin formal action, the Plaintiff must personally go to the correct Justice of the Peace office and do the following:

(1) ask to see the Clerk in Charge of filing small claims;

(2) ask the Clerk for a small claims affidavit;

(3) give the Clerk the following information;

(a) the Plaintiff's complete name and address;

(b) the complete name and address of each person or business the Plaintiff's claim is against. Correct names and addresses are vital to the Plaintiff's case because the Court cannot grant a judgment against a Defendant who is improperly named in the complaint. Therefore, the Plaintiff must determine the correct legal name and address of the person or business being sued before going to the Clerk. **THE CLERK CANNOT FIND THAT INFORMATION FOR YOU.** If the business is a partnership, the partnership should be named by its correct legal name and all partners should be named individually; if the business is a corporation, the exact name of the corporation must be stated, including the word or abbreviation for "Incorporated" or "Company".

(c) the amount of the Plaintiff's claim;

(d) the basis of the Plaintiff's claim, stated plainly and without technicalities, including the date the claim arose;

(e) the amount of money the Plaintiff properly owes the Defendant;

(4) swear under oath that this small claim statement is true;

(5) pay the clerk \$86.00 (filing fee & service fee) and if you want a jury trial an additional \$5.00. (All of these costs may be recovered at trial if the Plaintiff wins the suit)

(6) tell the Clerk where the Defendant may be found and the approximate time of day he is likely to be there. (This is important since the **DEFENDANT MUST BE SERVED A CITATION BEFORE THE SUIT CAN COMMENCE**);

(7) the next Monday after the expiration of 10 days will be the appearance date.

VERIFY YOUR APPEARANCE DATE AND TIME WITH THE CLERK

THE TRIAL

If the Defendant has received proper notice of the trial, but does not respond to a claim or appear in court at the appointed time, the Judge will grant a default judgment against him. The Plaintiff must still be present for the trial and prove the amount of money due him, and ask the court to enter a default judgment against the Defendant. If the Plaintiff does not appear at the trial, then the Judge may enter an order dismissing the case.

If the case does go to trial, both the Plaintiff and Defendant must be in Court at the time of the trial and must not be late. The Plaintiff and Defendant must bring to Court that day any evidence that they wish to present to the Court, and any witnesses they intend to have testify for them.

When the case is called to trial, the Judge will ask both parties whether they are ready to proceed with the case. At this point, the parties and witnesses will be sworn in and the trial will begin.

Proceedings in Small Claims Court are less formal than in other civil courts. The Plaintiff will first present his side of the case. He should offer any documents which support his claim and present any witnesses at this time. The Defendant is then entitled to ask questions of the Plaintiff and his witness.

After the Plaintiff presents his case, the Defendant will have an opportunity to present his side of the case. It may be his position that the Plaintiff is wrong in the way he says the events occurred. Or he may say that the Plaintiff's account of the events are correct, but that he is demanding too much money.