

Information for Defendants After Service

Small Claims/Debt Claims

1. YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY TO HELP YOU IN DEFENDING AGAINST THIS LAWSUIT. BUT YOU ARE NOT REQUIRED TO EMPLOY AN ATTORNEY. YOU OR YOUR ATTORNEY MUST FILE AN ANSWER WITH THE COURT. YOUR ANSWER IS DUE BY THE END OF THE 14TH DAY AFTER THE DAY YOU WERE SERVED WITH THESE PAPERS. IF THE 14TH DAY IS A SATURDAY, SUNDAY, OR LEGAL HOLIDAY, YOUR ANSWER IS DUE BY THE END OF THE FIRST DAY FOLLOWING THE 14TH DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.
2. After submitting the "Defendant's Original Answer" to the clerk for filing a true and correct copy shall be mailed to the plaintiff(s). (Defendant's Original Answer form attached)
3. If you agree to the suit and wish to sign an Agreed Judgment please notify the clerk. Once the Agreed Judgment has been signed and submitted to the court you will need to contact the Plaintiff for payment arrangements.
4. Notice of the hearing will be mailed to you by the court informing you of the court date.
 - A. **Requesting a Continuance** - If a continuance is request – **503.3(b) Texas Rules of Civil Procedure** – Must be in writing. The Judge, for good cause, may postpone any trial for a reasonable time.

TRIAL

Proceedings Justice Court are less formal than in other civil courts. The Plaintiff's side of the case will be presented first. The Plaintiff should offer any documents which support the plaintiff's claim and present any witnesses at this time. The Judge may ask some questions to clarify some of the points necessary to reach a fair decision. The Defendant is then entitled to ask questions of the Plaintiff and any witnesses.

After the Plaintiff's case is presented, the Defendant will have an opportunity to present the Defendant's side of the case. It may be the Defendant's position that the Plaintiff is wrong in the way the Plaintiff says the events occurred. The Defendant may say that the Plaintiff's account of the events is correct, but that the Plaintiff is demanding too much money. The Judge can ask the Defendant and any witnesses' questions, and the Plaintiff can ask them questions also.

On the day of the court hearing, be prepared for trial. Bring all evidence and witnesses that you will need to prove your case. Only facts relevant to your case will be heard.

IF THE DEFENDANT PREVAILS

The Plaintiff will recover no money and must pay the court costs. (costs were pre-paid to the court when suit was filed)

IF THE PLAINTIFF PREVAILS

Default Judgment, Agreed Judgment, or Judgment

The Defendant will be ordered to pay the Plaintiff the amount of money awarded by the Court, plus court costs. If the Defendant does not pay the money awarded by the Court, then the Plaintiff can request:

- Abstract of Judgment - The fee is \$5.00. The Abstract of Judgment will need to be filed with the County Clerk.
- Thirty days after the issuance of a judgment. The Plaintiff can request a Writ of Execution. The fee is \$130.00, if the Defendant resides in Gregg County. This Writ enables the Constable or Sheriff to go out and levy on property of the Defendant's that is not exempt by the laws of the State of Texas.

RULES TO APPEAL FROM SMALL CLAIMS/DEBT CLAIMS

Either party has the right to appeal to the County Court. To appeal, a party must file an appeal bond within twenty-one (21) days from the date of the judgment. The bond amount for Plaintiff is \$500.00 and is required to perfect the appeal. The bond amount for Defendant is equal to twice the amount of the judgment and is required to perfect the appeal. An appeal bond may be posted either in cash, or by having two (2) sureties sign a written oath where they pledge to be responsible by listing their non-exempt personal property which may be seized and sold to satisfy of the bond amount. A pauper's affidavit may be filed in lieu of cash or surety. The pauper's affidavit must meet the requirements of Rule 502.3(b) Texas Rules of Civil Procedure. The cost to file an appeal with the Justice of the Peace is \$26.00

Within seven (7) days of filing a bond or making a cash deposit, an appellant must serve written notice of the appeal on all other parties either in person, by mail or courier, by fax, or by email if provided by the receiving party.

If a party appeals to the County Court, the Clerk of the County Court will notify the other party of the new trial.

The new trial will be held before another Judge or Jury, as if the case had never been tried in the Justice Court.

Legal Information vs Legal Advise

The Judge or Court Personnel cannot give Legal Advice. Below is information we can and cannot provide.

<u>We Can</u>	Explain and answer questions about how the court works.	<u>We Cannot</u>	Tell you whether or not you should bring your case to court.
	Provide the number of the local lawyer referral service, legal services program, Texas State Bar lawyer referral service, and other services where legal information is available		Tell you what words to use in your court papers. However, we will check your papers for completeness. For example, we check for signatures, notarization, correct county name, correct case number and presence of attachments.
	Give general information about court rules, procedure, and practices.		Recommend what to say in court.
	Provide court schedules and information on how to get a case scheduled.		Give an opinion about what will happen if you bring your case to court.
	Give you information from your case file.		Talk to the Judge for you or let you talk to the Judge in private.
	Give you samples of court forms that are available.		Change an order signed by a judge.
	Usually answer questions about court deadlines		Tell you what deadlines apply in your case.

**HONORABLE TALYNA CARLSON
JUSTICE OF THE PEACE, PCT #3**

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