



**KRYSTAL STABENO
JUSTICE OF THE PEACE, PCT. #3
BASTROP COUNTY, TEXAS**

THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO SMALL CLAIM SUITS. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATIONS SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER OR THE ADVICE OF YOUR ATTORNEY.

SMALL CLAIMS SUIT INFORMATION

VENUE: Generally, suit should be filed in the county and precinct where one or more of the defendants reside. HOWEVER, there are many exceptions to this Rule. For further information, see “VENUE IN JUSTICE COURT SUITS”.

JURISDICTION: Jurisdiction (what the Court may render JUDGMENT for) in Small Claims Court is for civil matters in which the amount in controversy is not more than \$20,000.00.

AN ACTION IN SMALL CLAIMS COURT MAY NOT BE BROUGHT BY:

1. an assignee of the claim or other person seeking to bring an action on an assigned claim;
2. a person primarily engaged in the business of lending money at interest; or
3. a collection agency or agent.

FILING SUIT: The responsibility for filling out your petition rests with you, the plaintiff. The Court Clerk will assist you if you have **PROCEDURAL** questions. **The cost for filing a suit is \$54.00 (MONEY ORDER OR CASHIER’S CHECK ONLY.)**

CITATION: A citation is sent to the Constable for service on the defendant in Bastrop County. Out of county service is sent to the Sheriff or Constable of the county in which the defendant lives. **The cost for service in Bastrop County is \$75.00 (MONEY ORDER OR CASHIER’S CHECK ONLY.)**
For citations going out-of-county check with the Court Clerk

ANSWER: The defendant in your suit is commanded to answer to the Court, in writing, by the 14th day from the date the citation was served upon him/her.

REPRESENTATION: As an individual, you may represent yourself in a Small Claims Suit.

MEDIATION: You may be referred to mediation. This is used to settle the matter prior to being heard before the court.

DEFAULT JUDGMENTS: If the defendant in your suit fails to file a written answer with the Court, only you, as plaintiff, will be notified by the Court for an appearance on the Default Docket. You will be asked to briefly state the facts of your case and present any written documents you may have to support your case. If a Default Judgment is rendered in your favor, then you **shall** file a Non-Military Affidavit before the Judgment can be signed.

TRIAL BY JUDGE OR JURY: If the defendant in your suit files a written answer, the court date should be at least 45 days after service. Notice will be mailed to you and to the defendant stating the date and time to appear in Court. Bring all information you need to support your claim. If you have witnesses, you should bring them. If you have witnesses to your suit who will not come to court voluntarily, you may ask the Court to subpoena those individuals prior to trial. **There is a \$75.00 service fee for a subpoena.** Allow at least a week for service of the subpoena.

CONTINUANCE: We discourage motions for continuance. However, ANY REQUESTS FOR A CONTINUANCE MUST BE IN PROPER FORM AND TIMELY FILED.

AFTER 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, and if the defendant does not make a motion for new trial within 14 days or appeal the case within 21 days after the judgment has been signed, your remedies to collect the judgment are as follows:

ABSTRACT OF JUDGMENT: You may obtain an Abstract of Judgment on the 22nd day after judgment. You should then take the Abstract to the County Clerk's office in the County where the defendant lives or has real property. The purpose of filing an Abstract is to put a lien against REAL PROPERTY in the defendant's name. If the defendant sells any real property within 10 years from the date of the judgment, the amount of the judgment must be paid with interest. **The fee for obtaining an Abstract of Judgment is \$5.00 (money order or cashier's check).**

WRIT OF EXECUTION: If you are granted a judgment against the defendant and if the defendant does not appeal within 21 days after the judgment is signed, you may obtain and file a Writ of Execution any time after the 30th day from the date of judgment. A Writ of Execution allows a

Sheriff or Constable in the State of Texas to try and seize certain non-exempt property from the defendant. If property is seized, an auction is held and the proceeds from the sale satisfy the judgment. **The cost for filing for a Writ is \$5.00. The cost for service for a Writ is \$250.00 in Bastrop County.**

SHOULD THE DEFENDANT PAY ANY PORTION OF THE AMOUNT OWED AFTER YOU HAVE RECEIVED A JUDGMENT, IT IS NECESSARY FOR YOU TO NOTIFY THE COURT TO THE CREDIT OR NOTIFY THE COURT THAT THE JUDGMENT HAS BEEN SATISFIED IN FULL, IF THE DEFENDANT PAY THE ENTIRE JUDGMENT AMOUNT. IF YOUR ADDRESS CHANGES WITHIN THE 10-YEAR PERIOD FOLLOWING THE JUDGMENT, YOU SHOULD NOTIFY THE COURT OF YOUR NEW ADDRESS.

ADDITIONAL INFORMATION: The defendant in a Small Claims Suit must be served personally by the Constable or Sheriff of the County. Sometimes, the defendant avoids service; therefore, an alternate method of service is necessary. This method is referred to as alternate service.

NOTE: DO NOT ASK TO SPEAK TO THE JUDGE. THE JUDGE CANNOT LISTEN TO ANY PORTION OF YOUR CASE AND THEN ACTUALLY HEAR THE CASE UPON TRIAL.

LEGAL QUESTIONS WILL NOT BE ANSWERED BY THE COURT. CONSULT AN ATTORNEY.

The form for a **Statement of Inability to Afford the Payment of Court Costs or an Appeal Bond** is available upon request.

**ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:
JUDGE KRYSTAL STABENO
JUSTICE OF THE PEACE, PCT. #3
5785 FM 535
CEDAR CREEK, TEXAS 78612
512-332-7288**