

**Terri L. Mayer  
Justice of the Peace,  
Precinct One**

**Polk County Courthouse  
101 West Mill Street, Suite 152  
Livingston, TX 77351  
Telephone: 936-327-6841  
Fax: (936) 327-6884**

## **FILING A SUIT IN JUSTICE COURT – DEBT CLAIM**

### **VENUE:**

The suit should be filed in the precinct where the defendant resides. If the suit is based on a contract or a wrongful act, the defendant may also be sued in the county and precinct where the contract was entered into or to be performed, or where the wrongful act occurred.

**SEND A LETTER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the defendant giving notice of the suit. State the amount of money you are suing for and that if the money is not received within ten days from the date of receipt of the letter, a suit may be filed against them.**

### **JURISDICTION:**

Jurisdiction (what the court may render judgment for) in Justice Civil Court is for the recovery of **MONEY ONLY**, where the amount in controversy does not exceed **\$20,000.00** exclusive of interest and attorney fees plus court cost.

**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 or secondarily engaged in the business of lending money at interest; or
- 3.) A collection agency or agent.

### **FILING THE SUIT:**

The responsibility for completing your petition (affidavit) rests with you. The court clerk will assist you if you have any procedural questions.

### **COSTS:**

The filing fee is **\$54.00**. In addition, there is a fee for serving the citation to the defendant(s) which is **\$100.00** per defendant if served in Polk County. The fee for serving by restricted certified mail is **\$12.80**. This must be made payable by cash, cashier's check or money order to: Terri L. Mayer, JUSTICE OF THE PEACE.

If the defendant you are filing suit on resides **OUTSIDE** of Polk County:

- 1.) Ask the court clerk if she has the fees for the county in question; OR
- 2.) Call the county courthouse where the defendant is to be served and find out who serves civil citation for small claims in that county; THEN
- 3.) Ask for the name of the sheriff or constable in the precinct where the defendant is to be served and call that office to find out the service fee for serving a small claims citation. Be sure and find the address of the sheriff or constable who will be serving the citation.

**CITATION:**

A citation is sent to the sheriff or constable for service on the defendant(s) in Polk County. Out of county service is sent to the proper sheriff or constable depending on the information you provide.

The defendant in a small claims suit must be personally served the citation by the sheriff or constable, or by certified mail, before your suit can continue. Sometimes this service is avoided by the defendant and an alternate method of service is necessary. We will require that you come in and sign the request for alternate service. If your request is approved, the Judge will sign an order and the citation is sent back to the sheriff or constable for alternate service.

The defendant in your suit is commanded to answer to the court in person or in writing within 14 days from the date the citation was served to them.

**SUIT ON A CORPORATION:**

If the party you want to sue is a corporation, you must find the name of an officer of the corporation **BEFORE** you begin your suit. The Secretary of State (512) 463-5555 or the State Comptroller's Office (1-800-252-5555) will give you the information. Ask for the name and address of the REGISTERED AGENT, PRESIDENT OR VICE-PRESIDENT of the corporation. When you file your suit, you will be filing the suit against the corporation and serving the citation on one of the above mentioned officers of the corporation. All other instructions for filing a small claims suit remain the same.

**SUIT ON A COMPANY:**

If the party you want to sue is an individual doing business under an assumed name (sole owner of the business) or a partnership, you must check with the county clerk's office in the county of the business to determine who the owner or owners are. This information for Polk County may be obtained at the County Clerk's office in Livingston. Direct your letter (notice of suit) to the owner(s) of the company.

**REPRESENTATION:**

TEXAS RULES OF CIVIL PROCEDURE CHAPTER 500

REPRESENTATION OF AN INDIVIDUAL:

AN INDIVIDUAL MAY REPRESENT HIMSELF OR HERSELF OR BE REPRESENTED BY AN ATTORNEY.

REPRESENTATION OF A CORPORATION OR OTHER ENTITY:

MAY BE REPRESENTED BY AN EMPLOYEE, OWNER, OFFICER, OR PARTNER OF THE ENTITY WHO IS NOT AN ATTORNEY OR MAY BE REPRESENTED BY AN ATTORNEY.

## PLEASE NOTE

**THE JUSTICE OF THE PEACE OR COURT CLERK CAN ONLY ASSIST YOU WITH PROCEDURAL INFORMATION. THEY CAN NOT GIVE YOU LEGAL ADVICE AND THEY CAN NOT HEAR YOUR EVIDENCE BEFORE YOUR COURT TRIAL.**

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### **TRIAL BY JUDGE OR JURY:**

After the defendant in your suit has been served the citation and the answer time has expired, a notice will be mailed to you (the plaintiff) and to the defendant stating the time and date to appear in court. Bring all information you need to support your claim. If you have any witnesses, you should also bring them. The trial of the case may be heard by the Judge of the court sitting alone or, upon the request of either party, by a six person jury. You may request a trial by jury upon payment of a five dollar jury fee and a written request for a jury trial. In a jury trial, the jury decides the facts of the case and will deliver the verdict. When the Judge hears the case alone, the Judge will make the determination in the case and announce the decision.

ALL MOTIONS FOR CONTINUANCE (resetting your court appearance date) MUST BE IN WRITING AND RECEIVED NO LATER THAN FIVE WORKING DAYS (weekends and holidays excluded) PRIOR TO YOUR COURT DATE.

### **AFTER JUDGEMENT:**

If plaintiff receives a take nothing judgment and does not agree, plaintiff may appeal the judgment within 21 days after judgment date by posting a \$500.00 appeal bond, \$54.00 appeal filing fee, and \$10.00 transcript fee.

If a plaintiff receives a judgment against the defendant and the defendant does not make a motion for a new trial within 14 days of judgment date or appeal the judgment within 21 days after the judgment date, your post-judgment remedies to collect your money are as follows:

### **ABSTRACT OF JUDGEMENT:**

You may obtain an abstract of judgment on the eleventh day after judgment is rendered. The fee for obtaining an abstract is five dollars. The abstract will be mailed to you. To file the abstract in Polk County, take the abstract to the county clerk's office in Livingston. In addition, the abstract may be filed in any other county in Texas. The purpose of filing the abstract is to put a lien against any REAL PROPERTY in the defendant's name. If the defendant sells any real property within ten years from the date of judgment, the amount of the judgment must be satisfied, plus interest.

### **WRIT OF EXECUTION:**

If you receive a judgment against the defendant AND the defendant does not appeal within 21 days after the judgment is rendered, you may obtain and file a writ of execution anytime after thirty days from the date of judgment. A writ of execution allows a sheriff or constable to try and seize non-exempt personal property from the defendant. If property is seized, an auction is held

## CIVIL AND EVICTION FILINGS-REQUEST FOR COPIES

ALL FILINGS REQUIRE AN ORIGINAL PETITION AND 2 COPIES.  
ONE IS FOR THE COURT, ONE IS FOR THE DEFENDANT AND ONE  
IS FOR THE PLAINTIFF.

IF THE COURT HAS TO MAKE THOSE COPIES, THE BELOW  
POSTED FEES WILL APPLY TO THE COPIES.

ALL PERSONS REQUESTING COPIES MADE THROUGH THIS  
OFFICE WILL BE CHARGED THE POSTED FEES AS STATED IN THE  
LOCAL GOVERNMENT CODE, CHAPTER 118, SUBCHAPTER E.

CERTIFIED COPIES OF COURT PAPERS    \$2.00 FIRST PAGE, \$.25  
FOR EACH ADDITIONAL PAGE.

ALL OTHER DOCUMENTS,                    \$1.00 FIRST PAGE, \$.25  
FOR EACH ADDITIONAL PAGE.

# JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED \_\_\_\_\_  
 (e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:	2. Names of parties in case:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): NAME AND ADDRESS</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Defendant(s): NAME AND ADDRESS</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>

3. Indicate case type, or identify the most important issue in the case (select only 1):	
<p><input type="checkbox"/> <b>Debt Claim:</b> A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> <b>Eviction:</b> An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>
<p><input type="checkbox"/> <b>Repair and Remedy:</b> A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than 20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="checkbox"/> <b>Small Claims:</b> A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.</p>

<b>THE CASE STYLE</b>	<input type="checkbox"/> CASE STYLE: PLAINTIFF: VS DEFENDANT:		<input type="checkbox"/> CASE NUMBER: _____  IN THE POLK COUNTY JUSTICE COURT PRECINT 1 PLACE 1 101 W. MILL ST., SUITE 152 LIVINGSTON, TX 77351	
	<b>THE PARTIES TO THE</b>	<input type="checkbox"/> PLAINTIFF:		<input type="checkbox"/> PLAINTIFFS CAPACITY:
<input type="checkbox"/> DEFENDANT:		<input type="checkbox"/> CO-DEFENDANT:		
<input type="checkbox"/> DEFENDANT'S ADDRESS AND PHONE:		<input type="checkbox"/> CO-DEFENDANT'S ADDRESS AND PHONE:		
<b>DETAILS ABOUT PLAINTIFF'S CLAIM</b>	<input type="checkbox"/> ORIGINAL CREDITOR:		<input type="checkbox"/> ACCOUNT NUMBER:	<input type="checkbox"/> CLAIM TOTALS:
	<input type="checkbox"/> CARD/ACCOUNT NAME:		<input type="checkbox"/> DATE ACCOUNT OPENED:	<input type="checkbox"/> DATE ACCT CLOSED/CHARGE OFF:
	<input type="checkbox"/> CLAIM DETAIL:			<input type="checkbox"/> CLAIM TOTALS: DAMAGES \$ _____  INTEREST \$ _____  ATTYS FEES \$ _____  <b>TOTAL \$ _____</b>
	<input type="checkbox"/> PLAINTIFF'S CLAIM IS ASSIGNED <input type="checkbox"/> N/A		<input type="checkbox"/> PLAINTIFF OR PLAINTIFF'S ATTORNEY	
<b>IS THIS AN ASSIGNED</b>	PLAINTIFF ACQUIRED THE CLAIM FROM:		NAME OF FIRM (IF APPLICABLE):	
	DATE OF ACQUISITION:		ADDRESS:	
	OTHER PRIOR HOLDERS OF THE CLAIM:		PHONE / FAX:	
<b>ONGOING INTEREST</b>	<input type="checkbox"/> PLAINTIFF SEEKS ONGOING INTEREST <input type="checkbox"/> N/A		<input type="checkbox"/> SERVICE BY EMAIL IS AUTHORIZED:	
	<input type="checkbox"/> INTEREST IS STATUTORY <input type="checkbox"/> INTEREST IS CONTRACTUAL		DATE:	
	INTEREST ACCRUES ON WHAT AMOUNT:	INTERST RATE:	SIGNATURE: _____	
	COMMENCING:	INTEREST CALCULATED AS OF:	PRINTED NAME:	
<b>ATTORNEY</b>	PLAINTIFF SEEKS ATTORNEY FEES:		BAR No. (IF APPLICABLE):	
	<div style="display: flex; justify-content: space-between;"> <span>Issued _____, 20__</span> <span>By: _____ Deputy Clerk / Clerk / Judge</span> </div>			

**NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA**



Cause Number: \_\_\_\_\_  
*(The Clerk's office will fill in the Cause Number when you file this form)*

Plaintiff: \_\_\_\_\_  
*(Print first and last name of the person filing the lawsuit.)*

In the \_\_\_\_\_ (check one):  
 Court \_\_\_\_\_  
 Number \_\_\_\_\_  
 District Court  
 County Court / County Court at Law  
 Justice Court

And \_\_\_\_\_  
 Defendant: \_\_\_\_\_  
*(Print first and last name of the person being sued.)*

\_\_\_\_\_ Texas  
 County \_\_\_\_\_

**Statement of Inability to Afford Payment of Court Costs or an Appeal Bond**

**1. Your Information**

My full legal name is: \_\_\_\_\_ My date of birth is: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
*First Middle Last Month/Day/Year*

My address is: (Home) \_\_\_\_\_  
 (Mailing) \_\_\_\_\_

My phone number: \_\_\_\_\_ My email: \_\_\_\_\_

About my dependents: "The people who depend on me financially are listed below."

Name	Age	Relationship to Me
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____

**2. Are you represented by Legal Aid?**

I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.'

-or-

I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

or-

I am not represented by legal aid. I did not apply for representation by legal aid.

**3. Do you receive public benefits?**

I do not receive needs-based public benefits. - or -

I receive these public benefits/government entitlements that are based on indigency:  
*(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)*

- Food stamps/SNAP       TANF       Medicaid       CHIP       SSI       WIC       AABD
- Public Housing or Section 8 Housing       Low-Income Energy Assistance       Emergency Assistance
- Telephone Lifeline       Community Care via DADS       LIS in Medicare ("Extra Help")
- Needs-based VA Pension       Child Care Assistance under Child Care and Development Block Grant
- County Assistance, County Health Care, or General Assistance (GA)
- Other: \_\_\_\_\_

4. What is your monthly income and income sources?

"I get this monthly income:

\$ \_\_\_\_\_ in monthly wages. I work as a \_\_\_\_\_ for \_\_\_\_\_  
Your job title Your employer

\$ \_\_\_\_\_ in monthly unemployment. I have been unemployed since (date) \_\_\_\_\_

\$ \_\_\_\_\_ in public benefits per month.

\$ \_\_\_\_\_ from other people in my household each month: *(List only if other members contribute to your household income.)*

- \$ \_\_\_\_\_ from  Retirement/Pension  Tips, bonuses  Disability  Worker's Comp  
 Social Security  Military Housing  Dividends, interest, royalties  
 Child/spousal support  
 My spouse's income or income from another member of my household *(if available)*

\$ \_\_\_\_\_ from other jobs/sources of income. *(Describe)* \_\_\_\_\_

\$ \_\_\_\_\_ is my total monthly income.

5. What is the value of your property?

"My property includes:

Value\*

Cash \$ \_\_\_\_\_

Bank accounts, other financial assets \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Vehicles (cars, boats) *(make and year)*

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Other property (like jewelry, stocks, land, another house, etc.)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Total value of property → \$ \_\_\_\_\_

6. What are your monthly expenses?

"My monthly expenses are:

Amount

Rent/house payments/maintenance \$ \_\_\_\_\_

Food and household supplies \$ \_\_\_\_\_

Utilities and telephone \$ \_\_\_\_\_

Clothing and laundry \$ \_\_\_\_\_

Medical and dental expenses \$ \_\_\_\_\_

Insurance (life, health, auto, etc.) \$ \_\_\_\_\_

School and child care \$ \_\_\_\_\_

Transportation, auto repair, gas \$ \_\_\_\_\_

Child / spousal support \$ \_\_\_\_\_

Wages withheld by court order \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Debt payments paid to: *(List)* \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Total Monthly Expenses → \$ \_\_\_\_\_

\*The value is the amount the item would sell for less the amount you still owe on it, if anything.

7. Are there debts or other facts explaining your financial situation?

"My debts include: *(List debt and amount owed)* \_\_\_\_\_

*(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page.*

8. Declaration

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

I cannot afford to pay court costs.

I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is \_\_\_\_\_ My date of birth is : \_\_\_\_ / \_\_\_\_ / \_\_\_\_

My address is \_\_\_\_\_  
Street City State Zip Code Country

Signature \_\_\_\_\_ signed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ in \_\_\_\_\_ County, \_\_\_\_\_  
Month/Day/Year county name State



**WHO DO YOU WANT TO SERVE YOUR CIVIL CITATION?**

Certified Mail

Janie Kessler

Polk County Sheriff's Department

Polk County Constable, PCT 1

Signature \_\_\_\_\_

# CONSTABLE SERVICE INFORMATION SHEET

IN ORDER FOR THE CONSTABLE'S OFFICE FOR PCT.1, POLK COUNTY TO SERVE THIS CITATION IN A TIMELY MANNER THE BELOW INFORMATION MUST BE COMPLETED AND RETURNED WITH THE PACKET.

## ADDRESS DIRECTIONS

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## HOUSE AND YARD DESCRIPTION:

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## VEHICLE DESCRIPTION:

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SHOULD THE CONSTABLE HAVE QUESTIONS, PLEASE LIST YOUR NAME AND NUMBER BELOW:

NAME: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_