



**KELVIN MILES
JUSTICE OF THE PEACE
PRECINCT ONE**

SMALL CLAIMS

- **SMALL CLAIMS CASE:** 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's fees, if any.

IMPORTANT NOTICE:

APPROPRIATE COURTROOM ATTIRE IS REQUIRED. All persons entering the courtroom should be dressed in clothing reasonably befitting the dignity and solemnity of the court proceedings. No shorts, tank tops, flip flops, hats, etc. Cell phones and other electronics must be turned off when in the courtroom. Food and drink is not allowed in the courtroom.

Courthouse N.E. Annex, 1020 E. Hwy 199, Springtown, TX 76082
(682) 229-2107 – civil clerk
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(682) 229-2106
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**KELVIN MILES
JUSTICE OF THE PEACE, PRECINCT ONE**



PLEASE READ CAREFULLY BEFORE FILING THE PETITION

FOR INFORMATION ON THE RULES OF PRACTICE IN JUSTICE COURTS, PLEASE CONSULT PART V OF THE TEXAS RULES OF CIVIL PROCEDURE, WHICH IS AVAILABLE ONLINE AND AT EACH COURT.

THE FOLLOWING INFORMATION IS FURNISHED TO YOU AS A COURTESY OF THE JUSTICE OF THE PEACE OFFICE. THE COURT CANNOT ADVISE YOU WHAT YOU SHOULD DO AND ARE BARRED BY LAW FROM GIVING YOU LEGAL ADVICE. THE COURT CAN ONLY ANSWER PROCEDURAL QUESTIONS.

Please complete the Petition and Affidavit of Military Status of Defendant. PLEASE PRINT CLEARLY AND PRESS FIRMLY. You are the plaintiff and the person or entity you are suing is the defendant. The defendant has a right to be sued in the county and precinct in which they reside; there are exceptions to this rule. Should there be a motion by the defendant to transfer venue, a hearing will be set to determine if a transfer of venue will be granted; a motion to transfer venue may delay the proceedings 6-8 weeks.

- **PLEASE NOTE: YOU MUST HAVE COPIES FOR THE COURT'S FILE, AS WELL AS THE DEFENDANT OF ANY DOCUMENTS YOU INTEND TO SUBMIT TO THE COURT AS EVIDENCE. YOU WILL BE CHARGED FOR ANY COPIES THE COURT MUST MAKE.**

IT IS YOUR BURDEN AS PLAINTIFF TO MAKE SURE YOU ARE SUING THE DEFENDANT IN THEIR PROPER LEGAL CAPACITY. It is very important that you understand that for any potential judgment you may receive to be valid, it is necessary for you to sue the defendant in their *proper legal capacity*, of which there are typically three:

1. **Personally:** Where an individual is responsible to you for damages he may have caused you as an individual.
2. **Proprietor or partnership:** A business that is not incorporated, but does have on file with the County Clerk an assumed name, ex: John Smith dba Greenhouse Supplies.
3. **Corporation:** The business which has allegedly caused you damage is incorporated and therefore **it is necessary to know the individual's name who is authorized to accept civil process on behalf of the corporation.** The authorized agent for service would be listed with the Secretary of State, whose phone number is 1-800-252-5555, website is www.sos.state.tx.us Ex: Greenhouse, Inc. through its agent, John Smith. It is also possible for an incorporated entity to have an assumed name, ex: Greenhouse, Inc. dba Greenhouse Supplies.

- On the **petition**, under **complaint** section, make a **very short statement** concerning the nature of your claim. Under **relief** section, put the **PRINCIPAL AMOUNT** of your claim against the defendant. **DO NOT ADD COURT COSTS** to this amount. If you are asking for return of property, list the value of the property. If you wish to have the judgment include court costs, you would state “plus court costs”.
- The **Affidavit of Military Status of Defendant** form must be completed and either accompany the filing of a petition or be submitted prior to a default judgment being granted.
- After the petition is completed, ask my clerk to review the petition and accompanying forms. You will then be required to pay fees of **\$154.00** for filing the petition and service of citation on one defendant. ***If the citation is to be served out of Parker County, you will be required to pay the service fee in the form of a money order made payable to the out-of-county agency.*** Please check with the clerk for more information in that case. A citation along with a copy of your petition will be served to the defendant notifying him that a suit has been filed against him in this Court. The citation will order the defendant to file an answer with the court by the end of the 14th day after the day he was served with the citation. You will be notified by this office that one of the following will take place:
 1. The defendant has entered a denial and the case is set for trial. The trial notice will be mailed approximately 45 days prior to the trial date, or
 2. The defendant did not answer and a prove-up hearing needs to be set for you to present your facts to the Court as to why you should be granted a default judgment, or
 3. The defendant answered and acknowledged their indebtedness. An acknowledged judgment is prepared and sent to you and the defendant.

If you should receive a judgment, please understand that this Court does not collect the judgment for you, nor can we force the defendant to pay the judgment. It is your responsibility to request any post-judgment remedies. The following are some of those remedies that are available to you:

1. **Abstract of Judgment** places a lien on any real property the defendant may own in a particular county where the abstract is recorded. There is a fee of \$5.00 for the Court to issue the abstract. You will also be required to pay a small fee to the County Clerk to record the abstract. This may be obtained 21 days after the judgment was signed.
2. **Writ of Execution** authorizes the Constable or Sheriff to seize any assets belonging to the defendant that are not exempt under Texas Property Code, Section 42.001 and 42.002. Those assets are then auctioned at a public sale and those proceeds are applied to the judgment. This may be obtained thirty days after the judgment was signed if the judgment was not paid or appealed.
3. **Writ of Garnishment** is a separate suit wherein you are the plaintiff and the defendant’s bank is the defendant. You are actually suing the bank in which the original defendant has their bank account, warning the bank to freeze the monetary assets of their bank account and to appear and make answer to the garnishment suit. **EXTREME CAUTION** should be used when filing a garnishment suit; if there are not sufficient funds in the account at the time the garnishment is served, the person filing the suit is liable for reasonable attorney fees for the garnishee which they may then tax as additional court costs against the judgment debtor. An attorney may be required.

PETITION: SMALL CLAIMS CASE

CASE NO. _____

PLAINTIFF _____

**In the Justice Court, Precinct One
Parker County, Texas**

VS.

DEFENDANT(S): _____

Defendant(s) address: _____

COMPLAINT: The basis for the claim which entitles the plaintiff to seek relief against the defendant is:

RELIEF: Plaintiff seeks damages in the amount of \$_____, and/or return of personal property as described as follows (be specific): _____

which has a value of \$_____.

Additionally, plaintiff seeks the following:

SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are _____

If you wish to give your consent for the answer and any other motions or pleadings to be sent to your email address, please check this box, and provide your valid email address:

Plaintiff's Printed Name

Signature of Plaintiff or Attorney

DEFENDANT(S) INFORMATION (if known):

DATE OF BIRTH: _____

LAST 3 NUMBERS OF DRIVER'S LICENSE: _____

LAST 3 NUMBERS OF SOCIAL SECURITY: _____

Address of Plaintiff's Attorney, if any, or Plaintiff if none

City

State

Zip

DEFENDANT'S PHONE NUMBER:

Phone & Fax No. of Plaintiff or Attorney, if any

Email address

CAUSE NO. _____

VS

§ IN THE JUSTICE COURT
§ PRECINCT ONE
§ PARKER COUNTY, TEXAS

AFFIDAVIT OF MILITARY STATUS OF DEFENDANT

Before me, the undersigned clerk of the justice court or notary public, on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury stated the following:

My name is **[please print]** _____; I am **[check one]** _____ the plaintiff or _____ an authorized agent or _____ attorney for the plaintiff in the above styled and numbered cause. I am over the age of 18 and am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

[check below as applicable]

- The defendant is not in the military
- The defendant is not on active duty in the military and/or
- The defendant is not in a foreign country on military service
- The defendant is on active military duty and/or is subject to the Service member Civil Relief Act of 2003.
- The defendant has waived his/her rights under the Service member Civil Relief Act of 2003.
- The defendant's military status is unknown at this time.

Signature of Plaintiff/Agent/Attorney

Subscribed and sworn to before me by _____ on this the _____ day of _____, 20____.

Court Clerk/Notary Public