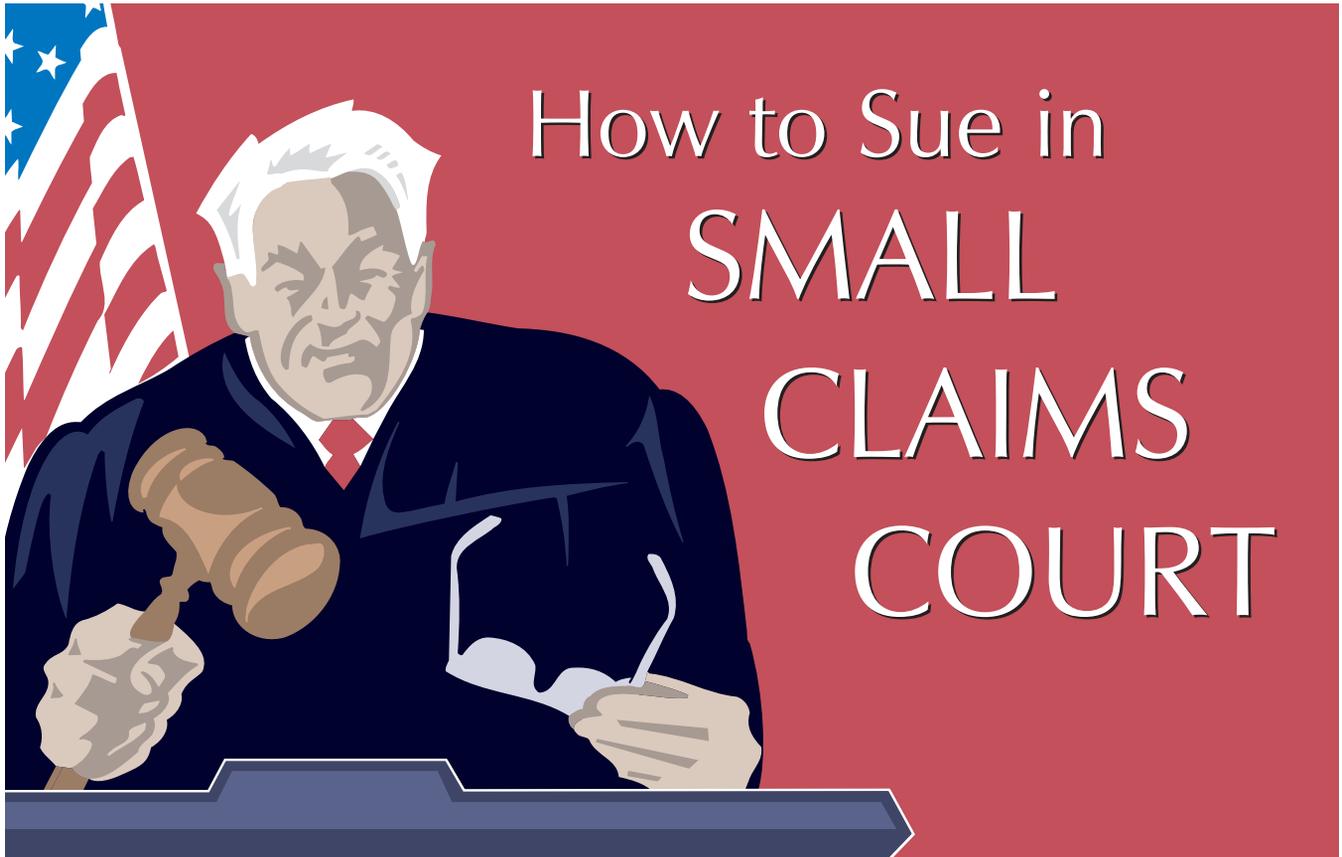




INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

The information included on this page is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.



Small claims court is the real “People’s Court.” The purpose of small claims court is to provide an informal, uncomplicated proceeding to resolve small disputes that do not involve enough money to warrant the expense of formal litigation. Most people who appear in small claims court do not have a lawyer but represent themselves.

What Type of Case Can Be Brought in Small Claims Court?

Not all disputes can be heard in small claims court. Small claims court cannot hear disputes involving more than \$10,000. If you wish to recover more than \$10,000, you must consider another court and, in most cases, the assistance of an attorney. In many cases, however, a claim may be reduced to enable you to file in small claims court.

Small claims court can only award money. You cannot ask the court to order the other party to do anything, or to refrain from doing something. If you need an order to make someone do something or to stop doing something, other courts are available. If you win in small claims court, you can only win a judgment for a dollar amount (up to \$10,000 plus court costs).

Who Can Sue in Small Claims Court?

Any person who is over 18 years old can file a claim in small claims court. A minor can use the court by having a parent, relative, or “next friend” over 18 years old go with him or her to file a claim and later attend the trial. An association, partnership, or corporation may also file a claim in small claims court.

Are There Alternatives to Small Claims Court?

You should always try to settle a dispute without going to court. Generally, disputes should be settled without a lawsuit.

During any given year, many cases are filed in small claims court that could have been resolved without a lawsuit. If you do file a lawsuit, you will find that you must spend time preparing your case. You will also have to pay certain fees to have your case processed. A trial in small claims court, although informal, can be a time-consuming and emotionally draining experience.

Where Do You File Suit?

You must normally file suit in the county where the party that is being sued (the defendant) resides, or where the



services you are complaining about were performed. The justice of the peace in each county is also the judge for small claims court. The small claims court will be listed in the telephone directory as justices of the peace. If your telephone book has government offices listed separately, look under the listings for justices of the peace in the appropriate county. You may also search for "Justice Courts" at www.courts.state.tx.us.

If there is more than one justice of the peace in a county, then a small claim normally must be made in the court whose precinct covers the area where the defendant resides.

How Do You File Suit?

You should collect all the information that will be needed to start your lawsuit before you go to the courthouse. Collect your records, including copies of contracts and agreements. You should also collect the following information:

- a) your complete name and address;
- b) the complete name and address of each person or business your claim is against. Correct names and addresses are vital to your case because the court cannot grant a judgment against a defendant who is improperly named in the complaint.
- c) the amount you intend to claim in damages (\$10,000 or less); and
- d) a concise statement of the basis for your claim, stated plainly and without technicalities, including the date the claim arose and any other relevant date. You should write this statement in advance.

Once you are prepared, call the justice of the peace court that you have determined to be the correct one. Find out how much money you will need to pay the fees necessary to start your lawsuit and the exact procedure you need to follow to file your claim.

You should personally go to the court to start the suit. Ask to see the clerk in charge of filing small claims. You must complete a small claims statement.

You must swear under oath that your small claims statement is true. You will have to pay the clerk the necessary fees. If you want a jury trial you must request one and pay an additional fee. These fees generally must be paid in cash, money

order, or company check. Most courts do not accept personal checks.

Tell the clerk where the defendant may be found and the approximate time of day he or she is likely to be found at that location. This is important because the defendant must be served before the court can grant you any relief. ❌

This article was taken from the *How to Sue in Small Claims Court* pamphlet, prepared and distributed as a public service by the Texas Young Lawyers Association and the State Bar of Texas. For the complete, 28-page pamphlet, contact the Public Information Department, State Bar of Texas, P.O. Box 12487, Austin 78711-2487; call (800)204-2222, ext. 1800; or visit www.tyla.org.



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