



JUDGE TED KRENEK
Justice of the Peace, Pct. 4
Waller County, Texas
3410 First Street, P.O. Box 7
Pattison, Texas 77466
281-375-5233 FAX: 281-934-3303

DISCLAIMER: The law is constantly changing and there may be times when the information provided in this packet will not be current. This information is provided for general informational purposes only and is not intended as legal advice. This information is not a comprehensive treatment of the subject and is not a substitute for advice from an attorney.

It is not possible to include information sufficient to meet all facts and circumstances and you are urged to consult with an attorney. We have made every effort to set out information accurately, but we do not warrant the reliability or appropriateness of the information for a particular purpose, and we do not assume liability for any consequences resulting from your reliance on the information presented.

FILING SMALL CLAIMS CASES

Claim Must Be Made Under Oath

To begin an action in the Small Claims Court, the plaintiff, or claimant, must make a statement of the claim under oath. This may be done by the plaintiff, by the attorney for the plaintiff, or by an authorized agent for the plaintiff, in one of two ways:

1. by appearing in person before the Justice of the Peace or clerk and filing a statement of the claim under oath; or,
2. by filing a sworn Small Claims Petition with the Justice of the Peace or clerk of the court.

Parties to the Suit

Name of the Plaintiff: This is the party that is instituting the suit. Only the individual(s) or company(ies) named at the top of the Petition as Plaintiff(s) may collect a Judgment in favor of the Plaintiff.

You must sue the Defendant(s) in their legal capacity:

As an Individual: You must sue the Defendant individually in the following two situations: (1) the Defendant is personally responsible to you for damages he/she may have caused you, and (2) the Defendant as an individual operating a proprietorship or partnership is responsible to you for damages he/she may have caused.

As a Proprietorship or Partnership: A proprietorship or partnership is a business that is not incorporated, but has filed an "Assumed Name" with the County Clerk. For example, "John Smith, d/b/a Smith Plumbing Company". To determine whether a company or an individual has an assumed name you must contact the County Clerk's office in the County where the company is located. The Waller County Clerk's phone number is 979-826-7711.

As a Corporation: If the business that has injured you is incorporated, you must contact the State Comptroller's Office at (800) 252-1386, or the Secretary of State at (512) 463-5555. Ask for the name and address for service of the Registered Agent for service of the corporation (the President or Vice-President will also work). This is the person who has been authorized to receive information regarding lawsuits filed against the corporation. For example: when completing your complaint, the name of the Defendant should read "ABC Corporation, by serving John Smith, Registered Agent".

Persons Not Allowed to Bring Claims in Small Claims Court

In general, an assignee, a money lender, and a collection agent may not bring an action in the Small Claims Court.

An assignee of a claim or any other person seeking to bring an action on a claim which has been assigned is prohibited from seeking relief in the Small Claims Court.

A person who is primarily engaged in the business of lending money with interest may not file a claim in the Small Claims Court.

A collection agency or a collection agent is also prohibited from bringing an action in the Small Claims Court.

Texas Government Code.

Sec. 28.003. JURISDICTION. (a) The small claims court has concurrent jurisdiction with the justice court in actions by any person for the recovery of money in which the amount involved, exclusive of costs, does not exceed \$10,000.

(b) An action may not be brought in small claims court 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 collection agent.

(c) A person may be represented by an attorney in small claims court.

(d) This section does not prevent a legal heir from bringing an action on a claim or account otherwise within the jurisdiction of the court.

(e) A corporation need not be represented by an attorney in small claims court.

Filing Fee

The Justice of the Peace must collect total fees of \$27.00 for the filing of a Petition in the Small Claims Court.

Issuance of Citation

In order for the Small Claims Court to acquire jurisdiction over the defendant, the defendant must be notified of the filing of the lawsuit. When the claim has been filed and the filing fee paid, the clerk will issue a notice of the filing called a "citation". A copy of the petition is attached to the citation. The citation is directed to the defendant and informs the defendant of the date of the filing of the petition, the case number assigned to the claim, the names of the parties, and the nature of the plaintiff's demand. The citation also warns that should the defendant fail to appear at the trial of the claim a judgment by default may be rendered in favor of the plaintiff for the amount of money the plaintiff is claiming.

The party requesting citation is responsible for obtaining service of the citation. Citations may be served in any manner authorized for service of citation in a Justice Court. See *Section 28.013, Texas Government Code*.

Service Fees in Waller County

The Commissioners Court of Waller County sets the fee to be charged for services of the Waller County Sheriff and the Waller County Constables. See *Section 118.131, Texas Local Government Code*. A fee of \$75.00 is charged for service of process in a Small Claims Court case in Waller County.

Service Outside of Waller County

For citations to be served in a county other than Waller County, please contact the constable or sheriff of that County for the amount of the service fee, acceptable forms of payment, and location for forwarding the citation.

Service of Citation

The citation may be served by any sheriff or constable, any person certified under order of the Supreme Court (Process Server), or by any person authorized by law or by written order of the court who is not less than 18 years of age.

Citations may be served by personal delivery to the defendant, or by registered or certified mail directed to the defendant, with return receipt requested.

If attempts to serve the defendant at the defendant's usual place of business or usual place of adobe or other place where the defendant can probably be found are unsuccessful, the plaintiff can ask the Justice of the Peace to allow service in another manner. The request for an alternative method of service must be supported by an affidavit that states where the defendant can usually be found, that attempts to serve the defendant were unsuccessful, and that the manner of service suggested will be effective to give the defendant notice of the lawsuit. The Justice of the Peace can then authorize

service of process by leaving a copy of the citation with anyone over 16 years of age at a specified location, or in any other manner that is reasonably effective to give the defendant notice of the lawsuit. See *Rule 536, Texas Rules of Civil Procedure*.

The Defendant

When the defendant has been served with citation, the defendant must file a written answer to the plaintiff's petition on or before 10:00 a.m. on the Monday next after the expiration of ten (10) days after the date of service of the citation.

No judgment may be rendered against a defendant unless the defendant has been properly served with process. Defendants may be natural persons, individuals, or persons doing business in the form of sole proprietorships, or partnership, or corporations. Any individual doing business under an assumed name, or any business operating in the form of a partnership or corporation, may sue in the business name, but service of process must be properly accomplished.

Service of process directed to individuals is effected by delivery directly to the person. Service of process on business entities is more difficult and must be accomplished by service on an agent or person authorized to accept service.

For example, if a defendant is a partnership, the citation may be directed to one member of the partnership, and service effected on that one member authorizes a judgment against the partnership and the partner actually served. See *Section 17.022, Texas Civil Practice and Remedies Code*.

If several partners are jointly indebted under a contract and the citation has been served on at least one but not all of the partners, judgment may be rendered only against the partnership and against the partners who were actually served. No personal judgment or execution may be had against any partner who was not served. See *Section 31.003, Texas Civil Practice and Remedies Code*.

If defendant is a limited partnership, each general partner and the registered agent of a limited partnership may be served with citation in order to effect service of process. See *Section 1.08 of the Texas Limited Partnership Act, Art. 6132a-1, Texas Civil Statutes*.

If the defendant is a corporation, citation may be served by serving the corporation's president or any vice-president, or the corporation's registered agent. If the corporation's registered agent cannot be found at the corporation's registered office, then service of process may be made on the Secretary of State. See *Art. 2.11, Texas Business Corporation Act*.

If the defendant is a limited liability company, the manager, if any, and the registered agent shall be agents upon whom citation may be served. See *Art. 2.08 of the Texas Limited Liability Company Act, Art. 1528n, Texas Civil Statutes*.

To determine the exact legal nature of a business entity, the plaintiff may look at the Assumed Name Records maintained by the Waller County Clerk, or contact the Corporation Division of the Office of the Secretary of State at 512-463-5555, or the Office of the State Comptroller at 1-800-252-1386.

Venue

"Venue" is the proper Justice of the Peace Precinct in which the Small Claims Court may exercise its jurisdiction. As a general rule, a suit in Small Claims Court must be brought in the county and in the Justice of the Peace Precinct in which the defendant resides. If, however, the defendant has contracted to perform an obligation in a certain county, an action may be brought in the county where the obligation was to be performed.

If there is more than one Justice of the Peace within a precinct, the plaintiff may bring suit in any of the Small Claims Courts within the precinct. See *Section 28.011, Texas Government Code* and *Section 15.099, Texas Civil Practice and Remedies Code*.

Motion to Transfer Venue

A defendant may file a motion in the Small Claims Court asking that the case be transferred to a different precinct. This request must be made in writing at the earliest opportunity and must state why the precinct in which the lawsuit is filed is not the proper precinct, and also state to what precinct the action should be transferred. If the Justice of the Peace orders that the case be transferred, the original papers will be sent to the Small Claims Court in the proper precinct, and the parties and witnesses will be required to appear before the Small Claims Court to which the case was transferred. See *Section 28.014, Texas Government Code*.

The Rules concerning the motion to transfer are found in the Texas Rules of Civil Procedure, See *Rule 527, Texas Rules of Civil Procedure*.

Failure to Appear

If a defendant who has been served properly with citation does not file a written answer or does not appear in the Small Claims Court on the date and at the time specified in the citation, and the plaintiff does appear, the Justice of the Peace will enter a default judgment for the plaintiff in the amount that the plaintiff proves is owed by the defendant.

If the plaintiff does not appear, the Justice of the Peace will enter an order dismissing the case. This order does not prevent the plaintiff from filing the lawsuit at a later time, if appropriate.

Either the plaintiff or the defendant who failed to appear may request that the court set aside the decision made in their absence. This request must be made in writing no later than the tenth (10) day after the default judgment or order dismissing the case was signed, and must give a good reason for the party's failure to appear. See *Section 28.031, Texas Government Code*.

Certificate of Last Known Address

The plaintiff requesting a default judgment must file a *Certificate of Last Known Address* certifying to the Court the last known mailing address of the party against whom the default judgment is taken, so that the Court can notify the defendant of the entry of the judgment. See *Rule 239a, Texas Rules of Civil Procedure*.

Military Status Affidavit

The Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq, passed December 19, 2003, requires if the defendant does not make an appearance in a civil proceeding the plaintiff must file with the court a Military Status Affidavit stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or if the plaintiff is unable to determine whether or not the defendant is in military service, an affidavit stating that the plaintiff is unable to determine whether or not the defendant is in military service.

A person who makes or uses a military status affidavit, or statement, declaration, verification, or certificate, knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year, or both.

If a plaintiff does not have personal knowledge of the defendant's military status, the Department of Defense has a procedure for obtaining a status record by U.S. mail, FedEx, UPS or by fax to **a toll-free number only**. The telephone number provided for questions is: (703) 696-6762.

(The following information, provided by the Department of Defense, is current as of **9/6/05**.)

1. The DOD will now fax responses ONLY to a toll-free number.
 - a. Provide your toll-free fax number to (703) 696-4156, and
 - b. Fax inquiries on their form to Military Verification at (703) 696-4156.
2. For those without toll-free numbers, inquiries on their form should be made by US Mail, FedEx or UPS to:
Defense Manpower Data Center
1600 Wilson Boulevard, Suite 400
ATTN: Military Verification
Arlington, VA 22209-2593

IMPORTANT: Mail requests MUST contain a self-addressed, stamped envelope.

Jury Trial

Either the plaintiff or the defendant may demand a jury trial. The request must be made not later than one (1) day before the date on which the hearing is scheduled. At the same time that the request is made, the party must pay the jury fee to the Justice of the Peace. See *Section 28.035, Texas Government Code*. The amount of the jury fee is \$5.00. See *Section 28.004, Texas Government Code* and *Rule 544, Texas Rules of Civil Procedure*.

Continuance

A party requesting a continuance of a case **must state good cause** for requesting the postponement, and the request must be supported by affidavit. See *Rule 541, Texas Rules of Civil Procedure*. The request must be received by the Justice of the Peace no later than three working days prior to your Court date. Weekends and Holidays excluded.

The Hearing

The goal of the Small Claims Court is to dispense speedy justice between the parties.

On the date and at the time scheduled for the hearing, the plaintiff must appear ready to present proof of the amount he or she is claiming is owed by the defendant. The defendant must appear ready to present proof of any defense he or she may have to the plaintiff's claim.

Each party may offer written records, photographs, other tangible evidence, or the testimony of witnesses who have personal knowledge of the transaction made the basis of the lawsuit. A concise presentation, without repetitive testimony is the best way to present the case. The Justice of the Peace may allow each party to make a short argument on why that party should prevail.

The hearing is informal and the Justice of the Peace may ask questions to develop the facts of the case.

See *Section 28.033* and *Section 28.034, Texas Government Code*.

Subpoenas

If there are witnesses who will not come to Court voluntarily, you may request that a Subpoena be prepared and served to secure their appearance in Court. This should be done at least two weeks before trial in order to allow for service of the Subpoena. The Court does not guarantee that service will be obtained. Successful service of witness subpoenas is the requesting party's responsibility. Service fees do apply.

Judgment

At the conclusion of the hearing, the Justice of the Peace must make the judgment as the justice of the case demands.

Under the law, if the judgment is in favor of the plaintiff and against the defendant, the defendant must pay the judgment immediately. See *Section 28.051, Texas Government Code*.

Right to Appeal

If either the plaintiff or the defendant is dissatisfied with the decision of the Justice of the Peace, and the amount in controversy is more than \$250.00, the dissatisfied party may appeal the final judgment to the Waller County Civil Court at Law. The procedures for appeal are the same as if the party were appealing from a decision of the Justice Court.

If the appeal is by the defendant, within ten (10) days from the date a judgment, the defendant must file an Appeal Bond, with two or more sureties, in double the amount of the judgment. The bond is in favor of the adverse party and must promise that the defendant will prosecute the appeal to conclusion and pay any judgment that may be rendered by the County Civil Court at Law.

If the appeal is by the plaintiff because the Justice of the Peace denied the plaintiff's claim, the plaintiff, within ten (10) days from the date of judgment, must file an Appeal Bond, with two or more sureties, in double amount of the costs incurred in the Small Claims Court and the estimated costs in the county court, less any amounts that the plaintiff may have already paid. The bond is in favor of the adverse party and must promise that the plaintiff will prosecute the appeal to conclusion. See *Rule 571, Texas Rules of Civil Procedure*.

Affidavit of Inability

If the party wanting to appeal is unable to pay the costs of appeal or give any security for those costs, he or she is entitled to appeal by filing an Affidavit of Inability to pay costs for appeal, stating such inability with the Justice of the Peace within five (5) days from the date of the judgment. Notice must be given to the other party of the filing of the affidavit, and the facts of the party's inability to pay costs can be contested. See *Section 28.052, Texas Government Code* and *Rule 572, Texas Rules of Civil Procedure*.

The affidavit of inability to pay must satisfy the requirements of Rule 145 of the Texas Rules of Civil Procedure. Rule 145 requires that the affidavit contain complete information as to the party's identify, nature and amount of governmental entitlement income, nature and amount of employment income, other income (interest, dividends, ect.), spouse's income if available to the party, property owned (other than homestead), cash or checking account, dependents, debts, and monthly expenses. The affidavit must also state that the party is unable to pay the court costs, and that the statements made in the affidavit are true and correct. The affidavit must be sworn before a notary public.

The appeal must be accomplished within the times specified and follow the procedures specified by the applicable rules of procedure. The rules applicable to appeal from Justice Courts can be found in Part V, Section 6, Texas Rules of Civil Procedure.

When the appeal has been perfected and the transcript sent to the County Civil Court at Law, the Party appealing will be notified to pay the costs on appeal to the County Civil Court at Law. Those costs must be paid within twenty (20) days after being notified to do so by the County Clerk, or the County Clerk will return all of the papers to the Justice of the Peace. The party in whose favor the judgment was rendered may then proceed to collect the judgment. See *Rule 143a, Texas Rules of Civil Procedure*.

Hearing on Appeal

Once the appeal to County Civil Courts at Law has been perfected, the Small Claims Court judgment becomes a nullity, and the County Civil Courts at Law must try the case "de novo," or over again. This means that the parties must present their respective claims, evidence, and testimony to the judge of the County Civil Court at Law. No further pleadings in the County Civil Court at Law are required.

The judgment of the County Civil Court at Law on the appeal is final. See *Section 28.053, Texas Government Code*.

Collection of Judgments

If you receive a judgment against the Defendant and the Defendant does not file a Motion for New Trial within five (5) days, does not file an Appeal within ten (10) days, or does not pay the Judgment within ten (10) days you may seek other remedies to collect your judgment. The Justice Court can not assist you in collection of your judgment. Below are some remedies that are available to you, and that may assist you in the collection of the judgment.

- **Abstract of Judgment:** You may obtain an Abstract of Judgment any time after the 11th day from the date of Judgment. The cost of an original Abstract is \$5.00, and you may obtain them from the Court. The Abstract may then be filed in the office of the County Clerk in any County where you may think the Judgment Debtor may own real property.
- **Writ of Execution:** You may obtain a Writ of Execution any time after the 30th day from the date of Judgment. A Writ of Execution allows a Sheriff or Constable to try and seize certain non-exempt property from the Defendant. If property is seized, an auction will be held and the proceedings from the sale will satisfy your Judgment.
- **Writ of Garnishment:** A writ of Garnishment is available 30 days after the date of Judgment. This is a new lawsuit and is a complicated procedure. We recommend that you consult an attorney.

Legal Forms

DISCLAIMER: The various forms are provided for your convenience. It is not possible to include information sufficient for the circumstances of each case. You are urged to consult an attorney of your choice to review specific forms and procedures relative to your circumstances.

THESE FORMS ARE PROVIDED TO YOU UPON YOUR REQUEST.

- Small Claims Court Petition
- Military Status Affidavit
- Certificate of Last Known Mailing Address
- Civil Case Appeal Bond (Surety)
- Affidavit of Inability to Pay Costs for Appeal
- Request for Abstract of Judgment
- Request for Writ of Execution

Justice Court Costs and Waller County Civil Process Service Fees

Document	Court Cost	Waller County Service Fee (each defendant)	TOTAL
Small Claims	\$27.00	\$75.00	\$102.00
Counterclaim		\$75.00	\$75.00
Subpoena* * \$10 witness fee must be paid to the witness by the person who summons the witness		\$75.00	\$75.00
Subpoena Duces-Tecum* * \$10 witness fee must be paid to the witness by the person who summons the witness		\$75.00	\$75.00
Abstract of Judgment	\$5.00	n/a	\$5.00
Writ of Execution	\$5.00	\$200.00	\$205.00

Methods of Payment

It is the better practice to file your Small Claims Court case in person. You should be prepared to pay the filing fees at the time of filing. The court accepts the following:

- Cash
- Cashier's Check, payable to Waller County, Justice of the Peace, Pct 4
- Money Order, payable to Waller County, Justice of the Peace, Pct 4

Frequently Asked Questions

Q: How much does it cost to file a lawsuit in Small Claims Court?

A: The filing fee for a suit filed in the Small Claims Court is \$27.00. If you request that the citation be served by the Waller County Constable, the fee is \$75.00 for service on each defendant location in Waller County.

Q: What information do I need to file against a business?

A: You will need to determine who owns the business. Is it a corporation, a partnership, or a sole proprietorship? It is your responsibility to make sure that you are suing the proper and necessary party.

If the business is a corporation, you will need the correct name of the corporation, and the name and address of the corporation's registered agent.

If the business is a partnership, you will need the name and address of at least one of the partners.

If the business is a sole proprietorship, you will need the name and address of the owner of the business.

Business ownership may be determined from the Waller County Clerk's Assumed Name Records.

Information about corporate entities may be obtained from the Corporation Division of the Office of the Secretary of State at 512-463-5555, or the Office of the State Comptroller at 1-800-252-1386.

Q: What is the maximum amount I can sue for in Small Claims Court?

A: The maximum claim amount is \$10,000.00.

Q: If I am sued in Small Claims Court, what should I do?

A: You must follow the instructions within the Citation with which you were served, and file a written answer with the Court on or before 10:00 a.m. on Monday next after the expiration of 10 days after the date you were served with the citation. You should send a copy of the answer to the Plaintiff, and include your name, address, and telephone number.

Q: How do I ask for a jury trial?

A: You are entitled to a jury trial if you file a request with the court not later than one (1) day before the date on which the hearing is to be held and pay the jury fee at the same time. It is helpful to ask for a jury trial well in advance of your hearing date.

Q: What happens in court?

A: *Announce your presence.* When you arrive in the Small Claims Court, it is a good idea to announce to the clerk that you are present. If the Justice of the Peace calls the "docket," that is each case scheduled to be heard at that time, you should answer "present" when your case is called.

Pick a Jury. If you have demanded a jury, a jury panel will be available from which you will select six jurors to decide your case. Both the plaintiff and the defendant will be able to ask the potential jurors questions to learn about the jurors, their prejudices, and their sympathies. You may tell the Justice of the Peace if you think that a certain juror cannot be fair and ask that the juror be excused for cause. You may disqualify three (3) jurors using your peremptory strikes for any reason or for no reason.

Swear to tell the truth. When the trial begins, the Justice of the Peace or the clerk will ask each party and their witnesses to swear to tell the truth.

Meet your burden of proof. As the plaintiff, you will have the opportunity to begin. You have the burden to prove your case by a preponderance of the evidence. You may proceed by testifying about the facts of your claim, presenting any physical or documentary evidence you have, and asking questions of your witnesses.

Cross-examination. The defendant will have an opportunity to cross-examine the plaintiff and each of the plaintiff's witnesses, by asking questions.

Defendant's side of the story. At the end of the plaintiff's presentation, the defendant will explain the circumstances from his or her point of view. The defendant may take the position that the plaintiff or the plaintiff's witnesses are wrong in their perception or interpretation of the transaction, or that the plaintiff is not entitled to as much money as claimed, or to any money.

Cross-examination. The plaintiff will have an opportunity to cross-examine the defendant and each of the defendant's witnesses, by asking questions.

Defendant's failure to appear. If the defendant does not appear for the hearing after being properly notified, the plaintiff may be entitled to a default judgment if the plaintiff is able adequately to prove his or her damages.

Judgment. At the conclusion of the evidence, the Justice of the Peace or the jury will decide the outcome of the case. The judgment will become final after ten (10) days, if no appeal is taken.

Q: When should I file a lawsuit?

A: File a lawsuit only as your last resort. Try to resolve your dispute by talking it over calmly with your adversary, or using a mediator. But, do not wait too long to present your claim. You must file your claim within any applicable statute of limitations. For example, a suit to collect money owed on a contract must be brought within four (4) years. A suit for personal injury or damage to property must be brought within two (2) years.

Q: For what can I sue for in Small Claims Court?

A: You can only recover money in Small Claims Court. The Court is not able to award you property or require another party to do or refrain from doing any act. Know the value of your claim. If you are represented by an attorney, you may be able to recover attorney's fees, but the total amount of your claim, exclusive of court costs, may not exceed \$5,000.

Q: What do I need to do to prepare for a trial?

A: Gather all of the information you need to prove your claim. Collect all records, such as copies of contracts, invoices or other agreements. Compile a list of witnesses, with their addresses and telephone numbers.

Prepare a short and concise statement of the basis for your claim. Use plain language. Be sure to include the date the claim arose and all pertinent information.

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This information is not exhaustive. The Court and its staff cannot give legal advice.
You should see legal counsel only from a licensed attorney.*

Basic Information Necessary for Civil Hearings PRO SE PLAINTIFF

Organize your documents and practice what you want to say before coming to court. The Judge will allow you to respond to the Defendant's evidence, if any, and the Judge may ask questions, if necessary. There will be NO opportunity for cross-examination.

1. Identify yourself

- By name
- By status (President of the Company; Bookkeeper; Business Owner)

2. State the nature of your claim in one sentence.

Unpaid bill for service, property damage, balance of a loan, etc.

3. State the pertinent dates, for example:

- The date a loan was made, the dates payments were due and the date of default
- The date a contract or lease was made, the dates for performance, the date the contract was breached
- The date of an auto accident or when other property damage occurred

4. State the details of any agreements, for example:

- There was an oral agreement, made between Jim and me that I would lend Jim \$500 to be paid back at \$100 a week, beginning June 1, 2001 and ending July 7, 2001.
- The defendant owned the garage where I took my car to have a new water pump installed. They gave me a written estimate of \$300 for parts and labor and said it would be finished in 2 days.
- We signed a written contract for the defendant to remodel my bathroom by tearing out the existing tile, purchasing and installing new tile, and cleaning up the construction debris. The total price was \$1,000, and I paid a deposit of \$500 before the job started. I paid for the materials at the hardware store. The job was supposed to start on June 4 and finish by June 27.

5. State the details of liability (fault), for example:

- The defendant failed to pay the last two payment of \$100.
- The defendant installed a pump and I paid him \$300. The pump failed the next day and the garage refused to replace it.
- The defendant never showed up to work on the bathroom and kept my deposit.
- My car was stopped at the light and the defendant rear-ended my car.

6. State the details of how you calculated your damages, for example:

- The two payments the defendant failed to make total \$200.
- I had to purchase another pump for \$150, and paid a different garage \$200 to install it. I think the defendant should have to return the \$300 I paid for the first faulty pump.
- Since no work was done, and my check was cashed, I am asking for my \$500 deposit back.
- The defendant had no auto liability insurance and I had to pay \$1,000 to Kim's Garage to replace the bumper and paint the fender.

7. Produce the documents that support your claim, for example:

- Contracts, estimates, work orders or promissory notes
- Photographs or damaged property (before and after, if available) (NOTE: Videotapes are rarely of a quality good enough to be helpful to the court and are extremely time-consuming. The judge will decide if you will be able to show a video. If you must show a videotape, please have it rewound to the proper starting point.)
- Bills for repair or replacement and repair estimates
- Cancelled checks or bank records
- Title documents
- Accident reports

8. Witness testimony, only if necessary

Witness testimony is helpful if there is a dispute about the terms of an oral agreement or the condition of property when no photos are available.

**THIS IS NOT A SCRIPT!
IT IS A TOOL TO ASSIST A NON-LAWYER IN MAKING
AN ORDERLY PRESENTATION**

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This information is not exhaustive. The Court and its staff cannot give legal advice.
You should see legal counsel only from a licensed attorney.*

Basic Information Necessary for Civil Hearings PRO SE DEFENDANT

Organize your documents and practice what you want to say before coming to court. The Judge will allow you to respond to the Defendant's evidence, if any, and the Judge may ask questions, if necessary. There will be NO opportunity for cross-examination.

1. Identify yourself

- By Name
- By status (President of the Company; Bookkeeper; Business Owner)

2. State your understanding of the details of any agreement, for example:

- Jim and I never agreed to a loan that had to be repaid. It was a gift.
- When Mr. Smith brought his car in, he didn't know what was wrong with it. We told him it would take at least a week to figure it out because we were backed up. We told him that it MIGHT be the water pump, and if it was, we could get the part and have the job done in 2 days, and it would cost about \$300.
- We didn't sign a contract; I just gave them a proposal for the bathroom remodel.

3. State any reason why the Plaintiffs have not been damaged, or why the amount they're seeking is too much money, for example:

- I don't owe anything – it was a gift.
- We installed a brand new pump that was under warrant. I offered to install another one according to the warranty, but Mr. Smith said he didn't want me to touch his car anymore. I shouldn't have to pay for the other garage, and if we'd been able to fix it under the warranty, he wouldn't have had to pay, either.
- I never received a deposit – they gave me \$500 to pick up the tile, and I bought it and delivered it to their house. I don't do tile work and I was going to have to find a tile man to work with me. I never found a tile man and they told me to forget about it, that they'd get someone else to install it, so I never went back.
- The light was green. The Plaintiff stopped his car suddenly in the middle of a moving lane of traffic, and then he and his buddies jumped out of the car, laughing, whooping and hollering. I had no time to stop and I couldn't change lanes because there was traffic in the other lanes. The Plaintiff got a ticket for obstructing traffic.

4. Produce the documents that support your rebuttal, for example:

- Contracts, estimates, work orders or promissory notes, gift cards
- Photographs or damaged property (before and after, if available) (NOTE: Videotapes are rarely of a quality good enough to be helpful to the court and are extremely time-consuming. The judge will decide if you will be able to show a video. If you must show a videotape, please have it rewound to the proper starting point.)
- Bills for repair or replacement and repair estimates
- Cancelled checks or bank records
- Title documents
- Accident reports

**THIS IS NOT A SCRIPT!
IT IS A TOOL TO ASSIST A NON-LAWYER IN MAKING
AN ORDERLY PRESENTATION**

DISCLAIMER: The law is constantly changing and there may be times when the information provided in this packet will not be current. This information is provided for general informational purposes only and is not intended as legal advice. This information is not a comprehensive treatment of the subject and is not a substitute for advice from an attorney.

It is not possible to include information sufficient to meet all facts and circumstances and you are urged to consult with an attorney. We have made every effort to set out information accurately, but we do not warrant the reliability or appropriateness of the information for a particular purpose, and we do not assume liability for any consequences resulting from your reliance on the information presented.