RELEASE OF JUDGMENT

STATE OF TEXAS
COUNTY OF POTTER

WHEREAS ON THE ____ DAY OF _____, _____, IN THE SMALL CLAIMS COURT OF POTTER COUNTY, TEXAS IN A CAUSE STYLED _____ VS _____ _____ NO. _____, _____ PLAINTIFF RECOVERED A JUDGMENT IN THE SUM OF _____ DOLLARS, TOGETHER WITH COSTS OF SUIT AND INTEREST FROM THE _____ DAY OF _____, _____AT THE RATE OF _____ % PER ANNUM; AND

WHEREAS, SAID PLAINTIFF AND DEFENDANT HAVE AGREED TO FULLY AND FINALLY SETTLE ALL MATTERS OF CONTROVERSY BETWEEN THEM, AND

WHEREAS, _____, DEFENDANT HAS PAID TO THE PLAINTIFF THE SUM OF _____ _____ DOLLARS.

NOW THEREFORE, I THE PLAINTIFF (AND OR REPRESENTATIVE), IN CONSIDERATION, HEREBY ACKNOWLEDGE PAYMENT OF THE ABOVE AMOUNT AND DO HEREBY RELEASE UNTO THE SAID _____, HIS/HER HEIRS AND ASSIGNEE ANY AND ALL LIENS HERETOFORE EXISTING BY REASON OF SUCH JUDGMENT UPON ANY PROPERTY OF THE SAID _____ _____ WHATSOEVER.

WITNESS MY HAND THIS _____ DAY OF _____, 20 _____.

_____
PLAINTIFF

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, ON THIS DAY PERSONALLY APPEARED _____ KNOWN TO ME TO BE THE PERSON WHOSE NAME WAS SUBSCRIBED TO IN THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES THEREIN EXPRESSED.

SUBSCRIBED AND SWORN TO BEFORE ME ON THE _____ DAY OF _____, 20 _____ TO CERTIFY WHICH WITNESS MY HAND AND OFFICIAL SEAL.

_____
NOTARY PUBLIC IN AND FOR
POTTER COUNTY, TEXAS

CIVIL/SMALL CLAIMS INFORMATION

THOMAS JONES
JUSTICE OF THE PEACE, PCT. 4
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TO THE CITIZENS OF PRECINCT 4

Small claims court is here for your benefit and it is our job to help you in any way possible.

However, please understand that the Rules of Judicial Ethics prohibit this office from:

1) Giving legal advise, or
2) Expressing opinions of the law.

Also, understand that the Judge and Court Clerks can answer questions only:

1). Of a general nature,
2) About procedures of this court,
3) Concerning court costs.

WE MUST REMAIN IMPARTIAL, AND WE CANNOT HEAR ANY PART OF A CASE OR DISCUSS THE MERITS OF ANY CASE UNLESS ALL PARTIES ARE PRESENT.

PLEASE DO NOT ASK US TO VIOLATE THESE RULES.

The information contained herein is for your information and is offered as a guide to all interested parties. As always, we recommend that you seek some form of sound legal advice.

Thank You,

Thomas Jones
Justice of the Peace, Pct. 4

COMPARISON OF JUSTICE COURT AND SMALL CLAIMS COURT

TOPIC	JUSTICE COURT	SMALL CLAIMS COURT
JURISDICTION:		JURISDICTION:
1. AMOUNT	$10,000.00 exclusive of interest (G.C. 27.031)	$10,000.00 interest included (G.C. 28.003)
2. TYPE OF CASE	1. Authorized A. Civil matters within jurisdictional amount B. Evictions C. Foreclosure of mortgage and enforce lien on personal property.	1. Authorized A Lawsuits for recovery of a judgment for actual monetary damages only.
	2. Prohibited A. Suit by State to recover penalty, forfeiture of escheat B. Divorce C. Slander & Defamation suits D. Suit for trial of title to land E. Foreclosure lien on land	2. Prohibited A. By assignee of claim B. Person primarily engaged in business of loaning money at interest C. Collection agency or agent D. No Pain & Suffering – no slander-no punitive damages (To punish)
FILING FEE:	$27.00 PLUS COST OF SERVICE	$27.00 PLUS COST OF SERVICE
VENUE:	15.082 to 15.097 (C.P. & R.C.) 1. Generally county & precinct where one or more defendants reside. 2. 14 exceptions	1. Generally, the precinct in which the defendant resides. 2. Precinct in which the defendant contracted to perform.
PLEADINGS	Petition and answer must be written. All other pleadings must follow the Rules of Civil Procedure.	Petition must be written and sworn to, all other pleadings may be informal except motion to change venue.
ATTORNEY	For individuals: Party may appear For corporation: Must appear	For individual: Party may appear For corporation May appear, not required (G.C.280.0003F)
DUTY OF JUDGE	Uphold and enforce the Constitutional laws of the State of Texas	1. Develop facts of the case (G.C. 28.034) 2. May question witnesses (G.C.28.034) 3. Render judgment as the justice of the case requires (G.C. 28.051) 4. Sole objective to dispense speedy justice (G.C. 28.033)
CONTINUANCE	Good cause shown & Affidavit (R.C.P. 541)	"Only for good cause shown" (G.C. 28.032)
JURY TRIAL	Yes	Yes

FILING SUIT:

The responsibility for filling out your petition rest with you, the plaintiff. (PLEADINGS MUST BE FILED IN TRIPLICATE). It is 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. They are as follows:

1) Individual – Where an individual is personally responsible to you for damages he may have caused you.

2) Sole Proprietor or Partnership – A business that is not incorporated but has filed and assumed name with the County Clerk in the court of his business. 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 Potter County may be obtained at the County Clerk's Office in the courthouse in Amarillo, Texas.

3) Corporation – A business that is incorporated. To sue a corporation, you must find the name of the REGISTERED AGENT, PRESIDENT OR VICE-PRESIDENT of the corporation before you begin your suit. The Secretary of State (1-800-252-1386) will give you the information. You also need the address of the REGISTERED AGENT, PRESIDENT OR VICE PRESIDENT. When you file your suit, you will be filing against the corporation and serving the citation on one of the above mentioned officers of the corporation. It is also possible for an incorporated entity to have an assumed name, e.g. Carr's Auto Shop, Inc d/b/a Carr's Garage.

COSTS INSIDE POTTER COUNTY
SEE FEE SCHEDULE

COSTS AND SERVICE OUTSIDE POTTER COUNTY

1) Call the county courthouse in the county where the defendant is to be served.

2) Ask for the name of the Constable or Sheriff in the precinct where the defendant is to be served; then call that office and find out the SERVICE FEE for serving a JUSTICE COURT CITATION.

3) Get the address of the Constable or Sheriff who will be serving the citation and bring it with you when you file your suit along with a money order payable to the out of county Sheriff or Constable.

CITATION:

A citation is sent to the Sheriff's Office or Constable's Office for service in Potter County. Out of the, county service is sent to the Constable or Sheriff depending on the information you provide the court.

ANSWER:

The defendant(s) in your suit is commanded to answer to the Court in person or in writing on the Monday following the expiration of ten days from the date the citation was served upon him.

REPRESENTATION:

As an individual, you may represent yourself in a Small Claims Suit if you choose to do so. Corporations may have to be represented by an attorney. The Rules of Evidence and the Rules of Procedure are not in effect in Small Claims Cases. These are informal proceedings.

PREPARING YOUR CASE FOR TRIAL:

You, as the Plaintiff have the burden of proof to show by the weight of the evidence that the defendant is at fault. You should bring with you to trial all proof of damages and evidence necessary to substantiate your claim. If you have witnesses to your suit who will not come to court voluntarily, you may order a subpoena to compel them to appear. You should submit your request for a subpoena in writing at least one week prior to your trial date and pay the required fee for service.

DEFAULT JUDGMENT:

If the defendant in your suit fails to answer to the court, only you, the plaintiff, will be notified of court for an appearance on the DEFAULT DOCKET. YOU STILL MUST PROVE YOUR CASE TO THE JUDGE. You will be asked to briefly state the facts of your case and present any written evidence you may have to support your case.

TRIAL BY JUDGE OR JURY:

Either party is entitled to trial by jury provided the request is timely and the fee is paid.

IT IS IMPERATIVE THAT YOU PROVIDE US WITH YOUR DAYTIME TELEPHONE NUMBER. YOU MUST NOTIFY US OF ANY CHANGES IN YOUR TELEPHONE NUMBER OR ADDRESS.

APPEALS:

Either party has the right to appeal. The amount of bond for appeal will be set by the Judge. Notice of appeal and all the proper paper work must be received by the court within 10 days of the date of judgment. Appeals from Justice of the Peace Court go the County Courts where they are heard de novo (as though they had never been heard before).

CLERKS CANNOT ANSWER LEGAL QUESTIONS, ONLY THOSE PROCEDUAL IN NATURE.

You may have other remedies available, but they are more complicated and are not covered here. Please consult an attorney for any other remedies you may have to collect your judgment. 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 THAT THE JUDGMENT HAS BEEN SATISFIED IN FULL BY FILING A RELEASE OF JUDGMENT LIEN. (SEE ATTACHMENT) IF YOUR ADDRESS CHANGES WITHIN THE 10-YEAR PERIOD FOLLOWING THE JUDGMENT, YOU SHOULD NOTIFY THE COURT OF YOUR NEW ADDRESS.

POST JUDGMENT PROCEDURES IN SMALL CLAIMS COURT:

After 10 days if no appeal is filed the judgment becomes final.

**The 10 day period is 10 calendar days. If the 10th day of the period falls on a Saturday, Sunday or legal holiday, an extra day is allowed.

A. Prevailing party may re-appear in this court on the 10th, or subsequent days following judgment, and apply for an Abstract of Judgment which is filed with the County Clerk. Abstract of Judgment is good for 10 years and is renewable. The credit bureau picks up abstracted judgment information. An abstract does two things; 1) it attaches to real property the other party owns and, 2) it is reflected on the credit report of the other party.

B. Prevailing party may re-appear in this court on the 31st day following judgment and apply for a Writ of Execution. This document authorized the Sheriff or Constable to seize any assets classified under the law as non-exempt. Those assets are then auctioned at public sale and the proceeds are applied to the judgment. We suggest that you visit with the proper Sheriff or Constable before the execution is issued because exceptions do apply. The Writ of Execution may be obtained without obtaining an abstract of judgment.

Any other post judgment procedures are quite complicated. As always, we recommend that you seek sound legal advice.

IMPORTANT NOT TO THE PREVAILING PARTY: ANYTIME THE PREVAILING PARTY IS PAID IN FULL, IT IS THE OBLIGATION OF THE PREVAILING PART TO FILE A RELEASE OF JUDGMENT.

SEE REVERSE

FEE SCHEDULE FOR SMALL CLAIMS COURT WITH SERVICE IN POTTER COUNTY

	Filing Fee	Service Fee	Total Fees
SMALL CLAIMS			
1- Defendant	$27.00	$ 60.00	$ 87.00
2.- Defendants	$27.00	$120.00	$147.00
JURY TRIAL	$ 5.00		$ 5.00
ABSTRACT OF JUDGMENT	$ 5.00		$ 5.00
SUBPOENA	$ 5.00	$ 60.00	$ 65.00
Each Additional	$ 5.00	$ 60.00	$ 65.00
WRIT OF EXECUTION	$ 5.00	$150.00	$155.00
APPEAL	$12.00		$ 12.00