

GOVERNMENT CODE
CHAPTER 28. SMALL CLAIMS COURTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 28.001. SMALL CLAIMS COURT. In each county, there is a court of inferior jurisdiction known as the small claims court. Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 28.002. JUDGE. Each justice of the peace sits as judge of the small claims court and exercises the jurisdiction provided by this chapter.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

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 \$5,000.

(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.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 745, Sec. 3, eff. June 20, 1987; Acts 1989, 71st Leg., ch. 501, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 802, Sec. 4, 5, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 776, Sec. 4, eff. Sept. 1, 1991.

Sec. 28.004. FEES. Fees in small claims court are, except as provided by Subchapter E, Chapter 118, Local Government Code, the same as those for cases in justice courts.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 974, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 1, Sec. 19(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 2, Sec. 8.26, eff. Aug. 28, 1989.

Sec. 28.005. SUPPLIES. The commissioners court shall furnish to the justices of the peace a reasonable number of blank forms, docket books, and other supplies necessary for the small claims court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 28.006. SMALL CLAIMS COURT SEAL. (a) The commissioners court shall furnish to each judge of a small claims court a seal that has a star with five points in the center. The seal must also have "Small Claims Court, _____ County, Texas" and any applicable precinct number on it.

(b) The seal may be attached to all process other than subpoenas issued out of the small claims court and may be used to authenticate the official acts of the clerk and the judge of the small claims court.

(c) The seal may be affixed by a seal press or stamp that embosses or prints the seal.

Added by Acts 1991, 72nd Leg., ch. 747, Sec. 2, eff. Sept. 1, 1991.

SUBCHAPTER B. INSTITUTION OF CLAIM

Sec. 28.011. VENUE. An action in small claims court must be brought in the county and precinct in which the defendant resides, except that:

(1) an action on an obligation that the defendant has contracted to perform in a certain county may be brought in that county; and

(2) an action for which venue is proper under Section 15.099, Civil Practice and Remedies Code, may be brought as provided by that section.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1985, 69th Leg., ch. 480, Sec. 25, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 148, Sec. 2.31, eff. Sept. 1, 1987.

Sec. 28.012. INSTITUTION OF ACTION. (a) To institute an action in small claims court, the claimant, attorney for the claimant, or authorized agent of the claimant must:

(1) appear before the judge or the clerk of the court and file a statement of the claim under oath; or

(2) file a sworn statement of the claim with the judge

or clerk of the court.

(b) The statement must be in substantially the following form:

In the Small Claims Court of _____ County, Texas
 A. B., Plaintiff
 vs.
 C. D., Defendant
 State of Texas
 County of _____
 A. B., whose post office address is
 _____ (Street and Number), _____ (City),
 _____ County, Texas, being duly sworn, on his oath deposes
 and says that C. D., whose post office address is
 _____ (Street and Number), _____ (City),
 _____ County, Texas, is justly indebted to him in
 the sum of _____ Dollars and _____ Cents (\$_____), for

(here the nature of the claim should be stated in concise form and without technicality, including all pertinent dates), and that there are no counterclaims existing in favor of the defendant and against the plaintiff, except _____

 Plaintiff

Subscribed and sworn to before me this ____ day of ____, 19__.

 Judge

By: _____
 Clerk

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 745, Sec. 4, eff. June 20, 1987; Acts 1989, 71st Leg., ch. 802, Sec. 6, eff. Sept. 1, 1989.

Sec. 28.013. CITATION. (a) On filing the statement and payment of the filing fee, the judge or clerk shall issue process in the manner provided for a case in justice court.

(b) Citation is served by an officer of the state authorized to serve other citations.

(c) Citation may be served in any manner authorized for service of citation in a district court, county court, or justice court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 802, Sec. 7, eff. Sept. 1, 1989.

Sec. 28.014. MOTION TO TRANSFER VENUE. The defendant may file a written motion to transfer venue as provided by the rules governing justice courts. The final ruling of the judge on the plea is interlocutory and may be appealed only with an appeal of the final judgment.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 802, Sec. 8, eff. Sept. 1, 1989.

SUBCHAPTER C. HEARING

Sec. 28.031. FAILURE TO APPEAR. (a) If a defendant who has been served with citation fails to appear at the time and place specified in the citation, the judge shall enter a default judgment for the plaintiff in the amount proved to be due. The judge may set aside the default judgment if, not later than the 10th day after the default judgment is signed, the defendant files with the court a written motion showing good cause for setting aside the judgment.

(b) If the plaintiff does not appear, the judge may enter an order dismissing the action without prejudice. The judge may set the case for trial if, not later than the 10th day after the judge dismisses the action, the plaintiff files with the court a written motion showing good cause to set aside the dismissal.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 802, Sec. 9, eff. Sept. 1, 1989.

Sec. 28.032. POSTPONEMENT. The judge may grant a postponement or continuance only for good cause shown.
 Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 28.033. HEARING. (a) If both parties appear, the judge shall proceed to hear the case.

(b) Formal pleading other than the statement is not required.

(c) The judge shall hear the testimony of the parties and the witnesses that the parties produce and shall consider the other evidence offered.

(d) The hearing is informal, with the sole objective being to dispense speedy justice between the parties.

(e) Reasonable discovery in small claims court shall be permitted. Discovery is limited to that considered appropriate and permitted by the judge.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 802, Sec. 10, eff. Sept. 1, 1989.

Sec. 28.034. DUTY OF JUDGE TO DEVELOP CASE. The judge shall develop the facts of the case, and for that purpose may question a witness or party and may summon any party to appear as a witness as the judge considers necessary to a correct judgment and speedy disposition of the case.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 28.035. JURY TRIAL. (a) A party is entitled to a jury trial if the requesting party files a request with the court not later than one day before the date on which the hearing is to be held and at the same time pays the jury fee to the judge.

(b) The jury is provided as in other civil cases in justice court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

SUBCHAPTER D. JUDGMENT; APPEAL; EXECUTION

Sec. 28.051. JUDGMENT. (a) On conclusion of the hearing, the judge shall render judgment as the justice of the case requires.

(b) If the judgment is against the defendant, the defendant shall pay the judgment immediately.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 28.052. RIGHT TO APPEAL. (a) If the amount in controversy, exclusive of costs, exceeds \$20, a dissatisfied party may appeal the final judgment to the county court or county court at law.

(b) Appeal is in the manner provided by law for appeal from justice court to county court.

(c) A person determined by the court to be indigent may, in making an appeal under this section, file an affidavit of inability to pay as provided for in Rule 145, Texas Rules of Civil Procedure.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 2005, 79th Leg., ch. 381, Sec. 1, eff. Sept. 1, 2005.

Sec. 28.053. HEARING ON APPEAL. (a) The county court or county court at law shall dispose of small claims appeals with all convenient speed.

(b) Trial on appeal is de novo. No further pleadings are required and the procedure is the same as in small claims court.

(c) All costs not previously paid by the parties accrue until judgment is rendered on the appeal.

(d) Judgment of the county court or county court at law on the appeal is final.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.

Sec. 28.054. ENFORCEMENT OF JUDGMENT. If the defendant fails to make immediate payment on the judgment, the judgment may be enforced as in justice court.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 745, Sec. 5, eff. June 20, 1987.

Sec. 28.055. JUDGMENT NOT CLAIMED BY PLAINTIFF. (a) If a defendant has not paid a judgment in favor of the plaintiff and the plaintiff's whereabouts are unknown, the defendant shall use due diligence to locate the plaintiff. The defendant must send a letter by registered or certified mail, return receipt requested, to the plaintiff's last known address and to the address appearing in the plaintiff's statement of his claim or other court record.

(b) If the plaintiff is not located after the use of due diligence, the defendant may pay to the court the amount owed under the judgment. The judge shall immediately execute a release of the judgment on behalf of the plaintiff and deliver the release to the defendant.

(c) The amount paid to the court is held in trust for the plaintiff, and at least once a month the court shall pay those trust funds to the county clerk. The clerk shall deposit the trust funds in the county clerk's trust fund account in the county treasury. The funds shall be deposited, and may be withdrawn, in the same manner as trust funds deposited in district or county court to abide the result of a legal proceeding.

Acts 1985, 69th Leg., ch. 480, Sec. 1, eff. Sept. 1, 1985.