

CAUSE NO. \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 Plaintiff(s) §  
 v. §  
 \_\_\_\_\_ §  
 1<sup>st</sup> Defendant §  
 \_\_\_\_\_ §  
 2<sup>ND</sup> Defendant §  
 \_\_\_\_\_ §  
 3<sup>RD</sup> Defendant §

IN THE JUSTICE COURT

PRECINCT 4-1

DALLAS COUNTY, TEXAS

### PLAINTIFF'S ORIGINAL SMALL CLAIMS PETITION

(For all addresses, you MUST include number, street, apartment number, city, state, & zip code.)

1<sup>st</sup> Defendant's address:

\_\_\_\_\_  
 ADDRESS and APT or SUITE NO.  
 \_\_\_\_\_  
 CITY STATE ZIP  
 \_\_\_\_\_  
 OTHER, if any  
 \_\_\_\_\_  
 PHONE FAX

**Check to indicate service on Registered Agent**  
 Registered agent for service of 1<sup>st</sup> Defendant

NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY STATE ZIP \_\_\_\_\_  
 OTHER \_\_\_\_\_  
 PHONE FAX

2<sup>nd</sup> Defendant's address:

\_\_\_\_\_  
 ADDRESS and APT or SUITE NO.  
 \_\_\_\_\_  
 CITY STATE ZIP  
 \_\_\_\_\_  
 OTHER, if any  
 \_\_\_\_\_  
 PHONE FAX

**Check to indicate service on Registered Agent**  
 Registered agent 2<sup>nd</sup> Defendant

NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY STATE ZIP \_\_\_\_\_  
 OTHER \_\_\_\_\_  
 PHONE FAX

3<sup>rd</sup> Defendant's address:

\_\_\_\_\_  
 ADDRESS and APT or SUITE NO.  
 \_\_\_\_\_  
 CITY STATE ZIP  
 \_\_\_\_\_  
 OTHER, if any  
 \_\_\_\_\_  
 PHONE FAX

**Check to indicate service on Registered Agent**  
 Registered agent 3<sup>rd</sup> Defendant

NAME \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 CITY STATE ZIP \_\_\_\_\_  
 OTHER \_\_\_\_\_  
 PHONE FAX

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

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**RELIEF:** Plaintiff seeks damages in the amount of \$\_\_\_\_\_, and/or return of personal property described as follows (be specific): which has a value of \$\_\_\_\_\_ ADDITIONALLY, Plaintiff seeks the following:

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**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:\_\_\_\_\_

I consent to email service for the answer and any other motions or pleadings, notice of hearings to be sent to my e-mail address:

\_\_\_\_\_  
(E-mail address—print clearly)

Respectfully submitted,

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Signature of Attorney, if any

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

Fax: \_\_\_\_\_

State Bar No.: \_\_\_\_\_

## ("SCRA") THE SERVICEMEMBERS CIVIL RELIEF ACT

The Service members Civil Relief Act ("SCRA"), 50 App. U.S.C.A. § 501, et seq., is a federal law signed by President Bush on December 19, 2003, which imposes certain procedural requirements in civil cases to protect members of the armed services and their families. These requirements apply to any court of any state whether or not the court is a court of record. 50 U.S.C. App. § 511(5).

### A. Does the SCRA Apply in Eviction Cases?

Yes!

### B. Requirements for a Default Judgment

- In any case in which the defendant does not make an appearance, before entering a judgment for the plaintiff the court "shall require the plaintiff to file with the court an affidavit: (A) stating whether or not the defendant is in military service and • showing necessary facts to support the affidavit; or (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service." 50 U.S.C. App. § 521(b).
- If the plaintiff fails to file an affidavit under the SCRA in an eviction case, the court may not grant a default judgment. Likewise, if the plaintiff files an affidavit stating that the defendant is not in military service, but fails to "show necessary facts to support the affidavit," the court may not grant a default judgment. Typically, plaintiffs will attach a printout from the Department of Defense website: <https://www.dmdc.osd.mil/appj/scra/scraHome.do> but they are not required to use that form as long as they show "necessary facts" to support the affidavit.

The SCRA does not apply to criminal cases.

- If a proper affidavit is filed, there are three possibilities:
- The defendant is not in military service: the court may enter a default judgment
- The plaintiff is unable to determine whether or not the defendant is in military Service: (the court may enter a default judgment and may - but does not have to - require the plaintiff to post a bond to protect the defendant if it turns out that s/he is in military service.
- The defendant is in military service: the court must appoint an attorney to represent the defendant.

CASE NO. \_\_\_\_\_

Plaintiff \_\_\_\_\_

§

IN THE JUSTICE OF THE PEACE COURT

Vs.

§

PRECINCT 4, PLACE 1

Defendant(s) \_\_\_\_\_

§

§

DALLASCOUNTY, TEXAS

STATE OF TEXAS COUNTY OF DALLAS  
AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)

Before me, the undersigned notary or clerk of the Justice Court, 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 (fine and/or one year in jail), stated the following:

My Name is (please print) \_\_\_\_\_

I am (check one)  the Plaintiff or  an authorized agent of the Plaintiff in the case described above. I am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

Select one of the following (as to the Defendant):

- 2.  Is NOT in the military on active duty
- 3.  Is on active military duty and/or is subject to the Service members Civil Relief Act.
- 4.  Has waived his rights under the Service members Civil Relief Act of 2003.
- 5.  Military status is unknown at this time.

To obtain certificates of service or non-service under the Servicemember's Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/applj/scra/scraHome.do>. This website will provide the current active military status of an individual.

\*Penalty for making or using false affidavit – a person who makes or uses an affidavit 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.

\_\_\_\_\_  
SIGNATURE OF AFFIANT

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_

\_\_\_\_\_  
NOTARY OR CLERK OF THE COURT