

# Business Credit News

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CREDIT REPORTS 210-225-7106  
COLLECTION 210-225-7106  
E-MAIL: bcms@nacmtx.com  
FAX SERVICES 210-225-1777  
WEB SITE: www.nacmtx.com

National Association of Credit  
Management of Texas, Inc  
4407 Walzem Rd #205  
San Antonio, TX 78218

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**JULY 2013 Chairman: Mark Haley  
Johnson Oil Company**

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## **“THERE’S A NEW COURT IN TEXAS”**

A new state law passed back in July 2011 will abolish small claims courts in Texas effective August 1, 2013. Originally enacted to go into effect May 1, 2013 the Texas Supreme Court moved the date back to August while it established the types of cases to be heard and the rules to be used by the new court.

The new law, House Bill 79, allows justices of the peace to transfer their small claims dockets to their justice courts. Texas small claims courts were established in 1953 by the Small Claims Court Act.

In small claims court the parties are not required to be trained in the law nor have any knowledge of trial procedures. A party simply has to complete a fill-in-the blank form as designed by the legislature, pay a small fee and their case will be heard before a judge who is not required to be a lawyer or law school graduate. Neither party to a small claims suit is required to have an attorney. In addition, neither party has to worry about fairness if the other party has an attorney representing them, because under the legislative rule, the judge is to develop the facts of the case and the Rules of Civil Procedure and Rules of Evidence do not apply. Each party simply tells their side of the story to the judge and he/she makes a decision based on the information presented.

The small claims court hears cases for money judgments only and the justice court hears cases to recover property, evictions and in any case that an attorney wanted the rules of Civil Procedure to apply. Presently, the justice of the peace sits as the judge of two courts, the small claims court and justice court. In the justice court, all rules of civil procedure and rules of evidence apply just as they do in county and district court.

House Bill 79 abolishes the small claims court and moves all cases into the justice court.

This restructuring came from a 2007- 2008 Task Force Report that proposed the Texas Civil Court System should be a three-tier system. Currently the system is comprised of six different courts: The district courts; county courts at law; constitutional county courts; justice courts; small claims courts; and to a small percent, municipal courts. The task force envisioned the civil court system to be comprised of only the district courts, county courts at law, and the justice courts.

The sponsors of the bill intended all cases filed in justice court to be considered small claim cases. And the Texas Supreme Court in May 2013 defined what constitutes a small claims case. They created four types of cases to be heard in the Justice Courts all with statutory limits of \$10,000.00.

Small Claims – where an individual or corporation can seek money damages, civil penalties, property damages, or any other relief allowed by law.

Debt Claim – where an assignee of a debt, collection agency, or any financial institution that lends money with interest can receive a money judgment.

Repair & Remedy – where a tenant can sue a landlord damages or any breach of the rental/lease agreement

Eviction – where a landlord can seek the removal of a tenant and monies owed for back rent and/or damages to the property.

In all of these cases the Texas Supreme Court has established the rules to be followed. Sections 500 – 510 of the Rules of Civil Procedure will govern all cases filed on or After August 31, 2013.

Among the most notable Rules is the use of pre-trial and post judgment discovery. Under the Rules, Pre-Trial Discovery is limited and must be submitted to and approved by the Court. Post Judgment Discovery is not required to be approved by the Court but 30 days must be given to respond.

With the exception of the Rules of Civil Procedure being used in small claims cases, practitioners will see very little difference between the original small claims court established back in 1953 and the new court effective August 1, 2013.

*David Balovich is an accomplished author and public speaker. He is presently the North Region credit manager for Holt Cat.*

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Day	Date	Group	Location	Time
Tues	2	Austin Construction	Texas Land & Cattle, 6007 N IH 35 & Hwy 290, Austin TX	11:30
Tues	9	Coastal Bend Group	Holt Cat, 1325 South Padre Island Dr, Corpus Christi TX	11:30
Wed	9	Rio Grande Group	Victoria Palms Resort, 602 N. Victoria Rd. Donna TX	11:30
Thurs	11	SW Food Credit Group	Las Palapas, 4802 Walzem Rd, San Antonio TX	11:00
Tues	16	Austin Construction	Texas Land & Cattle, 6007 N IH 35 & Hwy 290, Austin, TX	11:30
Wed	17	Victoria Credit Group	Sky Restaurant, 236 Foster Field, Victoria TX	11:30
Thurs	18	Fuel & Lube/Heavy Eq.	Teleconference Meeting 1-800-791-2345	2:30
Thurs	18	Austin Ad Media	Santa Rita Tex Mex, 1206 W38th St. Austin TX	11:30
Fri	19	SW Electrical Group	Onion Creek Country Club, 2510 Onion Creek Pkwy, Austin TX	11:30
Fri	19	SA Ad Media	Teleconference Meeting 1-800-791-2345	10:00
Tues	23	SA Construction	Las Palapas, 4802 Walzem Rd, San Antonio TX	11:30
Thurs	25	HVAC Credit Group	Texas Air Products, 11122 Gordon Rd, San Antonio TX	11:30
<b>SEPT</b>	<b>18</b>	<b>Bond &amp; Lien Seminar</b>	<b>2510 Onion Creek Club, Austin TX</b>	<b>9:00</b>

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