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Justice Court Suits

Frequently Asked Questions

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Q. How much does it cost to file a lawsuit in Justice Court?

A. The total filing fee for a suit filed in the Justice Court is \$36.00.

If you request that the citation be served by a Jefferson County Constable, the fee is \$60.00 for service on each defendant located in Jefferson 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 in the correct.

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 Jefferson 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 and what can I sue for in Justice Court?

A. You can sue for most civil matters in which the amount in controversy is not more than \$10,000, exclusive of interest. You cannot ask for a divorce in Justice Court, nor can you sue for slander or defamation, or to recover title to land, or to enforce a lien on land. You may sue to recover a specific article of property if the value of the property is less than \$10,000. The Justice Court is not able to 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 interest, may not exceed \$10,000.

Q. If I am sued in Justice Court, what should I do?

A. You must follow the instructions within the Citation with which you were served, and appear before the Court at 9:00 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.

The Rules of Civil Procedure for Practice in the Justice Courts and the Texas Rules of Evidence govern proceedings in the Justice Courts.

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 Justice 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.

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. What do I need 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.

Justice Court Suits

About the Justice Court

Creation and Jurisdiction

The Justice Courts in Texas are created under Chapter 27 of the Texas Government Code. Justice Courts have jurisdiction of civil matters in which the amount in controversy is not more than \$10,000, exclusive of interest. Justice courts also have jurisdiction of suits relating to enforcement of a deed restriction of a residential subdivision that does not concern a structural change to a dwelling.

The Justice Court also has jurisdiction of Eviction Cases.

Justice Courts do not have jurisdiction of suits for divorce, suits to recover damages for slander or defamation, suits for title to land, or suits to enforce a lien on land.

Jurisdiction is the power of the court to entertain an action, consider the merits, and render a valid judgment.

Rules of Procedure and Evidence

Rules 523, et seq of the Texas Rules of Civil Procedure govern procedures in the Justice Courts. All rules governing the district and county courts also govern the Justice Courts insofar as they can be applied, except where otherwise specifically provided by law. Rule 523, Texas Rules of Civil Procedure.

The Texas Rules of Evidence govern civil proceedings in the Justice Courts. Rule 101, Texas Rules of Evidence.

If you are representing yourself in the Justice Court, you will be required to follow the Texas Rules of Civil Procedure and the Texas Rules of Evidence.

Designation of Parties

In legal terms, the party bringing the action is called the "Plaintiff." The one against whom the action is brought is called the "Defendant."

Justice Court Suits

Filing Civil Cases

Petition

To begin an action in the Justice Court, it is recommended that the plaintiff file a Justice Court Petition in writing stating the nature of the cause of action, and the damages requested.

Filing Fee

The Justice of the Peace must collect total fees of \$32.00 for the filing of a Petition in the Justice Court.. Section 118.121, Texas Local Government Code governs the filing fee, and additional fees for basic civil legal services to indigents (Section 51.941, Texas Government Code) and for an alternative dispute resolution system (Section 152.005, Texas Civil Practice and Remedies Code) are applicable.

Issuance of Citation

In order for the Justice Court to acquire jurisdiction over the defendant, the defendant must be notified of the filing of the lawsuit. When the case has been filed and the filing fee paid, the clerk will issue a citation and deliver the citation as directed by the requesting party.

The party requesting citation is responsible for obtaining service of the citation. A copy of the petition is attached to the citation. The citation is directed to the defendant and informs the defendant of the filing of the petition, and warns that should the defendant fail to appear at the trial of the claim a judgment by default may be rendered for the relief demanded in the petition. See Rule 534, Texas Rules of Civil Procedure.

Service Fees in Jefferson County

The Commissioners Court of Jefferson County sets the fee to be charged for services of the Jefferson County Sheriff and Constables. See Section 118.131, Texas Local Government Code. A fee of \$50.00 is charged for service of process in a Justice Court case in Jefferson County.

Service Outside of Jefferson County

For citations to be served in a county other than Jefferson County, please contact the court for the amount of the service fee 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 abode 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 appear before the Court at 9:00 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 partnerships, or corporations. Any individual doing business under an assumed name, or any business operating in the form of a partnership or corporation, may sue or be sued 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 Jefferson County 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 Justice Court may exercise its jurisdiction. As a general rule, a suit in Justice 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 Justice Courts within the precinct. See Section 15.099, Texas Civil Practice and Remedies Code.

Motion to Transfer Venue

A defendant may file a motion to transfer venue asking that the case be transferred to a different precinct. This request must state the reason that the

case should be transferred to another county or Justice of the Peace Precinct, either because the county or precinct is not proper, or because mandatory venue in another county or precinct is required by a specific statutory provision which must be clearly designated. The motion must also state the legal and factual basis for the transfer and name the county or precinct to which the case should be transferred. See Rule 527, Texas Rules of Civil Procedure.

Failure to Appear

If a defendant who has been served properly with citation does not appear or file a written answer on appearance day as required by the citation, the Justice of the Peace will proceed to render judgment in the following manner:

(1) if the plaintiff's claim is liquidated and proved by an instrument in writing executed by the defendant, or if the claim is based upon an open account which has been verified by affidavit, the Justice of the Peace will render judgment in favor of the plaintiff for the amount of the written obligation or sworn account;

(2) if the plaintiff's claim is not liquidated, the judge will hear the testimony of the plaintiff or plaintiff's attorney, and if it appears that the plaintiff is entitled to recover, the Justice of the Peace will render judgment in favor of the plaintiff such the amount shown by the testimony; if the testimony shows that plaintiff is not entitled to recover, judgment will be rendered in favor of the defendant.

Rule 538, Texas Rules of Civil Procedure

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 the plaintiff in any civil proceeding in which the defendant does not make an appearance to file with the court a [Military Service 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, 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.

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. The amount of the jury fee is \$5.00. See 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.

Judgment

When the case has been tried, either by a jury or by a the Justice of the Peace, the Justice of the Peace will announce the decision in open court and will render a judgment. The judgment, if appropriate, will direct the issuance of such process as may be necessary to carry the judgment into

execution.

If the judgment includes the recovery of specific articles, the value of the article must be separately assessed. The judgment will direct the plaintiff to recover the article, if it can be found, and if not, then the plaintiff will recover the value of the article.

New Trial

The Justice of the Peace may grant a new trial within ten (10) days after the rendition of a judgment. A party must make the motion for a new trial, in writing, showing that justice has not been done in the trial of the case.

If the grounds of the motion are that the judgment is contrary to the law or the evidence, or that the Justice of the Peace erred in some matter of law, the motion does not need to be supported by affidavit. If however, the grounds of the motion are other than these grounds, the motion must be supported by affidavit.

All motions to set aside a judgment or to grant a new trial must be made within five (5) days after the rendition of the judgment.

One (1) day's notice of the filing of the motion shall be given to the opposing party or the opposing party's attorney.

See Rules 566, et seq, Texas Rules of Civil Procedure

Right to Appeal

Within ten (10) days from the date a judgment or order overruling a motion for new trial is signed, the party appealing must file an Appeal Bond with the Justice of the Peace. The appeal bond must be supported by two (2) or more good and sufficient sureties. "Sureties" are persons who guarantee that their principal will perform the promise made, or pay the amount of the bond. To be a good and sufficient surety, the surety should be worth at least the amount of the bond after deducting the value of the surety's property that is exempt from execution or forced sale, and the amount of all outstanding debts owed by the surety. The surety should have property worth more than the amount of the bond that is subject to execution. The amount of the bond is double the amount of the judgment, payable to the appellee, and conditioned that the appellant will prosecute the appeal and pay off and satisfy the judgment, which may be rendered against appellant on appeal.

If the plaintiff is appealing the judgment because the plaintiff's claim was denied in whole or in part, the plaintiff must file an Appeal Bond within ten (10) days from the date of the judgment or order overruling a motion for new trial is signed. The amount of the bond is double the amount of the costs incurred in the Justice Court and estimated costs in the County Civil Court at Law, less such sums as may have been paid by the plaintiff. The bond is conditioned that the plaintiff will prosecute the appeal and pay off and satisfy all costs if judgment for costs is rendered against the plaintiff on appeal. 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 or order overruling motion for new trial is signed. 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 within five (5) days after the filing of the affidavit. If the affidavit is contested, the burden is on the party making the affidavit to provide the inability to pay the costs by competent evidence other than just the affidavit. See Rule 572, Texas Rules of Civil Procedure.

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 must submit the appeal fee upon filing the appeal. This fee will be forwarded to the County Civil Court at Law. If this is not included 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 Justice Court judgment becomes a nullity, and the County Civil Courts at Law must try the case "de novo," or over again.