

JUSTICE COURT

INSTRUCTIONS AND INFORMATION REGARDING FILING SUIT **(PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION)**

1. The amount of debt, damages, or personal property for which you may sue in Justice Court shall not exceed \$10,000.00.
2. In all civil suits, the defendant has the right to be sued in the county and precinct in which he resides. You must have a physical address (**not a post office box**) for the defendant in order for him/her to be served.
3. In order for any potential judgment you may receive to be valid, it is necessary that you sue the defendant in his/their legal capacity as listed below:
 - Personally: A person who is allegedly responsible to you for damage he may have caused you as an individual. (e.g. John Doe)
 - Proprietor or partnership: A business that is not incorporated, but does have on file with the County Clerk an assumed name. (e.g. John Doe dba Greenhouse Supplies)
 - Corporation: A business which has allegedly caused you damage that is incorporated. You must know the individual's name who is able to accept service on behalf of the corporation. You may obtain the name of the authorized agent for service from the Secretary of State at 1-800 - 252 - 5555. (e.g. Greenhouse, Inc. Serve: John Doe)
4. If you are a corporation or in the business of loaning money, either primarily (banks, credit unions, etc.) or secondarily (credit cards), an attorney is not required to represent you in this Court.
5. Once you have filed a suit the Court will give you a receipt showing your cause (case) number and the office phone number so that you may call in periodically to determine the progress of your case. It is of utmost importance that you refer to your cause number when calling or transacting business with the Court.
6. When you have completed the petition stating the facts and circumstances of your suit, a citation along with a copy of your petition will be served to the defendant notifying him/her, that a suit has been filed against him/her. The citation will order the defendant to appear in this Court or to file a written answer to the suit on or before the Monday following the tenth day after the defendant receives the citation. If the defendant fails to file an answer, you then become eligible for a default judgment up until the time an answer is filed.
7. If the defendant answers the suit, a trial date will be set. The plaintiff and the defendant will be sent notice, by mail, of the court date. We discourage motions for continuance; however, if it becomes necessary, any requests for continuance must be in writing and timely filed.

8. If you have witnesses to your suit who will not appear in Court voluntarily, you may ask this Court to subpoena those individuals just prior to trial. This request should be made as soon as possible allowing at least a week for service of subpoena. The Court cannot enforce a subpoena if it is 150 miles or more from the Wichita County Courthouse.

9. **This court does not collect the judgment for you**, nor can we force the defendant to pay the judgment. If you receive a judgment for your claim against the defendant, you may request an Abstract of Judgment and/or a Writ of Execution to help you in your collection of this judgment.

- An **Abstract of Judgment** may be obtained ten (10) days after the judgment is signed. This puts a lien on any real property the defendant may own in the county where the abstract is filed. Additional abstracts may be obtained and filed in several different counties.
- A **Writ of Execution** may be obtained thirty (30) days after the judgment is signed. This document authorizes the Constable or Sheriff to seize any assets belonging to the defendant that are subject to this writ. Those assets are then sold, and the proceeds are applied to the judgment.

10. As plaintiff, you have the burden of proof. The plaintiff must show by the weight of the evidence that the defendant is the proximate cause of your damages in the capacity which the defendant was sued. All damages and evidence necessary to meet your burden should be available at the time of filing.

11. **PROHIBITED CONDUCT:**

- **THE JUDGE and CLERKS ARE PROHIBITED BY LAW from GIVING any LEGAL ADVICE.**
- **Ex-Parte Communication**, or discussing the case with any member of the Court, including Court Clerks, without the other side present is absolutely forbidden.

12. All discovery is under Level 3 Discovery Plan.

13. **Pre-TRIAL Orders:** If your suit is contested, both you and the defendant may be required to complete a pre-trial order prior to the commencement of the trial.

The Court will send these orders to you with specific instructions for completion. Failure to follow the instructions regarding pre-trial orders may result in **sanctions** and or **dismissal** of your case.

Finally, it's imperative that you provide us with your day time phone number and notify us immediately of any changes in your telephone number or address.

FEE SCHEDULE FOR JUSTICE COURT

Document	Filing Fee	Service Fee *	BCLS Fee	Total
File for lawsuit	\$25.00 per claim	\$75.00 per Defendant	\$2.00	\$102.00
Abstract of Judgment	\$5.00 per abstract			\$5.00 **
Writs of Attachment Execution Sequestration Possession ***	\$5.00	\$140.00		\$145.00
Subpoena	\$85.00	\$10.00		\$95.00 ****
Jury Fee	\$5.00			\$5.00
Evictions	\$25.00	\$75.00	\$2.00	\$102.00

* The service fee applies for persons to be served in Wichita County. Service fees for other counties and/or states may vary slightly. For out of county service fees you must provide a Money Order or Certified Check made payable to that county for the exact amount of the service fee and give it to the clerk so that it will be forwarded with the appropriate citation(s) for service.

** Abstracts require a separate filing fee of \$16.00 to be paid to the County Clerk.

*** There is an additional \$50.00 per hour charge per constable or deputy if more than 2 hours are required to work the Writ of Possession

**** Includes a \$10.00 cash payment that must be sent to the person you subpoena

NO PERSONAL CHECKS WILL BE ACCEPTED. Cash or money orders are acceptable. Any payments for out-of-town service fees must be made by cashiers check or money order.

ALL FEES MUST BE PAID BEFORE THE DOCUMENT CAN BE PROCESSED.

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