

JUSTICE COURT

INSTRUCTIONS AND INFORMATION REGARDING FILING SUIT

(PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION)

1. A Justice Court suit may be for money or the return of items; however the amount of debt, damages, or personal property for which you may sue **may 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. (There are a few exceptions.) It is important that you furnish a physical address, not just a post office box, so that the Defendant may be served in person if at all possible.
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: An individual is 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: The business which has allegedly caused you damage is incorporated, and therefore it is necessary to 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 1-800-252-1386. (e.g. Greenhouse, Inc. Serve: John Doe)

It is also possible for an incorporated entity to have an assumed name. (e.g. Greenhouse, Inc. dba Greenhouse Supplies Serve: John Doe)

4. As in any Justice Court suit, a corporation or a business that lends money, either primarily (banks, credit unions, savings & loans) or secondarily (credit cards), may be represented by an attorney, but it is not a requirement.
5. Once you have filed a suit, this 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 that a suit has been filed against him in this Court.

The citation will order the Defendant to appear and/or file a written answer to the suit with this Court on or before the Monday following the tenth day after his receipt of the citation. If he fails

to do so, you may 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 a continuance must be in writing and timely filed (at least 5 working days prior to trial date or as soon as the need for continuance is known). **
8. If you have witnesses to your suit who will not or cannot come to Court voluntarily, you may ask the Court to subpoena those individuals prior to trial. This request should be made as soon as possible after the hearing is set allowing at least a week for service of the subpoena.
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** puts a lien against any real property the Defendant may own in the county where the abstract is filed. Abstracts may be filed in more than one county.

A **Writ of Execution** may be obtained thirty 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** (not exempt from seizure). Those assets are then sold, and the proceeds are applied to the judgment.

10. As a Plaintiff **YOU** have the burden of proof to show by the weight of the evidence that the Defendant is the proximate cause of damages in the capacity which the Defendant was sued. It is up to **YOU** to have your evidence and your witnesses ready to present your case to the Judge at time of hearing.
11. If you have any other procedural questions, our Civil Clerk will be glad to help you in any way possible; however, please understand that the **Rules of Judicial Ethics prohibit this office from giving legal advice or expressing opinions of the law.** We must remain impartial; therefore, neither the Judge nor the Clerks can discuss your case with you unless all parties are present. **PLEASE DO NOT ASK US TO VIOLATE THESE RULES.**
12. It is **imperative** that you provide the Court with your **daytime phone number** and that you notify the Court immediately of any **changes in your name, address, or phone number.**

** In the event you may request a default judgment, please **complete the AFFIDAVIT OF MILITARY STATUS OF DEFENDANT** for each Defendant listed and file it with your petition.