



INSTRUCTIONS AND INFORMATION FOR FILING CIVIL LAW SUITS

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JUSTICE COURT, PRECINCT 2
WILLIAMSON COUNTY

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INSTRUCTION AND INFORMATION FOR FILING A JUSTICE COURT SUIT

Government Code Sec. 27.031

Jurisdiction

- (a) In addition to the jurisdiction and powers provided by the constitution and other law, the justice court has original jurisdiction of:
- (1) civil matters in which exclusive jurisdiction is not in the district or county court and in which the amount in controversy is not more than \$10,000, exclusive of interest;
 - (2) cases of forcible entry and detainer; and
 - (3) foreclosure of mortgages and enforcement of liens on personal property in cases in which the amount in controversy is otherwise within the justice court's jurisdiction.
- (b) A justice court does not have jurisdiction of:
- (1) a suit in behalf of the state to recover a penalty, forfeiture, or escheat;
 - (2) a suit for divorce;
 - (3) a suit to recover damages for slander or defamation of character;
 - (4) a suit for trial of title to land; or
 - (5) a suit for the enforcement of a lien on land.

The filing fee in Justice Court is \$46.00. A counterclaim filing fee is \$46.00. The cost of service is \$70.00 in Williamson County.

Texas Rules of Evidence and Texas Rules of Court apply in Justice Court. Non-attorney agents cannot represent individuals and proprietorships.

JUSTICE COURT CASE TYPES

A CASE TYPE INFORMATION SHEET MUST BE SUBMITTED AT THE TIME OF FILING

DEBT CLAIMS

A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

SMALL CLAIMS

A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

EVICITION

An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any. *SEE EVICTION*

INSTRUCTIONS FOR FURTHER INFORMATION

REPAIR AND REMEDY

A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92 Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.

OUT OF COUNTY SERVICE

If service is required in a county other than Williamson, the Plaintiff must provide the court with the name and address of the agency responsible for service and confirm the method of payment (check or money order) that the out-of-county agency accepts. The court cannot research this information for you. Check or money order for the service fee should be made payable to that agency.

WHERE TO FILE

In all civil suits, the defendant has the right to be sued in the county and precinct in which he resides. There are some exceptions to this rule. Should you be filing this suit in this county and precinct because it is convenient to you, there may be a motion by the defendant to transfer venue (request that this suit be transferred to some other county and precinct).

INFORMATION

It is your burden as a plaintiff to sue the defendant in their proper legal capacity.

Personally: Where an individual is responsible to you for damage he may have caused you as an individual.

Proprietor or partnership: A business that is not incorporated, but does have on file with the county clerk, an assumed name e.g. John Smith dba Green House 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. (The authorized agent for service would be listed with the Secretary of State.)

WHAT TO EXPECT

This court will give you a receipt showing your case number. Any change of address or phone number must be supplied in writing to the Court and to the defendant.

Once you have filed 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 of the fact that a suit has been filed against him in this Court. The Constable or other agency will serve these papers and the Court must wait until they are returned before further action may be taken.

The citation will order the defendant to appear in this Court to answer to the suit on the 14th day after the day they were served and if the 14th day falls on a day the Court is closed the answer is due on the Court's next business day. **This will not be the trial date.**

An Answer is the written response that a party who is sued must file with the court and must be sworn to. Forms are available online or in our office.

When the defendant cannot be properly served, the case remains in our file until the plaintiff provides an adequate address to accomplish service.

When a defendant has been properly served, the Civil Clerk will set a Pre Trial Hearing, unless the Court deems proceeding to bench trial appropriate.

We discourage motions for continuance. However, any motion for a continuance must be in proper form and timely filed (at least 10 working days prior to trial date: to wit, written motion supported by an affidavit).

If you have witnesses who will not come to court voluntarily, you may request, no less than two weeks prior to the trial, that a subpoena be prepared to secure their presence. Notarized statements from individuals may not be admissible as evidence. (There is a \$70.00 service fee and \$10.00 witness fee.)

It will be necessary to present original documentation in Court. Please mark your evidence before Court. Defendant should label their documentation D-1, D-2, D-3, etc. and Plaintiff should label their documentation P-1, P-2, P-3, etc. If relevant, an extra copy should be provided for the opposing party.

JUDGMENT AND POST JUDGMENT

A **Judgment**: At the trial, a judgment will be rendered for either the plaintiff or defendant. Either party may appeal. To appeal this decision to County Court at Law, you have twenty one days from the date the judgment is signed to file the proper bond in this court.

A **Default Judgment**: Individuals who are on “active status” with the military are entitled to certain benefits under the Serviceman’s Civil Relief Act. Upon the award of a Default Judgment, the Plaintiff must sign an affidavit testifying to the truth as to whether the defendant is in the active military, and provide documentation of same.

This Court does not collect the judgment for you. The following are some of the special proceedings available to collect judgments. For further information, please seek legal counsel.

An **Abstract of Judgment** puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only good in the county or counties where it is recorded. This can be obtained once the judgment is signed. (Fee: \$5.00)

The **Writ of Execution** may be obtained thirty days after the judgment is signed. This document authorizes the constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment. (Fee: \$5.00, Service Fee per county varies)

A **Writ of Garnishment** is also available thirty days after the final judgment has been signed. This proceeding is a separate suit wherein you are the plaintiff and the defendant’s bank becomes the defendant. You are actually suing the bank in which the original defendant has his bank account. You are warning the said bank to freeze the monetary assets of his account and to appear and make answer to the Garnishment suit. An attorney should be used.

A **Turnover Order** is available after the judgment is signed and its purpose is to provide a court ordered means of reaching property which cannot easily be reached through ordinary legal process and which is not exempt from attachment, execution, etc. An attorney should be used because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

Writ fees vary per county.

If you have any other procedural questions, please ask and our Court Clerks will try to answer them.

Court clerks **cannot** give legal advice.

As a plaintiff, you have the burden of proof to show by the weight of the evidence that the defendant you are suing is the proximate cause of your damages in the capacity which the defendant is sued.

All participants in the Courtroom must adhere to the Justice Court, Precinct #2 Code of Conduct and Attire. Please review the code before appearing in court.

***Neither the Judge nor the clerk can give legal advice.
For additional information, please seek legal counsel.***

For further information on the Justice Court Rules please refer to the Texas Rules of Civil Procedure Part V. A copy can be obtained on our website.