

Questions & Answers:

What type of case can I file in the Justice of the Peace Court?

Some of the civil cases the JP court, or Justice Court, has the jurisdiction to hear are:

- Civil cases in which the where the amount in controversy is not more than \$10,000
- Eviction cases
- Debt claim cases

The JP court does not have the jurisdiction to hear a case for slander, defamation, or disputes over title to property.

Justice Courts do not have the jurisdiction to issue an injunction.

An injunction is an order requiring a person to do or refrain from doing a specific act. For example, your neighbor is about to cut down a tree on your property; you ask a court to issue an injunction ordering them not to cut down the tree. An injunctive relief is sought in District Court.

May I speak to the Judge about my case?

The Judge and staff are prohibited, by law, from discussing a pending civil case, or a case that may come before the court. Anything staff says is a direct extension from the Judge. The Judge must remain neutral in order to render a fair and impartial judgment.

The Judge or staff may answer procedural questions, but may not tell you what to do or which option is best for you to take.

When do I appear for my hearing?

You will receive court correspondence by mail from the court. You may also call the court and ask for the date and time the hearing has been set for court. It is up to you to decide if you appear for court. Please have relative information ready to give the clerk when you contact the court. (i.e. name, case number, ect.)

If I am sued, do I have to file a written answer?

When you are sued and served with a citation from the Justice Court, you may answer the suit by filing a written answer, agreeing or denying all or any parts of the suit, by the 14th day after the date you were served. You **must** also send a copy of your answer to the Plaintiff, the person who is suing you.

If you do not respond in writing, with an answer, there may be a default judgment granted in favor of the Plaintiff. The Plaintiff will then have the opportunity for collecting on the judgment.

Do I need an attorney?

Only you can answer this question.

The Justice Court is the “People’s Court.” This means it is the court that is closest to the public and the easiest to navigate without the assistance of an attorney.

A person may represent himself or herself, or he/she may be represented by an attorney, or in an eviction case a person may have an authorized agent represent them.

An attorney is not required, but permitted. You may be told to consult with an attorney if you present a legal question that requires giving you legal advice (see **“May I speak to the Judge about my case?”** above).

The Plaintiff and Defendant are permitted to hire an attorney if want to.

May I request a new hearing date?

If you find that the date set for the hearing or trial does not accommodate your schedule or conflicts with another obligation, you may present a written request within 7 days of the date of the hearing. The Judge will then consider this as a motion for continuance and may approve or deny the motion, or request.

What should I bring to court with me?

The court cannot specifically answer this question directly. When you go before the court, you will need to be prepared to prove your case. Whether you are the Plaintiff, suing someone, or the Defendant, being sued by another person, you will want to be prepared with any evidence that you want to present or witnesses that you will want to testify.

It is your burden to prove your case. The court cannot advise you what to present as evidence or who to have present to testify for you. The court will hear all testimony and consider the preponderance of the evidence when making a ruling on the matter.

Simply, you will want to bring any evidence and witnesses that you feel will prove what you're telling or asking the court to believe.

Where do I file a lawsuit?

Generally, as laid out under the Texas Government Code, Chapter 28.011, an action in small claims court must be brought in the county and precinct in which the defendant resides. However, if 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. **The court cannot, and will not, advise you where to file a law suit.**

When filing an eviction suit, the suit must be filed in the Justice Court precinct where the property is located. The court can tell you which precinct the property is located.

Can I request the case be heard in different court?

A defendant may file a motion in the small claims court asking that the case be transferred to a different precinct. This must be done in writing at the earliest opportunity and must state why the case was filed in an improper precinct. The written request must also state what precinct the case to be transferred. See *Section 28.014, Texas Government Code*. The Rules concerning the motion to transfer are found in the Texas Rules of Civil Procedure, See *Rule 527, Texas Rules of Civil Procedure*.

Can I request that a jury hear a civil case?

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.

What if I don't come to court for trial?

Texas Government Code, chapter 28.031, Failure to Appear.

If a **defendant does not appear** for court at the time and place specified in the citation, the judge shall enter a default judgment for the plaintiff in the amount proved to be due.

If a **plaintiff does not appear** for court at the time and place specified in the citation, the judge may enter an order dismissing the action.

How do I appeal?

If a defendant or a plaintiff does not prevail in court and a judgment is entered against that party, they will have 21 days after the judgment is signed to appeal the court's decision.

If the plaintiff appeals, a \$500 appeal bond will need to be filed with the court. If the defendant appeals, a bond equal to twice the amount of the judgment will need to be filed with the court. (For example: If the plaintiff is awarded \$5,000 in a suit, the appeal bond will be \$10,000)

If a party appeals, the case will be heard again in the County Court-at-Law Court. This will be a "Trial De Novo" (See Texas Rules of Civil Procedure, Rule 506.3 Trial De Novo). The trial will be heard as a new trial, and nothing of the Justice Court ruling will be discussed. All parties will be required to present their case as if the first trial did not occur.

How do I collect on a judgment?

There are several options that are available to a prevailing plaintiff. It is up to you to determine which option is best for you to pursue. *The court will not suggest, direct, or present opinion as to which option you must choose or file.*

This is a list of commonly used methods to collect a judgment. This is not a complete list and it is up to you to decide which option is best for your situation. It is also suggested that you seek the advice of an attorney if you need further assistance.

Upon the plaintiff's request, the court can:

- Issue a **Writ of Execution** directing the sheriff or constable to satisfy the judgment out of the defendant's non-exempt property. The execution must specify the total amount of the judgment, the amount received to date, and the amount remaining to be executed on. TRCP 630.
- Issue an **Abstract of Judgment** that puts a lien on, and attaches to, real property of the defendant. Property Code §52.001.
- Issue a **Writ of Garnishment** if the plaintiff swears there is insufficient property to satisfy the judgment on execution. TRCP 658.
- In an eviction suit a **Writ of Possession** can be issued on the seventh day after the judgment is signed.

How do I pay a judgment?

After the court renders judgment, all further actions and discussions regarding the judgment are to be addressed by the parties involved. It is your responsibility to determine the best course of action to satisfy a judgment. The court would encourage you to seek the advice of an attorney to determine the best option for you if you have any doubt.