

## Instructions and Information for Filing a Justice Court Suit

### TYPE OF CASE:

- - Civil matters within the court's jurisdictional limit
- - Evictions

### TYPE OF CASES PROHIBITED:

- - Suit by state to recover penalty, forfeiture or escheat
- - Divorce
- - Slander and defamation suit
- - Suit for trial to land
  
- Foreclosure lien on land

### FILING FEE:

**\$111.00**

**\$111.00 - - (\$25 FILING FEE PER DEF AND \$6 FOR INDIGENT FEE PLUS \$80 SERVICE FEE, UNLESS OUT OF COUNTY)**

### TYPE OF PLEADINGS:

Petition must be sworn, all other pleadings may be informal with the exception Motion to Change Venue.

### GENERAL INFORMATION:

The amount of debt or damages for which you may sue in Justice Court may not exceed the limit of the court, which is **\$10,000.00**.

In all civil suits, the defendant has the right to be sued in the county and precinct in which he or she resides. Should you be filing this suit in this county 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).

It is your burden, as a plaintiff, to understand that for any potential judgment you may receive to be valid, it is necessary for you to sue the defendant in their proper legal capacity, of which there are typically three:

**Personally:** Where an individual is responsible to you for damage he or she 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 ... John Smith 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.

Once you have filed the petition stating the facts and circumstances of your suit, a citation will be served to the defendant notifying him or her of the fact that a suit has been filed against him or he in this court.

The citation will order the defendant to answer this suit on or before the Monday following the expiration of ten days from the receipt of the citation. If he fails to do so, you then become eligible for a default judgment up until the time an answer is filed.

If the defendant answers the suit, this court will notify both parties by mail as to the trial date. The trial date will be approximately six weeks from the date the defendant answered the suit. We discourage motions for continuance. However, any request for a continuance must be in proper form and timely filed.

If you have witnesses who will not come to court voluntarily, you may come in one week prior to the trial and ask that a subpoena be prepared to secure their presence.

With respect to the trial itself, all legal rules of evidence and procedure apply in Justice Court suits. With that statement, I suggest that if one party has an attorney, the other party will be well advised to secure one. However, the legislative intent relative to the creation of this court was not only to one in law, but also to one in equity. Therefore, I will assure both the plaintiff and defendant that all facts will be solicited and a decision rendered in regard to the evidence, which are presented to the court.

Should you receive judgment, the court does not collect the judgment. However, you may request an **Abstract of Judgment, Writ of Execution** and or a **Writ of Garnishment** to help you in collection of this judgment.

An **Abstract of Judgment** puts a lien on any real property the defendant may own in any county where the Abstract is recorded. The Abstract is only good in the county or counties where it is recorded. This can be obtained ten days after the date of judgment.

The **Writ of Execution** may be obtained thirty days after the date of judgment. This document authorizes the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at public sale and the proceeds are applied to the judgment.

A **Writ of Garnishment** is also available 30 days after final judgment has been entered. An attorney is required. This 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 or her bank account. You are warning said bank to freeze the monetary assets of the defendants account and to apply these seizures to the judgment.

If you have any other procedural questions, please ask and we will try to answer them. **Any legal questions need to be answered by an attorney; we cannot and do not give legal advice.**

Please understand, that 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 defendant is sued. All damages and evidence necessary to meet your burden should be available at the time of filing and not later than the date of trial.

## Venue

General Rule (CP & RC 15.082)	County and precinct where one or more of the defendants resides
Forcible (15.084)	County and precinct in which all or part of the property is located (no exceptions)
Suit for Rent (15.091)	County and precinct in which all or part of the property is located
Suit on a Tort (15.093)	County and precinct in which the injury occurred
Suit on a Contract (15.092)	<p>A. Suit on a <u>written</u> contract that promises performance may be brought in the precinct where the work was to be performed;</p> <p>B. Suit on an <u>oral or written</u> contract for labor actually performed may be brought in the precinct where labor was actually performed.</p> <p>C. Suit on a contract for goods, services or loans for personal, family or household use may be brought where contract was signed or where defendant resides</p>
Suit to recover personal property (15.090)	Precinct in which the property is located.
Suit against Corporation or Association (15.094)	<p>Precinct where:</p> <p>A. All or part of the cause of action arose;</p> <p>B. The corporation has an agency or representative; <u>OR</u></p> <p>C. The principal office is located.</p>
Insurance Companies (15.096)	<p>Precinct where:</p> <p>A. All or part of the insured property is located in the case of a property claim;</p> <p>B. The injured person resided when the injury or death occurred</p>
For other specific venue provisions	15.081 to 18.100
CP&RC = Civil Practice and Remedy Code	

Please Note When Contacting This Court:

*“A Judge **shall** not initiate, permit, or consider ex parte or other communications made to the Judge outside the presence of the parties...concerning the merits of a pending or impending judicial proceeding.”*

*A Judge **shall** require compliance with the subsection by court personnel subject to his or her direction and control...”*

**Code of Judicial Conduct, Canon 3, B (8).**

# \_\_\_\_\_

THE STATE OF TEXAS

JUSTICE COURT

COUNTY OF GRAYSON

PRECINCT ONE

**PLAINTIFF'S ORIGINAL PETITION**

**TO THE HONORABLE BUTCH MORGAN**

Discovery will be conducted under level one, two or three. (circle one)  
Texas Rules of Civil Procedure

**PLAINTIFF:** \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone #: \_\_\_\_\_

**DEFENDANT:** \_\_\_\_\_

Authorizes agent for service: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone #: \_\_\_\_\_

Cause of action: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Amount sued for: \_\_\_\_\_

Plus Court Cost: \_\_\_\_\_

Total: \_\_\_\_\_

And that there are no counter claims existing in favor of the Defendant and against the Plaintiff, except: \_\_\_\_\_

Plaintiff reserves the right to further plead orally on trial hereof.

Plaintiff: \_\_\_\_\_

Attorney: \_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Clerk, Justice Court, Precinct One  
Grayson County, Texas

**DOCKET #** \_\_\_\_\_

**THE STATE OF TEXAS**

**COUNTY OF GRAYSON**

In filing this court document, the Plaintiff states that, to the best of his or her knowledge, the defendant(s):

Is not in the military,  
On active duty in the military,  
Is not in a foreign country on military service.

\_\_\_\_\_  
**Plaintiff**

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Clerk of the Court, Pct 1