

INSTRUCTIONS AND INFORMATION FOR FILING A JUSTICE COURT SUIT

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 just a post office box) for the defendant in order for him to be served.
3. In order for any potential judgment to be valid, it is necessary that you sue the defendant in his/their 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 d.b.a. 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 1-512-463-5555. (E.g. Greenhouse Inc. d.b.a. Greenhouse Supplies, Serve John Doe)

Civil Relief Act Pertaining to Default Judgment: In any civil case in which the defendant does not make an appearance, before entering judgment for the Plaintiff, the court must require the plaintiff to file an affidavit that:

- A. State whether or not the defendant is on active duty in the military services and show necessary facts to support the affidavit; or
- B. If the Plaintiff is unable to determine whether or not the defendant is on active duty in military services, states that the Plaintiff is unable to determine whether or not the Defendant is in the military services.

Only if the affidavit establishes that the defendant is not an active service member can the court proceed with a default judgment in the normal fashion.

4. If as a Plaintiff, ***you are in the business of loaning money either primarily (banks, credit unions, savings and loan) and loan companies, or secondarily (credit cards), you are prohibited from filing in Small Claims Court: however, you may file in Justice Court.***
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 periodically to determine the status of your case. ***It is of the utmost importance that you refer to your case 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.
7. 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 his receipt of a citation. If he fails to do so, you may then become eligible for a default judgment up until the time an answer is filed. **It is the Plaintiff's responsibility to remain informed regarding their case and to request a hearing for default judgment if the Defendant does not respond to the Citation.**
8. **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 request for a continuance must be in writing and must be filed 48 hours prior to the court date. Also, you must provide a copy of the Motion for Continuance to the Defendant.
9. If you have witnesses to your suit who will not come to court voluntarily, you may ask this Court to subpoena those individuals prior to trial. The request should be made as soon as possible allowing at least a week for service of subpoena. **(See fee schedule for fees)**
10. **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 collection of this judgment.
 - ◆ An **Abstract of Judgment** puts a lien on any real property the defendant may own in the county where the abstract is filed. Abstracts may be filed in more than one county. This can be obtained ten (10) days after the judgment is signed. **(See fee schedule for fees)**
 - ◆ 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. **(See fee schedule for fees)**
11. 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 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.
12. If you have other procedural questions, please ask our Civil Clerk, and we will try to answer them. **THIS COURT MAY NOT ANSWER ANY LEGAL QUESTIONS.**
13. It is **imperative** that you provide us with your daytime phone number and notify us immediately of any changes in your telephone number and address. If the case has been settled out of court, the Plaintiff will need to notify the Court in writing as to the settlement between the two parties.

WHAT MUST BE FILED:

- A. One (1) original and two (2) copies of petition and any documents you want to submit to the court. (ex. Contracts, receipts, warranties) The Court will not make copies.**
- B. Fees for filing are payable when the petition is filed. (See fee schedule for fees)**

You may obtain a petition to file a Small Claims Suit by downloading the **Justice Court Form**, on our Web Site www.angelinacounty.net, or by contacting our office located at 2311 East Lufkin Ave., or by a written request by mail to our P.O. Box 43, Lufkin, Texas 75902. You must enclose a self-addressed stamp envelope.

PLEASE NOTE:

PLAINTIFF IS RESPONSIBLE FOR ALL SERVICE OF CIVIL PROCESS OUTSIDE OF ANGELINA COUNTY.

THIS COURT WILL ONLY ACCEPT A FILING FEE AND WILL NOT COLLECT A SERVICE FEE FOR OUT OF COUNTY/STATE FOR SERVICE OF CIVIL PROCESS.

THE COURT WILL CHARGE FOR THE FILING FEE AND RETURN THE CITATION TO THE PLAINTIFF WHO SHALL BE RESPONSIBLE TO ENSURE THAT THE CITATION IS LEGALLY SERVED.

PLAINTIFF SHOULD CONTACT THE SHERIFF'S OFFICE OR CONSTABLE WHERE THE DEFENDANT RESIDES (COUNTY/STATE) TO DETERMINE THE COST OF SERVICE. THE PLAINTIFF SHALL BE RESPONSIBLE FOR FORWARDING THEIR CITATION AND ALL PAYMENT TO THEIR CHOSEN PROCESS SERVER FOR SERVICE OF PROCESS.

THE PLAINTIFF SHALL BE RESPONSIBLE TO PROVIDE PROOF OF SERVICE TO THE COURT FOR OUT OF COUNTY/STATE BY PROVIDING THE SERVICE RETURN TO THE COURT.

THE PLAINTIFF MAY ALSO USE A (LEGALLY) APPROVED PRIVATE PROCESS SERVER. PLAINTIFF SHALL BE RESPONSIBLE FOR LOCATING AND PAYMENT FOR PRIVATE PROCESS SERVICE AND ENSURING THAT PROPER RETURN IS MADE TO THE COURT.