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### **JUSTICE COURT SUITS**

The information contained in this packet is not offered as legal advice.

*The Code of Judicial Conduct prohibits a Judge or Court Staff from “practicing law” (giving legal advice). The Code further prohibits the Justice of the peace and Court Staff from engaging in communications concerning the merits of a pending judicial proceeding or an impending claim or dispute.*

You should seek professional, licensed, legal counsel for advice.

The Justice Court presides over four (4) types of civil forums as follows:

- a. DEBT CLAIM CASES
- b. SMALL CLAIM CASES
- c. REPAIR AND REMEDY CASES
- d. EVICTION CASES

1.\*\* The Justice Court Civil Case Information Sheet explains each case type, (see page 9), *(This form has to be completed and submitted when an original Petition is filed to initiate a Claim).*

**\*\*\*NOTE\*\*\* Examination of Rules: The Court must make the Rules of Civil Procedure and the Rules of Evidence available for examination, in paper form during business hours or can view Rules @ <http://www.supreme.court.state.tx.us/> or Rules of Evidence @ <http://www.courts.state.tx.us/rules/tre-toc.asp>**

**VENUE:** Where a lawsuit may be brought:

Generally, a defendant in a small claims suit or debt claim suit is entitled to be sued in one of the following venues:

- #1. The County and Precinct where defendant resides;
- #2. The County and Precinct where the incident or the majority of incidents, that gave rise to the claim occurred;
- #3. The County and Precinct where the contract or agreement, if any, that gave rise to the claim was to be performed; or
- #4. The County and Precinct where the property is located, in a suit to recover personal property.

**\*\*Non-Resident\*\*** If the defendant is a non-resident of Texas or if the defendant's residence is unknown, the Plaintiff may file the suit in the County and Precinct where the Plaintiff resides.

In an **EVICTION or REPAIR & REMEDY CASE**

The Petition must be filed in the Precinct where the premises is located.

**PARTIES TO A SUIT:**

*PLAINTIFF:* Is a party who sues

*DEFENDANT:* Is a party(s) who is/are being sued

**\*\*\*YOU MUST SUE THE PARTY (Defendant(s)) IN THEIR LEGAL CAPACITY\*\*\***

**TO BEGIN PROCESS OF A CLAIM:**

Step 1) You must complete the Justice Court Civil Case Information Sheet (pg 9 of this packet.

Step 2) Complete the Proper Petition Form

Step (3) Pay the filing and service fees with (2) money order or cashier's check

**\*\* Filing Fees: \$46.00 – payable by money order, or cashier's check to Crane County J.P.**

**\*\* Service Fees: \$75.00 – payable by money order, or cashier's check to Crane County J.P.**

**\*\* NOTE\*\***The party filing will provide copies to attach to citation or the Court can make copies needed for a minimal fee.

If service is required in another county, it is your responsibility to locate the proper precinct authority for service along with the service fee amount and address to send citation for process.

### **ISSUANCE OF THE CITATION AND TIMES LINES**

Once a Party files his/her suit with the Court and pays all applicable fees, the Court will process the case and issue a Citation and forward to the proper authority for service.

**\*\*Timely filing by Mail:** Any document required to be filed by a given date is considered timely filed if deposited in the US mail on or before that date, and received within ten (10) days of the due date. A legible postmark affixed by the US Postal Service is evidence of the date of mailing.

**\*\*Small Claims / Debt Claim Cases:** Once defendant(s) have been served, the answer date is due by the end of the 14<sup>th</sup> day after the day the defendant(s) were served with the citation and petition, but if it is a Saturday, Sunday or legal holiday, the answer is due on the next day that is not a Saturday, Sunday or legal holiday; and if the 14<sup>th</sup> day falls on a day during which the court is closed before 5:00 p.m., the answer is due on the court's next business day. \*\* if defendant is served by Publication, the answer is due by the end of the 42<sup>nd</sup> day after the day the citation is issued.

**NOTICE:** The Plaintiff requesting a default judgment must provide to the Clerk in writing the last known mailing address of the defendant at or before the time judgment is signed.

**\*\*\*REPAIR AND REMEDY CASES:** The appearance date on a Repair and Remedy Case is not less than 10 days nor more than 21 days after petition is filed. For this purpose, the appearance date shown on citation is the trial date.

**\*\*\*EVICTON CASES:** The appearance date is not less than 10 days nor more than 21 days after the petition is filed. For this purpose, the appearance date shown on citation is the trial date.

## **REPRESENTATION Rule 500.4**

### **(A) Representation of an Individual**

1. Represent himself/herself
2. Be represented by an authorized agent in an Eviction Case; Or
3. Be represented by an Attorney

### **(B) Representation of a Corporation or other entity**

1. Be represented by an employee, owner, officer or partner of entity who is not an Attorney
2. Be represented by a property manager or other authorized agent in an Eviction Case; Or
3. Be represented by an Attorney

**(C) Assisted Representation: The Court may, for good cause, allow an individual representing himself/herself to be assisted in Court by a family member or the individual who is not being compensated.**

## **JURY REQUEST - Debt Claim Cases and Small Claims Cases**

A Party is entitled to a jury trial; however, a written demand for such must be filed no later than 14 days before the date a case is set for trial. A party who demands a jury trial must pay a fee of \$22.00 or file a sworn statement of inability to pay the fee at or before the time the party files the written request for jury. \* A party who demands a jury and pays the fee then withdraws the demand is not entitled to a refund of the fee.

## **JURY REQUEST \* Repair and Remedy Cases and Eviction Cases \***

A Party may file a written demand for a jury trial by making a request to the court at least three (3) days before the trial date. The request must be accompanied by payment of a jury fee of \$22.00 or by filing a sworn statement of inability to pay the jury fee. (Trial in an eviction case will not be postponed for more than seven (7) days total unless both parties agree in writing). A motion for a new trial can't be filed.

## **PLEADINGS/MOTIONS**

Except for oral motions made during trial or when all parties are present, every pleading, plea, motion, application to the Court for an order or other form of request must be written and signed by the party or its Attorney and must be filed with the Court. \* A document may be filed with the Court by personal or commercial delivery, by mail or electronically, only if the Court allows electronic filing.

## **SETTINGS AND NOTICE; or POSTPONING TRIAL**

**Settings and Notices:** After the defendant answers, the case will be set on a trial docket at the discretion of the Judge. The Court will send a notice of the date, time and place of this setting to all parties at their address of record no less than 45 days before the setting date, unless the Judge determines that an earlier setting is required in the interest of justice. \* (*does not pertain to Repair and Remedy or Eviction Cases*)

**Postponing Trial:** A Party may file a motion requesting that a trial be postponed and motion must state why it is necessary. The Judge may postpone any trial for a reasonable time.

## **TRIAL / HEARING DATE:**

The day of trial/hearing, Docket is called and case proceeds with or without jury.

\*\* If Plaintiff fails to appear, the case may be postponed or dismissed.

\*\* If Defendant fails to appear; a Default Judgment must be rendered but the Judge must do so based on Rule 503.

## **JUDGMENTS:**

The Justice Court Judgments are enforceable in the same method as in County and District Court except as provided by law.

## **APPEAL:**

A Party may appeal a judgment by Filing a Bond, making a Cash Deposit, or filing a sworn statement of inability to pay with the Justice Court within 21 days after the judgment is signed or motion to reinstate, motion to set aside or motion for new trial, if any, is denied; then all related documents will be forwarded to the County Court of Pecos County for resolution

## **APPEAL - EVICTION CASES:**

A party may appeal in the same manner as above; however, the timeline is within five (5) days after judgment is signed.

\*\* *You may contact the Court for an information sheet and forms for Appeal Process\*\**

**NOTE: THIS COURT CAN NOT GIVE LEGAL ADVICE, if you need further explanation on how to handle your case, you are encouraged to seek legal.**

**GUIDELINES FOR EVICTION PROCESS IN JP COURT**

1. A demand letter for possession of the premises (Notice to Vacate) must be provided according to the property code. The notice can state the period of time the Landlord will allow tenant(s) to vacate and the reason why. The time to vacate in the notice can be no less than three (3) days unless the Landlord and tenant(s) have agreed to a greater or lesser time period in a written lease or contract.

**\*\* Delivery of the notice must be done by one of the following methods:**

**(A) Handed to tenant in person (or to anyone living at the premises who is a least 16 years of age.**

**(B) Mailed to the tenant(s) (if mailed-must wait an extra two (2) days before filing) Can be regular mail, registered mail or certified mail w/return receipt.**

**(C) Attach to the inside of main entry door.**

**NOTE: *It is always a good policy to keep a copy of your notice.***

**There are three (3) types of Eviction suits that may be filed in Justice Court:**

**\* Residential \* Manufactured Home \* Commercial/Agricultural \***

**\*\*\*\*\*Sample Wording on Notice to Vacate\*\*\*\*\***

**Dear \_\_\_\_\_ (name of tenant) (and all other occupants)**

**Today is the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I am demanding possession of my rental property because \_\_\_\_\_**

**\_\_\_\_\_. This is a notice that you vacate the premises by \_\_\_\_\_, 20 \_\_, or I will file an eviction suit against you.**

\_\_\_\_\_  
*Sign your name*

**\*\*\*\*\* PLEASE NOTE\*\*\*\*\***

**Once you have read over this packet and selected the proper type case you are filing and completed the information sheet attached, you may pick up the complaint/petition form from the Court to complete the process of filing your claim.**

**\*\*THE COURT CANNOT AND WILL NOT COMPLETE ANY FORMS\*\***

**\*\* Once completed, please bring the forms to the Court along with proper Filing and Service Fee's. PLEASE NOTE: Money Orders, Cashier's Checks or Company Checks are ACCEPTED / NO PERSONAL CHECKS.**

**PLEASE BRING 2 SEPARATE PAYMENTS IN THE FOLLOWING AMOUNTS:**

**#1. Filing fee, \$46.00 - made payable to Crane County J.P.**

**#2. Service fee, \$75.00 - made payable to Crane County J.P.**

**\*\*\*ONCE CASE IS FILED- DO NOT DISCUSS WITH THE DEFENDANT OR ANY PARTY INVOLVED IN THE SUIT\*\*\***

**(Unless defendant wants to pay debt in full, Plaintiff should not discuss any details of case, must wait for hearing date)**