FILING A JUSTICE COURT SUIT

VENUE:

Generally, suit should be filed in the county and precinct where one or more defendants reside. However, there are many exceptions to this rule. For further information see **"VENUE"**in Justice Court Suits.

REQUISITES:

DIRECT A LETTER, CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Defendant, giving notice of the suit. State the amount of money to be sued for, and if the money is not received within ten (10) days from the date of the receipt of the letter, suit may be filed.

JURISDICTION:

Jurisdiction (what the Court may render judgment for) in Justice Court Suits is for civil matters in which the amount in controversy is not more than ten thousand ($10,000.00) exclusive of interest. Justice Court also has jurisdiction over suits for foreclosure of mortgages and enforcement of liens on personal property where the amount in controversy is not more than ten thousand ($10,000.00), exclusive of interest.

FILING SUIT:

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have procedural questions. The filing fee is thirty- six ($36.00). In addition, there is a fee for serving the defendant, which is eighty-five dollars ($85.00) per defendant to be served in Kerr County. Total is $121.00. If you are filing on a defendant that resides outside of Kerr County, contact this office for service fee.

CITATION:

A citation is sent to the Constable for service on the defendant in Kerr County. Out of county service is sent to the Sheriff or Constable, depending on the information you provide the Court.

ANSWER:

The defendant(s) in your suit is commanded to answer to the Court, in writing, on the Monday following the expiration of ten (10) days from the date the citation was served.

REPRESENTATION:

As an individual, you may represent your self in a Justice Court suit if you choose to do so. Corporations must be represented by an Attorney. The Rules of Evidence and the Rules of Procedure are in effect in Justice Court Suits.

DEFAULT JUDGMENTS:

If the defendant in your suit files a written answer, the court date should be approximately six to seven weeks after service. (See additional information below for alternate service that could delay serving the citation) Notice will be mailed to you (the plaintiff) and to the defendant stating the date and time to appear in Court. Bring **ALL** information you need to support your claim. If you have any witnesses, you should bring them. If you have witnesses to your suit who will not come to court voluntarily, you may ask the Court to subpoena those individuals prior to trial. The fee in Kerr County for filing a service of a subpoena is $85.00 per subpoena. Allow at least a week for service of the subpoena. **ALL MOTIONS FOR CONTINUANCE (resetting your Court date) MUST BE IN WRITING AND RECEIVED NO LATER THAN FIVE (5) WORKING DAYS (WEEKENDS AND HOLIDAYS EXCLUDED) PRIOR TO YOUR COURT DATE.**

AFTER JUDGMENT:

THIS COURT DOES NOT COLLECT THE JUDGMENT FOR YOU, NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT.

If you receive a judgment against the defendant, and if the defendant does not make a motion for a new trial within five (5) days or appeal the case within ten (10) days after the judgment is signed, your remedies to collect your money are as follows:

ABSTRACT OF JUDGMENT:

You may obtain an Abstract of Judgment of the 11th day after the judgment is signed. The fee for obtaining an Abstract of Judgment is $5.00. You should take the Abstract to the County Clerk's office in the Kerr County Courthouse in order to file the Judgment in Kerr County. The purpose of filing an Abstract of Judgment is to put a lien against any **REAL PROPERTY** in the defendant's name. If the defendant sells any real property within 10 years from the date of judgment, the amount of judgment must be paid, plus interest.

WRIT OF EXECUTION:

If you are granted a judgment against the defendant **AND** if the defendant does not appeal within 10 days after the judgment is signed, you may obtain and file a Writ of Execution anytime after the 30th day from the date of the judgment. A Writ of Execution allows a Sheriff or Constable in the State of Texas to try to seize certain nonexempt property from the defendant. If property is seized, an auction is held and the proceeds from the sale satisfy the judgment. The costs for filing a Writ of Execution is $200.00.

You may have other remedies available, but they are more complicated and are not covered here. Please consult an attorney for any other remedies you may have to collect your judgment. **SHOULD THE DEFENDANT PAY ANY PORTION OF THE AMOUNT OWED AFTER YOU HAVE RECEIVED A JUDGMENT, IT IS NECESSARY FOR YOU TO NOTIFY THE COURT OF THE CREDIT OR**

NOTIFY THE COURT THAT THE JUDGMENT HAS BEEN PAID IN FULL IF THE DEFENDANT PAYS THE ENTIRE JUDGMENT AMOUNT. IF YOUR ADDRESS CHANGES WITHIN THE 10 YEAR PERIOD FOLLOWING THE JUDGMENT, YOU SHOULD NOTIFY THE COURT OF YOUR NEW ADDRESS.

ADDITIONAL INFORMATION:

The defendant in a Justice Court Suit must be served personally by the Constable or Sheriff of the county. Occasionally, service is avoided by the defendant; therefore, an alternate method of service is necessary. This method is referred to as **"ALTERNATE SERVICE"**. The Constable or Sheriff may request alternate service. This allows him to serve anyone over the age of sixteen (16), at the defendant's usual place of abode, business, or in a method the Judge believes will be reasonably effective to give the Defendant notice of the suit. We will request that you come in and sign the request for alternate service. If your request is approved, the Judge will sign an order and the citation will be returned to the Constable or Sheriff for service as mentioned above.

SUIT ON A CORPORATION:

It is important that you understand that for any potential judgment you may receive to be valid, it is necessary for you to sue the defendant in proper legal capacity. If the party you wish to sue is a corporation, you must fine the name of an officer of the corporation before you begin your suit. The Secretary of the State or the State Comptroller office will give you the information. Ask for the name and address of the **REGISTERED AGENT, PRESIDENT OR VICE-PRESIDENT** of the corporation. When you file your suit, you will be filing against the corporation and serving the citation on one of the above mentioned officers of the corporation. It is necessary to know the individual's name who is able to accept service on behalf of the corporation. EXAMPLE - GREENHOUSE, INC., SERVE JOHN DOE. It is also possible for an incorporated entity to have an assumed name, i.e.; GREENHOUSE, INC., DBA GREENHOUSE SUPPLIES. Follow other instructions for the remainder of the suit.

SUIT ON A COMPANY:

If the party you want to sue is an individual doing business under an assumed name (sole proprietor of the business) or a partnership, you must check with the County Clerk's office in the county of the business to determine who the owner or owners are. Direct your letter (notice of suit) to the owner(s) of the business - EXAMPLE: JOHN SMITH DBA GREENHOUSE SUPPLIES.

INDIVIDUAL:

Where an individual is personally responsible to you for damages he may have caused you.

IF YOU HAVE ADDITIONAL PROCEDURAL QUESTIONS, PLEASE CONTACT THIS OFFICE AT (830) 792-2233.

LEGAL QUESTIONS WILL NOT BE ANSWERED BY THIS OFFICE.

ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:

JUSTICE KATHY MITCHELL, PCT THREE
700 MAIN STREET, ROOM BA 101
KERRVILLE, TEXAS 78028
MISTY SMITH - COURT COORDINATOR

VENUE IN JUSTICE COURT SUITS

GENERAL RULE:	**(15.002)**	County and precinct where one or more of the defendants reside.
FORCIBLES:	**(15.004)**	Precinct where all or part of the premises is located (NO EXCEPTIONS).
SUIT FOR RENT:	**(15.091)**	Precinct in which all or part of the property is located.
SUIT ON A TORT:	**(15.091)**	Precinct in which the injury was inflicted.
SUIT ON A CONTRACT:	**(15.092)**	(a) Suit on a written contract that promises performance may be brought in the precinct where the work was to be performed.
		(b) Suit on an oral or written contract for labor actually performed may be brought in the precinct where the labor was actually performed.

	(c) Suit on a contract for goods, service or loans for personal, family or household use may be brought where the contract was signed or where the defendant resides.
SUIT TO RECOVER PERSONAL PROPERTY: (15.090)	Precinct in which the property is located.
SUIT AGAINST CORPORATION OR ASSOCIATION: (15.094)	Precinct where: (a) all or part of the course of action arose; (b) the corporation has an agency or representative or; (c) the principle office is located.

KATHY MITCHELL
JUSTICE OF THE PEACE
PRECINCT THREE
KERR COUNTY, TEXAS 78028

Courtroom Attire:

All PERSONS present in the Courtroom shall be dressed in a manner that shows dignity and respect for the Court.

Unacceptable attire includes:

1. Shorts, cut-offs, baggy pants, flip-flop style shoes, or hats.
2. Muscle shirts, T-shirts, clothing indicating gang affiliation or other clothing with offensive, vulgar, racist, sexist, obscene, suggestive words, slogans, depictions, or pictures, including grotesque creatures. Clothing should be neat and clean if at all possible. ***ALL SHIRTS MUST BE TUCKED INSIDE PANTS!***
3. Provocative clothing designed or styled, or worn to provoke emotion or disrupt or distract.

Courtroom Conduct:

Conduct in the "Courtroom" also includes the reception/foyer area, jury room, and/or any office space assigned to the Justice Court.

PRO SE parties (non-attorneys representing themselves) should be prepared to present their cases in proper manner. It is <u>not the court's duty</u> to represent you nor instruct you on evidence, rules, or how to present and prove your case. If you are unprepared, unaware and not knowledgeable as to presenting your case, you may lose your case.

1. Weapons are prohibited in the courtroom and this building except for law enforcement personnel. ***YOU ARE SUBJECT TO SEARCH!***
2. **Be on time.**
3. Rise when the Judge enters and remain standing until the Judge or bailiff announces "Be seated", or until the Judge is seated. Rise when the Judge exits the courtroom.
4. Do not approach the Judge's bench without permission.
5. Do not bring drink or food items into the Courtroom.
6. Do not talk at the same time as the court, opposing counsel, or witnesses. Courtroom visitors should not engage in excessive, loud talk or conversation.
7. Racist, sexist, obscene, or profane language is prohibited unless it is pertinent to a case, and is elicited and quoting from facts in the case.
8. Do nothing to disturb or distract the court, counsels, witnesses, or other court personnel.
9. It is normally inappropriate to bring small infants or young children into a court proceeding. Please refrain from doing so unless the presence of the child is necessary for the proceeding.
10. Cellular phones are inappropriate in the Courtroom. Please turn them off before entering the Courtroom.
11. All property in the Courtroom and reception areas must be treated with respect.
12. **No recording devices are allowed without judicial approval.**

Failure to comply with these rules may result in sanctions imposed by the Court.

CAUSE NO._____

_____	}{	IN THE JUSTICE COURT
_____	}{	
Plaintiff	}{	
	}{	
Vs.	}{	PRECINCT THREE
	}{	
	}{	
_____	}{	
_____	}{	
Defendant	}{	KERR COUNTY, TEXAS

STATEMENT OF CLAIM

PLAINTIFF:
Name: _____
Street; City; State; Zip: _____
Phone No: _____
Hereinafter called plaintiff, on oath deposes and says that:

DEFENDANT:
Name: _____
Street; City; State; Zip: _____
Phone No: _____
Hereinafter called defendant
That the defendant is/are justly indebted to the Plaintiff in the sum of $_____, FOR:
(state nature of claim)_____
_____
_____
_____
_____
Plus any additional court cost and attorney fees incurred; and that there are no counterclaims existing if favor of the Defendant and against the Plaintiff except: _____
_____

_____
Signature of Plaintiff

SWORN AND SUBSCRIBED TO BEFORE ME on this the _____ day of _____, 20_____.

_____
Court Clerk, Precinct Three
Kerrville, Kerr County, Texas