

**NATALIE THOMAS, JUSTICE OF THE PEACE**  
**PCT. 1 WHEELER COUNTY**  
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**JUSTICE COURT CIVIL INFORMATION SHEET**

There are Four Different types of Justice Court Cases:

- Small Claims
- Debt Claim
- Eviction
- Repair and Remedy.

When filling a civil case with the Court you must:

- ~fill out the proper petition (in full)
- ~check the appropriate box (style of case) on the information sheet that you want to file
- ~sign the petition in FRONT of the Judge
- ~pay the filing fee of \$54.00 dollars
- ~pay the service fees

Wheeler County Services Fee's are \$100.00 per person

Other County's Service Fee's will be available the day you file

In all cases, the Plaintiff will be filing a civil suit, not a criminal case. If the Plaintiff wins in Court, the defendant cannot be forced to pay the plaintiff. The Judge cannot order the defendant to pay, nor will the defendant be arrested for not paying. The plaintiff will have a judgment signed by the Court and may follow certain procedures to collect the judgment.

The Plaintiff may file the suit in the amounts from \$1.00 to \$20,000.00, however if the amount exceeds \$20,000.00 the plaintiff **may not reduce the amount** to fit in this court, it must be filed in a higher court.

It is important that the plaintiff understand that the defendant must be sued in their proper legal capacity.

1. Personally: where an individual is responsible to the plaintiff for damages.
2. Proprietor or partnership: A business that is not incorporated but is individually owned or has On file with the County Clerk, an assumed name certificate. Example:  
John Smith dba Greenhouse Supply.
3. Corporation: A business that is incorporated. It is necessary to know the individual who is able to accept service on behalf of the corporation, either the president or the registered agent of the corporation. You may get this information from the Secretary of State at 512-463-5555 or by e-mail at [corpinfo@sos.state.tx.us](mailto:corpinfo@sos.state.tx.us). You must have this information prior to filing, the clerks will not obtain this information for you, nor tell you who to file on or who to serve. Failure to comply with these provisions may result in the case being dismissed and forfeiting all costs. Please be advised the Clerks CAN NOT give legal advice.

### **ISSUANCE OF CITATION:**

Once the case is filed, a citation will be issued to the Sheriff in the county where the defendant is located. Citations are usually served within 10 days, however, sometimes it does take longer. The department will try indefinitely to serve the papers to the defendant, however, if the defendant has moved or cannot be found at the address provided, the citation will be returned to our office unserved. The service fee is non-refundable if an effort was made to serve the citation. If you obtained a new address for the defendant, an amended citation may be issued, however, you will be required to pay a second service fee. If a citation is not served on the defendant, a judgment cannot be entered against them.

### **DEFENDANT'S ANSWER:**

Once the citation has been served to the defendant, the defendant will have 14 days from the date of service to file an answer with the court. If the defendant files a denial on the case, a hearing will be set by the clerk giving both parties at least 45 days' notice. If the defendant files a consent to owing the claim, they will be instructed to contact the plaintiff to pay the claim. If the defendant does not follow through, you may contact the court to have the case set for a hearing to obtain judgment. Either party may request a jury trial. A \$5.00 jury fee will be collected from the party requesting a jury and the case will be set on the jury docket. If the defendant fails to file an answer with the court, the plaintiff will be entitled to obtain a default judgment. The Plaintiff will be required to appear before the Judge to prove the case.

### **HEARING:**

Both sides will present any and all evidence to the Judge or Jury at the hearing. The burden of proof lies with the Plaintiff. It will be necessary to provide substantial evidence to support the claim. Bring any paperwork or evidence which you feel may be important to proving the case. You may have as many witnesses as you wish appear with you to give testimony. Avoid "heresay" evidence such as affidavits, witness statements, garage estimates and police reports. Please have these witnesses appear with you, as the other party has a right to question them also. If they will not appear voluntarily, you may have the court issue a subpoena for any party that you feel may have pertinent testimony. Subpoena fees are \$100.00 each and must be paid and requested at least 5 days prior to the hearing. There is also a \$10.00 witness fee which must be made payable to the witness.

### **COLLECTING YOUR JUDGMENT:**

#### **Abstract of Judgment:**

An abstract may be obtained from the clerk after 10 days from the date of judgment at the cost of \$5.00. The plaintiff must request the issuance of an abstract from the court. The document must be filed by the plaintiff with the County Clerk's office. It may be filed in any county within the State of Texas. There is a charge of approximately \$16.00 for the first page and \$4.00 for each additional page to file the document. An abstract recorded with the county clerk's office constitutes a lien on the real property of a defendant located in the county in which the abstract is recorded. It is also reported to the Credit Bureau. If you believe that the defendant has property in more than one county, you may file the abstract with more than one county. The abstract continues for a period of ten years except if the judgment becomes dormant. To keep the judgment from becoming dormant, you must have a Writ of Execution issued within ten years after the judgment is rendered.

#### **Writ of Execution:**

A writ of execution may be issued after 30 days from the date of judgment at the cost of \$175.00. This document is issued to the Sheriff to collect the judgment. The writ directs the Sheriff to contact the judgment debtor (defendant) and seize and sell any non-exempt property, real and personal, and deliver the proceeds to you to satisfy the judgment. If the defendant does not have any non-exempt property the writ will be returned Nulla Bona, which means they did not collect the judgment.