

# **Justice of the Peace, Precinct #2**

## **Defendant's Information for Civil Suits**

The following is information for the defendant in Small Claims Suits and Justice Court Suits.

1. When you are sued and served with a citation you must answer the suit on or before the Monday which follows the tenth (14th) day from the date of service. You must answer in writing and advise the court if you wish to contest the suit and have a trial by judge or jury or if you wish the plaintiff to recover a consent judgment. A copy of your answer must be mailed to the plaintiff. You must fill out and sign the certificate of delivery and include this certificate with your answer when filing your answer with the court.
2. If you contest the suit and desire a jury trial, your request for jury trial must be in writing. You must pay a \$22.00 jury fee at the time your request.
3. You may represent yourself or hire an attorney to represent you.
4. If you do not desire to contest the suit, and you agree that the plaintiff recover the full amount he is seeking, you may request, in writing, the court to enter a consent judgment against you.
5. You should prepare a proper defense if you go to trial even though the burden is on the plaintiff to prove his allegation against you.
6. If witnesses are required and will not appear voluntarily, you may subpoena them to court by submitting an application for subpoena and paying the required fee. (\$100 service fee for each subpoena with a \$10.00 dollar bill attached to each subpoena for a witness fee) The request for subpoena must be received at least 7 days before the trial date.
7. After the plaintiff presents his case at the trial as to his right to recover, you are then allowed to present your defense as to why he or she should not recover.

8. You should remember that hearsay evidence is inadmissible and cannot be used if objected to by the plaintiff. Examples of hearsay evidence are affidavits, garage estimates, police reports and what other people orally say.

9. When the plaintiff and you have both rested your case, the court can enter a judgment that the plaintiff recover from you, all part or nothing.

10. If a judgment is rendered against you, you may appeal the ruling of this court to the County Court-at-Law within 21 days.

11. Should the court rule the plaintiff recover nothing from you, the plaintiff must appeal within ten days, or his right to recover from you is forever lost.

12. Should the plaintiff recover a judgment against you and you do not appeal within ten days of such judgment, the plaintiff may take further legal action against you to collect the amount of judgment plus court costs.

- The plaintiff may ask that a writ execution be issued to the Constable or the Sheriff to collect the judgment from you by levying certain belongings that you own.

- The plaintiff may obtain an Abstract of Judgment from the court and file it with the County Clerk's Office. Interest accrues against the judgment at the current rate of interest not to exceed 20%

13. Once you have satisfied the judgment, the plaintiff must give you a "Release of Judgment." It will be your responsibility to file a copy of this "Release of Judgment" with the court to avoid any judgment liens being filed against you. If the plaintiff has already filed a lien against you then you should file a copy of the "Release of Judgment" in the same County Clerk's Office where the lien is filed to prove the judgment has been satisfied.

**Please contact the court if you have any questions**