

## Justice of the Peace Precinct 02

### Frequently Asked Questions

#### Can the Court and its' staff tell you what you should do about your problem?

No, 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 from engaging in communications concerning the merits of a pending judicial proceeding, or the merits of an impending claim or dispute. The Court and staff can, however, communicate concerning (1) *uncontested* administrative matters, (2) *uncontested* procedural matters, (3) magistrate duties and functions, (4) determination of jurisdiction, or (5) determining whether a claim might be better resolved in some other judicial or non-judicial forum. The following information is intended to be basic, procedural and informational, and is not offered as legal advice. The information is not exhaustive. There may be other remedies and procedures not listed below. You should seek professional, licensed, legal counsel for advice.

#### What kind of civil cases can I file?

The Justice of the Peace can hear lawsuits against individuals or companies for money damages, (up to a maximum of \$10,000), suffered as a result of accidents, property damage, or breach of a contract or agreement. Justices of the Peace also hear "forcible detainer cases" - commonly referred to as "evictions". Civil cases are filed either in *Small Claims Court* or *Justice Court*. A packet of basic information may be available to help you in deciding the forum in which you may file a case.

#### Do I need a lawyer?

In most circumstances legal representation is ***not required*** to appear in Justice or Small Claims Court. In many cases legal representation is ***desirable*** to safeguard your rights and interests. In certain, more complex issues, legal representation is ***advisable***.

#### LEGAL COUNSEL IS STRONGLY RECOMMENDED BEFORE SEEKING THE FOLLOWING RELIEF:

Writ of Attachment: The purpose of a writ of attachment is to seize and hold a defendant's property for the payment of a debt for the collection of which a suit is brought.

Writ of Garnishment: The purpose of a writ of garnishment is to determine whether a third party owes a debt or property to a defendant which can be reached and applied to the payment of the plaintiff's debt, and to impound property and assets of the defendant in the hands of the third party.

Writ of Reentry: The purpose of a writ of reentry is for a tenant to regain entry into premises from which the tenant has been wrongfully locked out. Certain circumstances allow a landlord to lawfully lock a tenant out of leased property.

Trials to Right of Property: A person having possession of property, or title, may bring a suit to reclaim personal property seized under a Writ of Execution, Writ of Sequestration or Writ of Attachment, if the claimant is not a party to the writ levied on the property.

Writ of Possession: A writ issued to force an occupant to vacate leased premises, after a Court hearing to make a determination regarding the right to possession of leased premises.

Writ of Sequestration: A writ issued at the commencement of a suit to preserve and protect the value of property involved in the suit until trial.

### **What about criminal cases?**

Justice Courts have jurisdiction of:

- Traffic offenses
- Class C misdemeanors (punishable by fines only up to \$500)
- Criminal cases punishable by fine only, or a fine and a sanction not consisting of confinement or imprisonment that is rehabilitative or remedial in nature.

### **How are criminal cases filed?**

Most frequently, cases are filed by law enforcement agencies, such as the Sheriff, the police department, the Department of Public Safety, Parks & Wildlife, and others.

### **What about citizens' complaints?**

Sometimes citizens desire to file a criminal complaint directly with the Justice Court. You will be required to complete a sworn affidavit and supply the names and addresses of the defendant and any witnesses. Since the District Attorney will have to prosecute the complaint on your behalf, you may be asked to meet with an Assistant District Attorney to determine if there has been any law broken, and if there is sufficient evidence to prosecute the case. You may be required to submit an offense/police report.

### **Do I Need attorney representation?**

Again, it is **not required** that you be represented by legal counsel, but the State of Texas will be represented by the office of the District Attorney, and you are certainly free to hire a lawyer to represent yourself in Court. But if you cannot afford an attorney, no lawyer will be appointed for you, because the offenses within the Justice Court's jurisdiction are punishable by *fine only*, (and not by imprisonment).

### **What about mediation?**

The Court and its staff cannot negotiate a settlement for you. Some disputes -- like those between relatives and neighbors -- are best handled by an agreement reached through mediation as an alternative to litigation. Some mediators work for profit, and others operate as non-profit agencies. Some mediators are licensed attorneys and others are not. Mediation is private, faster (and often less expensive) than the court system, deals with both feelings and issues; helps restore peace and improve or restore relationships. Mediation can occur after a suit has been filed with permission of the court.

### **Methods Of Payment**

We accept payments by Cash, Check, and Money Order. **Please do not send cash in the mail for your protection.**