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A GUIDE TO LOUISIANA JUSTICE OF THE PEACE COURTS



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| judgment | the determination of a court of competent jurisdiction upon matters submitted to it for resolution. |
| jurisdiction | the legal power and authority of a court to hear and determine an action and to grant parties the relief to which they may be entitled. |
| litigant | A party to a lawsuit; one engaged in litigation; usually spoken of active parties, not of nominal ones. |
| petition | a formal written request presented to a court or other official body for a certain act to be performed. |
| plaintiff | the party who is filing suit against another party. |
| pleadings | statements of facts that constitute plaintiff's cause of action and defendant's ground of defense in logical and legal form. |
| service of process | the communication of court papers to a defendant by formal delivery or another method whereby a defendant is furnished with reasonable notice of the proceedings against them in order to afford an opportunity to appear and be heard in court. |
| venue | 1. the proper place for a legal matter to be pursued, usually because of the place's connection to the event giving rise to the legal proceeding, or to the parties 2. synonymous with "place of trial". |

GLOSSARY

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| damages | 1. monetary compensation which the law awards to one who has been injured by the action of another; 2. recompense for a legal wrong such as a breach of contract or tortuous act. |
| defendant | the party or person who is being sued. |
| exception | formal objection to a court's ruling, used to preserve for purposes of a future appeal. |
| executory | that which is yet to be executed or performed; that which remains to be carried into operation or effect; incomplete; depending upon a future performance or event. |
| ex parte | for, by, or on behalf of one party only, usually without notice to or argument from the adverse party |
| garnishment | a legal process by which money, property, or assets in the hand of a third person which are due to a defendant, are legally delivered to the plaintiff. |
| hearing | a proceeding wherein evidence is taken for purposes of determining an issue of fact or law and reaching a decision on the basis of that evidence. |
| immovable property | land, buildings, and other constructions |
| judicial interest | legal interest, fixed by law, on the principal amount owed in a judgment. This type of interest is calculated from the original date the judgment is rendered. |

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WHAT IS JUSTICE OF THE PEACE COURT?

In general, justice of the peace courts (JP Courts) are small claims courts in rural areas and in municipalities in which there is no city court. Justice of the peace courts resolve minor civil disputes and hear claims that do not exceed \$5,000.00. A claim, generally speaking, asserts a legal right you may have. The ordinary rules of evidence do not apply in justice of the peace court and all relevant and reliable evidence is admissible.¹

Typically, a litigant chooses to utilize the justice of the peace court because it is less costly, less formal, and quicker to resolve civil disputes than through district court. Justices of the Peace are not permitted to give legal advice to any party and do not draft legal documents for litigants. Anyone requiring such services should consult an attorney licensed to practice law in Louisiana.

WHAT TYPES OF CLAIMS CAN BE FILED IN JUSTICE OF THE PEACE COURT?

Justice of the peace courts are courts of limited jurisdiction where you can sue for up to \$5,000.00. Cases that exceed \$5,000.00 cannot be heard in a justice of the peace court and must be sent to the appropriate city, parish, or district court.² You may not split your claim into smaller claims to get around the limit. The amount in dispute does not include interest, court costs, attorney fees, or penalties.³

The following types of cases MAY NOT be heard in JP Court:

- 1) Any case involving title to immovable property,
- 2) Any case involving the right to public office or position,
- 3) Any case in which the plaintiff asserts a civil rights violation,
- 4) Any claim for the annulment of marriage, separation from bed and board, divorce, separation of property, or alimony,
- 5) Any succession, interdiction, receivership, liquidation, *habeas corpus*, or *quo warranto* proceeding,

GLOSSARY

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| agent | a person or party acting legally on behalf of another person, party, or corporation. |
| answer | the principle pleading on the part of the defendant in response to a plaintiff's complaint, which must contain a denial of all allegations of a plaintiff's complaint that defendants wish to controvert, and may also contain any affirmative defenses which a defendant may have available to them which should be stated separately. |
| appeal | resort to a higher court for purposes of obtaining a review of a lower court decision and reversal of the lower court's judgment or granting of a new trial |
| citation | 1. a reference to a source of legal authority, e.g. a citation to a statute or case; 2. a court issued document which requires a person to appear at a time and place to do something demanded in the document; 3. A summons issued by a police office, commanding appearance before a judge to defend against a charge. |
| claim | 1. the assertion of a right of money, property, or other remedy; 2. the aggregate of operative facts giving rise to a right enforceable in the courts. |
| constable | The chief peace officer for a Justice of the Peace jurisdiction empowered to serve all legal documents, make arrests, and keep the peace |
| court costs | the amount paid into a suit by a party for filing and/or service fees. |

ADDITIONAL RESOURCES

Louisiana State Legislature

<http://www.legis.la.gov/legis/LawSearch.aspx>

This website allows you to look up Louisiana constitutional articles, statutes, and code articles.

Louisiana State Bar Association: Self-Represented Litigants Resources

<https://www.lsba.org/Public/FindLegalHelp/SelfRepresentation.aspx>

This website provides helpful advice for handling your own case, local self-help services, and information on how to find an attorney.

Law Library of Louisiana Guide to Resources for Self-Represented Litigants

<https://www.lasc.libguides.com/resources-for-self-represented-litigants>

A free online research guide providing information on free online legal information, forms, and referrals for people in court without attorneys across Louisiana.

Southeast Louisiana Legal Services

<https://www.slls.org/>

Free legal aid service that serves to achieve justice for low-income people in Louisiana by enforcing and defending their legal rights through civil legal aid, advocacy, and community education.

Basic Forms for Use in City & Parish Courts

http://www.lasc.org/rules/City_Parish/Uniform_Forms_for_City_Parish_Courts.pdf

These non-mandatory forms were assembled by the Supreme Court's Uniform Forms Committee for Louisiana City and Parish Courts to provide both attorneys and self-represented litigants in city and parish courts statewide with broad, general templates of many forms commonly used in these courts.

- 6) Any case in which the state, parish, municipal, or other political corporation is a defendant,
- 7) Any executory proceeding,
- 8) Any adoption, tutorship, emancipation, or partition proceeding, or
- 9) Any *in rem* or *quasi in rem* proceeding.⁴

A justice of the peace court cannot issue an injunctive order except to enjoin the execution of its own order or to enforce the execution of a judgment issued by the justice of the peace court.⁵ An injunctive order is an order by the court to force an individual or entity to carry out an action at the court's command. An order from the court commanding an individual or entity to stop doing something would also be considered an injunctive order.

WHO ARE THE PARTIES?

A person who files a claim is called the PLAINTIFF. The person against whom a claim is filed is called the DEFENDANT.

WHO MAY SUE?

You must be 18 years of age or an emancipated minor to file a case in justice of the peace court. A younger person must sue through a parent or guardian. A duly authorized officer, shareholder, agent, representative, or employee of a corporation or unincorporated association may file suit on behalf of a partnership, corporation, or other legal entity.⁶ Otherwise, a legal entity must be represented in court by a licensed attorney.

DO I NEED A LAWYER?

You may appear before a justice of the peace court without a lawyer. This is referred to as being self-represented or appearing "pro se." It is important to remember that the judge cannot give you legal advice. You are urged to review the applicable laws and procedures for justice of the peace court and to consult an attorney of your choice for answers to specific legal questions.

WHAT STEPS MUST I TAKE TO FILE A CLAIM IN JUSTICE OF THE PEACE COURT?

You must file your claim and pay the filing fee with the appropriate JP Court. Generally, bringing a new action into the justice of the peace court amounts to one hundred dollars (\$100.00) in court costs, and if more than one defendant is listed, it will be an additional twenty dollars (\$20.00) for each subsequent defendant. However, there are other fees and court costs associated with certain types of actions so the plaintiff should be aware that bringing an action in justice of the peace court is not always exclusive to the one hundred dollars in court costs.⁷

Your claim may be filed orally or in writing with the justice of the peace.⁸ No written pleadings are required, but they are permitted and preferred. JP Courts have several commonly used forms available; however, you should fill out your own paperwork. The JP cannot give legal advice, but she can provide information on claim filing procedures.

You must know the name of the defendant, the current address of the defendant, basis of the claim, and the amount of the claim. Please do not give the JP overly detailed information when filing your claim. You will have an opportunity to present your claim at a later date.

WHERE DO I FILE MY CLAIM?

It is important to file your case in the proper justice of the peace court. As a general rule, you will file your claim where the defendant lives.⁹ However, there are many exceptions to this rule. For example, you may file your claim where the offense occurred, where a contract was executed, or where an open account was created.¹⁰ If you do not file in the correct venue, the defendant may ask that the case be dismissed or transferred to a different court.

ENDNOTES

- 1 La. C.C.P. art. 4921.2.
- 2 La. C.C.P. art. 4921.2.
- 3 La. C.C.P. art. 4911(B).
- 4 La. C.C.P. art. 4913.
- 5 La. C.C.P. art. 4913(C).
- 6 La. R.S. 37:212(C).
- 7 An exhaustive list of justice of the peace civil court fees can be found within La. R.S. 13:2590.
- 8 La. C.C.P. art. 4917.
- 9 La. C.C.P. 42.
- 10 See La. C.C.P. 74, 74.4, and 76.1.
- 11 La. C.C.P. art. 4919(A)(5)(b).
- 12 La. C.C.P. art. 4920.
- 13 La. C.C.P. art. 4919(A)(5)(a).
- 14 La. C.C.P. art. 1231.
- 15 La. C.E. art. 602.
- 16 La. C.E. arts. 801-806.
- 17 La. C.E. arts. 901-1003.1.
- 18 La. C.C.P. art. 1633 and La. C.E. art. 603.
- 19 La. C.C.P. art. 1841.
- 20 La. C.C.P. art. 4924(A).
- 21 La. C.C.P. art. 4924(B).
- 22 La. C.C.P. art. 4924(C).
- 23 La. C.C.P. art. 4925(A).
- 24 La. C.C.P. art. 4925(a).

WHAT ABOUT CRIMINAL MATTERS?

A JP who completes the Attorney General's Arrest Warrants Course at least every other year is authorized to issue warrants for arrest for many crimes. If you have any reason to believe a crime is being or has been committed, you should first contact your nearest law enforcement agency.

JP Courts also have the authority to hear litter violations. Litter violations may be reported to the Constable or Sheriff's office.

Finally, JP Courts cannot issue restraining orders, but in some instances may issue peace bonds.

WHAT OTHER THINGS MAY BE BROUGHT TO THE JP?

Justices of the Peace are ex-officio notary publics within their territorial jurisdiction, and may exercise limited notarial services. Justices of the Peace may perform civil marriages. Justices of the Peace may also determine ownership and possession of moveable property not exceeding \$5,000.00 in value. This sometimes enables the court to clear up titles to automobiles and trailers.

WHAT HAPPENS AFTER I FILE MY CLAIM?

CITATION

Once a suit is filed, the justice of the peace issues a citation, along with a certified copy of the claim, to summon the defendant to a hearing date. The citation must include:

- 1) Date of issuance;
- 2) Title of the case;
- 3) Name of the person to whom it is addressed;
- 4) Title and location of court issuing; and
- 5) A statement that the person cited must either comply with the demand or appear in the court issuing the citation at the time and date provided and that if he or she fails to appear, judgment may be entered against him.¹¹

Alternatively, the court may ask the defendant to file an answer with the court within ten days of service of citation.¹² If the justice of the peace does not set the matter for trial upon filing of the claim, the citation must state that the person must comply with the demand in the petition or file a response within the specified delay "under penalty of default."¹³

SERVICE OF PROCESS

The citation and claim are then provided to the Constable for service of process. Service is made either by personal or domiciliary service. Personal service is when the Constable serves the citation on the defendant face to face. Domiciliary service is when the Constable leaves the citation at the defendant's residence with a person of suitable age and discretion that also resides at the home. The citation may be served at any time of the day or night, including Sundays and holidays.¹⁴ The citation and claim may also be served through certified mail, return receipt.

It is the plaintiff's responsibility to find out where the defendant can be served and to provide that information to the court. Without service of process, the case cannot proceed any further.

I'VE BEEN SUED: WHAT DO I NEED TO DO?

HOW DO I RESPOND TO THE PLAINTIFF'S CLAIM?

If you are sued in justice of the peace court, do not ignore the papers! If you fail to respond, a default judgment may be entered against you. This means that you would lose the case without a chance to tell your side of the story.

You should read the citation and claim carefully and make sure you know what the case is about and when you must respond to the claim or appear in court. You are allowed to represent yourself, but you should consider whether or not you wish to hire or consult an attorney before responding or taking action on the claim against you.

If you decide to contest the case over any issue, you must appear at your trial date. If the court did not set a trial date, you must file an answer with the court within 10 calendar days from the date of service. An answer is the procedural device by which a defendant responds to the plaintiff's claim. Even if you feel you do not owe the plaintiff or even if you feel you are the wrong defendant, you must still respond to the claim. Within your answer, you should list every "defense" you have to the claim made against you. Some of the most common defenses to claims in justice of the peace court include:

- No jurisdiction;
- Improper "venue," which means that you do not live in the area over which the justice of the peace court has legal jurisdiction;
- Contributory negligence (negligence on the part of the plaintiff);
- Discharge in bankruptcy;
- Error or mistake;
- Previous compromises or payment of an obligation; and
- Excessive damage claimed.

If a monetary amount is awarded, the party against whom the judgment is awarded is called the "judgment debtor." The party who is awarded an amount is called the "judgment creditor."

I'VE LOST MY CASE: WHAT ARE MY OPTIONS?

A party who loses her case in the justice of the peace court may appeal the judgment to the parish court; or when there is no parish court, to the district court of the parish in which the justice of the peace court is located.²⁰ All appeals from the justice of the peace court are tried *de novo* (from the beginning). That means the trial starts over from the beginning before the court of appeal.²¹ No further appeal from the judgment of the parish or district court is allowed.²²

To file an appeal, you must file suit for a trial *de novo* with parish or district court within fifteen (15) days from the date of judgment or service of notice of judgment, when such notice is necessary.²³ Notices of judgment will be issued unless the defendant was personally served with the judgment in open court. A copy of the suit pleadings must be provided to the justice of the peace court whose judgment is being appealed.²⁴

ONCE THE JUDGMENT IS FINAL, WHAT STEPS MAY BE TAKEN TO COLLECT IT?

If you have won your case and the justice of the peace renders a judgment in your favor, you become a JUDGMENT CREDITOR. The losing party who is ordered to pay money becomes a JUDGMENT DEBTOR. **The court will not collect the money for you.** However, if the judgment debtor does not voluntarily pay the judgment, you can use different enforcement tools to get the judgment paid, such as asking the court to garnish the defendant's wages. For questions related to the garnishment procedure, please contact the justice of the peace court or speak to a private attorney.

COURT IS ADJOURNED

Once the proceeding is complete, the justice of the peace should announce that the court is adjourned. This officially completes the matter being heard before the court and that a judgment has been rendered. In the event a justice of the peace takes a case under advisement, the justice of the peace will send a notice of final judgment to all the parties.

WHAT CAN A PARTY DO IF HE IS UNABLE TO ATTEND THE TRIAL DATE?

If one of the parties is unable to attend the trial date for good reason, he should contact the court to request a continuance. This should be done as soon as possible. It is a good idea to present the court with alternative dates when you will be available. If the request is approved by the justice of the peace, the court will send a new notice for trial at a later date.

WHAT HAPPENS IF ONE OF THE PARTIES DOES NOT SHOW UP?

If the plaintiff does not show up to the trial, the case may be dismissed. If the defendant does not show up for the trial, the plaintiff may win judgment by default, and the justice of the peace will require the plaintiff to present evidence to prove his/her claim at the court date.

WHAT HAPPENS AFTER THE TRIAL?

WHAT IS A JUDGMENT?

A judgment is the determination of the rights of the parties in an action. A judgment may award any relief to which the parties are entitled.¹⁹ It may also include judicial interest, court costs, and attorney's fees (if applicable). Once a judgment has been rendered, the justice of the peace must send notice of the signing of the judgment to the parties.

CAN I FILE A CLAIM AGAINST THE PLAINTIFF?

Yes, you can file a "reconventional demand," not exceeding \$5,000.00, if you believe that the plaintiff owes you money. A reconventional demand allows you to have your claim decided along with the claim the plaintiff brought against you. The reconventional demand should be filed with the court prior to your court date along with the filing fee of \$30.00. Once filed, a certified copy of the reconventional demand is served on the plaintiff.

ADA ACCOMMODATIONS FOR COURT USERS

Title II of the Americans with Disabilities Act prohibits discrimination on the basis of disability in state and local government services. This includes participation in court proceedings. It is the intent of all justice of the peace courts in Louisiana to facilitate provisions for reasonable accommodations when requested by qualified persons with disabilities. If you have a disability that may restrict your ability to meaningfully participate in court proceedings, programs, activities, or services, the court will provide you with reasonable and appropriate accommodations at no cost to you.

The following applies to ADA Title II Accommodation Requests in Justice of the Peace Court:

- 1) Court users requiring accommodations should complete an accommodation request form and send it to the justice of the peace court.
- 2) Requests for accommodations must be made as far in advance as possible, but at least 7 days before your scheduled court appearance or immediately upon receiving notification if the time before the scheduled appearance is less than 7 days.

3) All accommodation requests must include an explanation of the nature of your disability and suggest an auxiliary aid or service that will enable you to effectively participate in the court program or service. If you have a disability that is not obvious, or when it is not readily apparent how a requested accommodation relates to your impairment, it may be necessary for the court to require documentation from a qualified health care provider in order for the court to fully and fairly evaluate the accommodation request. These information requests will be limited to documentation that (a) establishes the existence of a disability; (b) identifies your functional limitations; and (c) describes how the requested accommodation addresses those limitations. Any cost to obtain such documentation is the obligation of the person requesting the accommodation.

4) The court will evaluate the requested accommodation. It may grant the request or it may offer a suitable and effective alternative in the event that the original accommodation requested is not feasible. Also, the court may deny your request if the request is for a personal or individually prescribed device (such as hearing aids or a wheelchair), or if the modification will fundamentally alter the nature of the service, program, or activity of the court, or if it would pose an undue administrative or financial burden to provide the accommodation (if the proposed accommodation is so expensive or time-consuming as to be unreasonable). The court may also deny your request if it finds it would be inappropriate in the course of the litigation.

DEFENDANT'S EVIDENCE

Once the plaintiff has presented his case, it is now the defendant's turn to present his case to the justice of the peace. Like the plaintiff, the defendant may also present all of their evidence in written form and/or by calling his own witnesses and conducting examinations of those witnesses. After the defendant is finished examining the witness, the plaintiff then has an opportunity to examine the defendant's witness. If the plaintiff chooses to do so, the defendant will then have a brief moment to re-examine the witness before the witness steps down. Also, during this time the justice of the peace may question the witness, as well as question either the plaintiff and/or the defendant.

PLAINTIFF'S REBUTTAL

Once the defendant is finished presenting his evidence, the plaintiff then has the opportunity to call additional or prior witnesses to rebut any testimony presented by the defendant. The defendant will still be allowed to examine any witnesses during this stage once the plaintiff is through with his examination. It is important to note that this is not a process for the plaintiff to present his case for a second time. A rebuttal should only be used to rebut claims made by the defendant and his witnesses that *have not been previously addressed* in the plaintiff's presentation of his evidence.

CLOSING COMMENTS

The justice of the peace may ask the parties if they have any closing comments or she may ask additional questions before deciding to render a verdict.

JUDGMENT IS RENDERED

The justice of the peace will normally rule on the case and render a judgment at the conclusion of the trial. Sometimes, the justice of the peace may also take the case under advisement and rule at a later time.

WHAT HAPPENS AT THE TRIAL?

Normally, the constable opens sessions of court and establishes order. Once order is established, the justice of the peace may give a brief review and explanation of how the trial will proceed from that point.

To begin, the justice of peace may choose to swear-in any witness that will be taking part in the current proceeding. Parties and witnesses are generally sworn-in just before they testify, but it is permissible for all parties and witnesses to be sworn-in at the beginning of trial. Regardless of the when the justice of the peace decides to have witnesses sworn-in, it is the duty of the justice of the peace to make sure that each witness is sworn-in before testifying.¹⁸

PLAINTIFF'S EVIDENCE

At this point, the justice of the peace will now hear the plaintiff's case. This is the time for the plaintiff to present all the sufficient, relevant, and competent testimony and evidence that would entitle them to a decision by the justice of the peace. It is the goal of the plaintiff to able to produce enough evidence to allow the justice of the peace to infer the facts at issue and be able to rule in the plaintiff's favor. If the plaintiff calls any witnesses and examines them, then the defendant will have an opportunity to examine that same witness before that witness steps down and another witness is called. When the defendant finishes examining the plaintiff's witness, the plaintiff will then have a brief moment to examine the witness once again before the witness steps down. Also, during this time the justice of the peace may question the witness, as well as question either the plaintiff and/or defendant.

HOW DO I PREPARE FOR COURT?

During the trial, you will have the opportunity to present any witnesses and evidence you have that will help the justice of the peace rule in your favor. Ultimately, the procedure will be relaxed compared to an ordinary trial in district court. The justice of the peace will likely ask questions to the plaintiff, defendant, and even witnesses to better understand the matter at hand to help in making a decision.

Each party should be prepared to present relevant, reliable, and competent testimony and evidence to entitle them to a decision by the justice of the peace. Generally, there are three (3) types of evidence used in justice of the peace court trials:

- 1) Oral testimony of parties and witnesses;
- 2) Documents submitted by parties; and
- 3) Other exhibits (photographs, charts, drawings, etc.)

While the ordinary rules of evidence do not apply in justice of the peace court and all relevant and reliable evidence is admissible, including hearsay (provided the justice of the peace satisfies himself of its general reliability, and further provided that the judgment is founded upon competent evidence) the following information should be taken in to account when presenting evidence in justice of the peace court.

TESTIMONY AND WITNESSES

For a witness and their testimony to be considered reliable, witnesses should be chosen only if they are able to testify on relevant matters of which the witness has direct personal knowledge. Basically, unless a witness saw and/or heard something herself, the witness should not be allowed to discuss it in court.¹⁵

A witness also should not be allowed to testify about something that someone else told the witness. That would be considered secondhand knowledge rather than the direct personal knowledge mentioned above. This type of evidence is what is known as “hearsay” evidence and it is generally not admissible because it is unreliable.¹⁶

There are exceptions to the hearsay rule. If a plaintiff or defendant tells a witness something that is different than that party’s testimony before the court, the witness can testify as to what the party told the witness. However, this exception only applies to statements made to the witness by either the plaintiff or the defendant. Statements from a third party made to the witness about what either the defendant or the plaintiff said would still be considered hearsay.

DOCUMENTS

Documentary evidence consists of originals or copies of acts of sale, leases, contracts, etc. Originals or certified copies work best for using a document as evidence. A certified copy is a true copy of the original that is certified by a notary, clerk of court, or other custodians of records. Original documents may be submitted to the court as is, however, if the document is a type of contract, it should be signed by the parties or at least by the party against whom it is being offered as evidence.¹⁷

The document being submitted into evidence must be connected to the case and this may be accomplished by the plaintiff’s or defendant’s own testimony or by that of another witness.

The justice of the peace court will need an explanation on how or why the document relates to the case and sufficient proof that the person who either signed or is tied to the document is the other party in the case.

In the event neither the original nor a certified copy of a document are available, a party may attempt to submit a copy of the document. It will be the burden of the party introducing the document to convince the justice of the peace court that the original or a certified copy were not available. However, it is important to note that a justice of the peace will ultimately decide whether or not the document will be allowed to be entered into evidence.

PHOTOS, CHARTS, DRAWINGS, AND OTHER EXHIBITS

Unlike documents, which are often original papers actually used in the transaction between the parties, these types of exhibits are often created by one party to depict that party’s view of the transaction or occurrence.

A party offering photos, charts, drawings, or other exhibits must explain its relevance to the case before it can be admitted into evidence. Additionally, the other party has the right to examine the exhibit and object to its use in court by explaining the reason for the objection. Ultimately, the justice of the peace will decide if these types of exhibits may be entered into evidence.