

IMPORTANT

It is imperative that you provide the court with your daytime telephone number. You must notify the court of any changes in your telephone number or address. If your address changes within 10-year period following the judgement, you should notify the court of your new address. *THE COURT DOES NOT COLLECT THE JUDGEMENT FOR YOU, NOR CAN THE COURT FORCE THE DEFENDANT TO PAY THE JUDGEMENT.* Should the prevailing party receive any portion of the amount owed after you have received a judgement, it is necessary for you to execute a release of judgement lien or partial release of judgement lien. Fees for filing are payable with cashier's check, money order or credit card. Always keep track of your case number so you can refer to it when calling the court.

RESOURCES

The State Bar of Texas publishes informative pamphlets on variety of issues at:

www.texasbar.com (search pamphlets)

www.texaslashelp.org

or call

1-800-204-222 ext. 2610

The US Department of Justice has a list of free legal service providers available at:

<https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>

The Texas Property Code, the Civil Practice and Remedies Code and Vernon's Civil Statutes can also be found at:

www.capitol.state.tx.us/statutes.html

The Court cannot refer a specific attorney to assist you in your proceedings. Please do not ask.

FILING FEES

FILING FEES - PROPER SERVICE FEE

EVICTON FILING FEE	\$54.00
CONSTABLE SERVICE	\$100.00
WRIT OF ABSTRACT	\$5.00
WRIT OF POSSESSION	\$205.00
WRIT OF EXECUTION	\$205.00

If paying by Cashier's Check or Money Order, please make it payable to:

JUSTICE OF THE PEACE PCT. 2
No cash or personal checks accepted

Texas Statutes are available online @
<http://www.capital.state.tx.us/statutes/statutes.html>

SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA)

If a plaintiff believes the defendant is active military, but does not have personal knowledge of the defendant's military status, the department of defense maintains a secure website where the plaintiff can obtain a status record. This website requires registration of name and address, fax and telephone numbers, email address and mother's maiden name, in order to use the website.

JUSTICE EVICTON PROCEDURES

Blanca S. McBride
Justice of the Peace, Pct. 2

Shelby Mullens -Civil Clerk

[Email: dewittjp2clerk@co.dewitt.tx.us](mailto:dewittjp2clerk@co.dewitt.tx.us)

Stephanie Rohan- Traffic Clerk

[Email: stephanie.rohan@co.dewitt.tx.us](mailto:stephanie.rohan@co.dewitt.tx.us)

P.O Box 336

118 E. Main St.

Yorktown, TX 78164

Tel: 361-564-9410

Fax: 361-564-9476

The information contained in this packet is not offered as legal advice. The information is not - exhaustive. There may be other remedies and procedures not contained in these packets. You should seek professional, licensed, legal counsel for advice. Please read this packet completely before filing your suit. Legal advice an only be obtained from an attorney. The Court Clerk is trained in procedure only and cannot give legal advice. This is for the Clerks protection as well as your own. The following procedural instruction are the only information you will receive from this office. You may need to consult an attorney to protect your interests.

FILING AN EVICTION SUIT

The primary issue in an eviction suit is possession of the property plus costs of court. Only 2 things can be attached to a judgment for possession: A money judgment for unpaid rent, and/or attorney's fees (if applicable)

ATTORNEY REPRESENTATION: When the reason for eviction is something other than nonpayment or hold over, or when the plaintiff is a corporation, if the defendant objects, it may be necessary for the plaintiff to be represented by an attorney. Ignorance of the law or rules of the court is no excuse. These are formal proceedings, The Texas Rules of Civil Procedures, the Rules of Discovery and the Rules of Evidence are in effect.

NOTICE TO THE DEFENDANT: Proper *written* notice to vacate must be given in person, by mail, or by delivery to the premises before a suit is filed. Notice to vacate for non-payment must be given at least three (3) days in advance of filing the suit. In most other cases, notice to vacate must be given at least thirty (30) days in advance.

VENUE: Complaint must be filed in the precinct in which all or part of the property is located.

JURISDICTION: The Court may award possession of property in question, delinquent rent, and attorneys not to exceed \$20,000 plus court costs.

FILING SUIT: The responsibility for filling out your petition rests with you, the plaintiff. If the information is incorrect or not legible, the Judge may dismiss your case and re-file. That requires another filing fee and service fee. Information you need to file a petition:

- a Names: You should remember that all parties signing the lease should be filed on and served with a citation.
- b Tenant's full address, including apartment number and zip code.

- c If the grounds for eviction include NONPAYMENT OF RENT, give the amount of rent due to the date of filing and the date last rental payment was received.
- d If you are suing for some other breach of the lease, state your reason(s) in the appropriate blank. State the date and manner in which WRITEN NOTICE TO VACATE was delivered to the tenant. Include your current mailing address and daytime phone number.
- e The petition must be signed in the presence of the Judge.

PREPARING YOUR CASE FOR TRIAL

After the eviction petition has been filed with the Justice Court, a copy of the citation along with the Eviction Hearing date and time will be provided to you. Please remember that at the time of the trial you must be able to "prove up your lawsuit" even if the defendant does not appear. Be sure to have your lease, a copy of the vacate notice, and payment records available for the Judge in the event he/she asks to see them.

APPEAL: Either party has the right to appeal. Appeals must be processed according to the Rules of Civil Procedures and the Texas Property Code. The timeframe, generally speaking, is five days after the Judgment date. The amount of the surety bond for appeal will be set by the Judge.

IMPORTANT: If grounds for the eviction include nonpayment of rent, a tenant who files any appeal, must pay rent into the court registry. Appeals go to the County Court, where they are heard *DE NOVO* (as though they had never been heard before). After the 5-day period, if no appeal has been filed the judgment becomes final.

IF YOUR ARE SUED FOR EVICTION: The citation delivered to you with a copy of the lawsuit will have the address of the court and will state the trial date and time (14 days from the date of filing). If you have any questions regarding your hearing date, please contact the Court.

JURY REQUEST: If you desire a trial by jury, you must pay a jury *fee* of \$22.00 at least 3 working days prior to trial. Request for a jury trial ordinarily require the trial date to be reset. Jury trials often last several hours longer, and strict rules of procedure apply.

POST-JUDGMENT PROCEDURES

ABSTRACT OF JUDGMENT: The prevailing party may re-appear in Court on or after the 6th day following judgment and apply for an Abstract of Judgment, the cost of an Abstract is \$5.00, and you may obtain the form from the Court. The Abstract may then be filed in the office of the County Clerk in any County where you think the Judgment Debtor may own real property. An Abstract of Judgment is good for 10 years, and is renewable. Credit bureaus gather abstracted information and this information will appear on a person's credit report as an unpaid debt.

WRIT OF POSSESSION: On the 6th day after judgment, if an appeal has not been filed and the defendant is still in possession of the property, the plaintiff may request a Writ of Possession. The cost of a Writ of Possession is \$200.00 and may be obtained at the Court. The Constable will contact the prevailing party and accompany them to the property so that a formal eviction may take place. The Constable will execute the Writ no sooner than 24 hours after posting a written warning. Weather conditions, workload, etc. could impact this time frame. The Constable's duty is to see that the Writ is executed in accordance with the law. The party requesting the Writ is responsible for the physical removal of all property. **WRIT OF EXECUTION:** Prevailing party may re-appear in this court on the 31^o day following judgment and apply for a Writ of Execution. This document authorizes the sheriff or constable to seize any assets classified under the law as non-exempt. Those assets are then auctioned at public sale and the proceeds are applied to the judgment. The cost of the Writ of Execution is \$200.00 and may be obtained at the court. We suggest that you visit with the proper constable or sheriff before the Writ of Execution is issued, because exceptions do apply. The Writ of Execution may be obtained without obtaining an abstract of judgment. Any other post-judgment procedure are quite complicated, and we recommend that you seek sound legal advice.

PETITION: EVICTION CASE

CASE NO. _____ With suit for Rent
In the Justice Court, Precinct 1 Burleson County, Texas

PLAINTIFF _____ VS. Rental Subsidy (if any) \$ _____
DEFENDANT(S): _____ Tenant's Portion
_____ Total monthly rent

COMPLAINT: Plaintiff (landlord) hereby complains of the defendant(s) named above for eviction of plaintiff's premises (including storerooms and parking areas) located in the above precinct. Address of the property is:

Street Address _____ Unit No. _____ City, State and Zip _____

1. SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are: _____

2 UNPAID RENT AS GROUNDS FOR EVICTION: Defendant (s) failed to pay rent for the following time period(s) _____. **TOTAL DELINQUENT RENT AS OF DATE OF FILING IS\$ _____**
Plaintiff reserves the right to orally amend the amount at trial to include rent due from the date of filing through the date of trial.

OTHER GROUNDS FOR EVICTION / LEASE VIOLATIONS: Lease violations (if other than non-paid rent-list lease violation) _____

3. HOLDOVER AS GROUNDS FOR EVICTION: Defendant(s) are unlawfully holding over since they failed to vacate at the end of the rental term or renewal of extension period, which was the ____ day of _____, 20____

0. NOTICE TO VACATE: Plaintiff has given defendant(s) a written notice to vacate (addording to Chaper 24.005 of the Texas Property Code) and demand for possession. Such notice was delivered on the ____ day of _____, 20____ and delivered by this method: _____

4. ATTORNEY'S FEES: Plaintiff _____ WILL be or _____ will NOT be seeking applicable attorney fees. Attorney's name, address, and phone and fax numbers are: _____

5. BOND FOR POSSESSION: If plaintiff has filed a bond for possession, Plaintiff requests, (1) that the amount of plaintiff's bond and defendant's counter bond be set, (2) that plaintiff's bond be approved by the Court, and (3) that proper notices as requires as required by the Texas Justice Court Rules are given to Defendant(s).

REQUEST FOR JUDGMENT: Plaintiff prays that defendant(s) be served with citation and that plaintiff have judgment against defendant(s) for: possession of premises, including removal of defendants and defendant's possessions from the premises, unpaid rent if set forth above, attorney's fee, court cost and interest on the above sums at the rate stated in the rental contract, or if not stated, at the statutory rate for judgments under Civil Statutes Article 5069-1.05,

Petitioner's Printed Name

Signature of Plaintiff or Agent

DEFENDANT(S) INFORMATION (if known)

Address of Plaintiff or Agent

Date of Birth

City, State and Zip

Last 3_ number of Driver License

Last 3 numbers of Social Security

Defendant's Phone Number

Phone or Fax of Plaintiff

Sworn to and subscribed before_ me this ____ day of _____, 20____

CLERK OF THE COURT

AFFIDAVIT (SECTION 201, (b))

Plaintiff being duly sworn on oath deposes and says that Defendant(s)

- is not in the military.
- not on active duty in the military and/or
- not in a foreign Country on military service
- is on active military duty and/or is subject to the Service Members Civil Relief Act of 2003
- Defendant has waived his/her rights under the Service Members Civil Relief Act of 2003

0 military status is unknown at this time.

PLAINTIFF

Subscribed and sworn to me on this the _____ day of _____, 20____

Notary Public and/or Court Clerk

PENALTY FOR MAKING OR USING FALSE AFFIDAVIT- A PERSON WHO MAKES OR USES AN AFFIDAVIT KNOWING IT TO BE FALSE, SHALL BE FINED AS PROVIDED IN TITLE 18 UNITED STATES CODE, OR IMPRISONED FOR NOT MORE THAN ONE YEAR, OR BOTH