

EVICTIION INSTRUCTIONS – PLEASE READ CAREFULLY

You are strongly encouraged to read the Texas Rules of Civil Procedure and the Texas Property Code, Chapters 24 and 92. There is important information in the rules that apply to eviction cases.

1. **Evictions must be filed in the proper Justice of the Peace Court:** Chapter 24 of the Texas Property Code requires that an eviction suit **MUST** be filed in the county and precinct where the property is located. If an eviction suit is not filed in the appropriate precinct, the case will be dismissed. You **WILL NOT** be entitled to a refund of filing fees.
2. **By law, you must give a NOTICE TO VACATE before you can file an EVICTION SUIT.** The NOTICE TO VACATE comply with section 24.005 of the Texas Property Code, which is found at <http://www.statutes.legis.state.tx.us/Search.aspx>. A defective NOTICE TO VACATE can result in DISMISSAL of your eviction.
3. **The military SCRA form is REQUIRED WHEN FILING A CASE: There is NEVER a fee for using this website: Official Department of Defense Service Members Civil Relief Act (website):** <https://scra.dmdc.osd.mil>
4. **MOBILE HOME CASES:** Texas Law contains specific rules regarding Mobile Homes. You can locate these laws on the Texas Property Code website, <http://statutes.legis.state.tx.us/Docs/PR/htm/PR.94.htm>
5. **FILING FEE AND SERVICE FEE: The filing fee to file an eviction is \$54.00. The fee for service of the citation is \$100.00 for each defendant (persons on the lease).** Cash, cashier checks, local checks, and money orders are accepted; however, cash must be in the exact amount.
6. **ATTORNEY'S FEES:** to be eligible to recover attorney's fees in an eviction suit, a notice to vacate must be served by a process service, personally with a witness, or by return receipt requested by certified mail ten days prior to the date the suit is filed.
7. **WHO MAY FILE:** The owner or the owner's agent may file any type of forcible detainer suit, and he may represent the owner in the hearing.
8. **PROCEDURES AFTER FILING:** At the time the suit is filed, a hearing date will be set at least 10 days out but no more than 21 days from the filing date. A citation will be issued to the Constable's Office to be served on the tenant(s) giving them the date and time of the hearing.
9. **THE HEARING:** You or your representative are required to appear personally for the hearing. Proper representation is essential. At the court hearing, both sides will have the right to present their side of the case, including witnesses, receipts, cancelled checks, photographs, and all other evidence. The burden of proof lies with you as the plaintiff. You must show the Court good and sufficient evidence proving your right to regain possession of the property. You must still prove your case even if the defendant fails to appear.

10. **JUDGMENT:** At the hearing, a judgment will be rendered for either the plaintiff or the defendant. A judgment for the plaintiff may be for all or part of the initial claim. If you are awarded a judgment for possession of the premises and/or any back rent owed, there is a 5-day appeal period in which the defendant may appeal the decision to the County Court. If the defendant has not appealed the case at the end of the appeal period, the judgment becomes final.

11. **LEGAL ADVICE:** This office cannot give legal advice. We can, however, give procedural information. If you need legal advice, please visit the following websites:

a. www.texasbar.com

b. www.texaslawhelp.org

c. www.tjctc.org/SRL

d. Legal Aid – 800-906-3054

Every Eviction Suit must include these documents:

- Sworn Complaint for Eviction (Petition)
- Service Members Civil Relief Act Affidavit
- Notice to vacate

WRIT OF POSSESSION

This instrument directs the Constable or Sheriff to take possession of the property and turn it over to you. A Writ of Possession is \$130.00, after fees are paid in full, the Writ will be turned over to the appropriate Constable or Sheriff for execution of service.