

## **HOW TO FILE AN EVICTION SUIT IN THE JUSTICE OF THE PEACE COURT**

### **JURISDICTION:**

An eviction case is a lawsuit to recover possession of real property under Chapter 24 of the Texas Property Code, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 Party V of the Rules of Civil Procedure.

**PLAINTIFF OR AGENT:** Is the landlord or representative of the owner.

**DEFENDANT OR TENANT:** Is the person occupying the rental property.

**COURT COST:** Filing and service \$144.00 (\$54.00 & \$90.00)

**VENUE:** An eviction suit must be filed in the County and Precinct where the Defendant resides. (No exceptions)

### **GENERAL:**

- A. Eviction suits cannot be filed in the Justice Court unless there is a landlord-tenant relationship, either expressed or implied.
- B. The law requires that, prior to filing the case, the landlord must give the tenant a written demand to vacate the premises. This notice must be hand delivered to someone at the premises over 16 years of age, or affixed to the inside or outside of the main entry door, or mailed by U. S. certified mail. **(If the tenant contests the eviction in Court the burden is on the landlord to prove that the proper notice to vacate was given.)**
- C. If the reason for eviction is because the tenant did not pay rent or violated the lease in some other way justifying eviction, the law requires the notice state the reason for eviction. If there is a written lease contract then the lease must be followed for the time period allotted in the lease. The eviction case should not be filed until the notice time has expired.
- D. If there is a written lease contract signed by 2 or more tenants, all of the tenants should be named and served with a citation.

## **FILING & PROCESS OF EVICTION SUIT:**

The **responsibility for filling out your petition and civil case information sheet rests with you**. Court clerks will assist you if you have *procedural questions*.

- A. Original Eviction Petition, and Military Status Affidavit Servicemembers Civil Relief Act Sec. 201(b) will be needed for filing. **If filing by mail, the Military Status Affidavit Servicemembers Civil Relief Act signature will need to be notarized.**

**Instructions:** The Servicemembers Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in the military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require plaintiff to file a bond in an amount approved by the court. A person who makes or uses an affidavit under this Act knowing it to be false, may be fined or imprisoned or both. 50 U.S.C. App. 501 et seq. To obtain certificates of service or non-service under the Servicemembers Civil Relief Act, you may access the public website: <https://scra.dmdc.osd.mil/scra/#/home>. This website will provide the current active military status of an individual

- B. Once the petition is filed and filing fee accepted, the clerk of the Court will issue a citation and give it to the Constable for service.
- C. When the Constable receives the citation from the clerk he will attempt to serve the Defendant(s). A hearing date will be set at the time of filing. Hearing dates are calculated 14 days after **filing date** of the Original Eviction Petition. Hearings are usually at 10:00 AM.
- D. On the Court date it will be the Plaintiff's responsibility to prove their case against the Defendant.

## **HEARING:**

- A. If the Defendant shows for Court and the Judge renders Judgment for the Plaintiff, the Defendant has 5 days to file an Appeal.
- B. If the Defendant does not show for Court, a Default Judgment could be rendered against them. The Defendant has 5 days to file an Appeal.
- C. If the Defendant has not vacated the property or filed an Appeal bond after the expiration of 5 days from the date of judgment, the Plaintiff can ask for a Writ of Possession.
- D. When a Writ of Possession is issued the Constable will contact the Plaintiff and work out a date to turn over the property to the landlord. It will be the Plaintiff's responsibility to remove any items of the Defendant's off the premises. The Constable acts only as an observer.

**PLEASE CONTACT THE APPROPRIATE COURT TO RECEIVE INFORMATION  
PERTAINING TO YOUR SUIT FILED IN THEIR COURT.**

**JUDGE B. H. JAMESON, PCT 1**  
101 EAST METHVIN ST., SUITE 512  
LONGVIEW, TX 75601  
(903) 236-8470

**JUDGE BRUCE DALME, PCT 3**  
622 KAY ST  
KILGORE, TX 75662  
(903)-845-2672

**JUDGE TIM BRYAN, PCT 2**  
3211 WEST MARSHALL AVE  
LONGVIEW, TX 75604  
(903) 237-2636

**JUDGE ROBBY COX, PCT 4**  
2131 S. EASTMAN ROAD  
LONGVIEW, TX 75602  
(903) 758-6342