

INFORMATION ABOUT EVICTION CASES

This handout is to provide you with a basic information outline of eviction cases in Nueces County, Texas. Nueces County Justice of the Peace and the Clerks of the Justice Court are **NOT** allowed to give legal advice. You may review the law and/or consult an attorney of your choice for further information or answers to legal questions.

An eviction must be filed in the Justice Court precinct where the property is located. You may contact Voters Registration or go to the website www.co.nueces.tx.us/countyclerk/elections/clerks/local_juris.html to find out which precinct the property address follows under. Texas Property Code, Sec. 24.005 sets out the notice requirements for eviction suits (unless the notice requirements are stated in the signed lease).

When filing a suit for eviction, the complaint must be made under oath. This lawsuit for eviction must state the specific reasons why the tenant must leave. The landlord can also sue for rent, as long as the amount of rent due does not exceed \$10,000.00. The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you only with procedural questions.

When filing, the landlord should bring the following:

1. A *copy* of the lease (if you have one);
2. A *copy* of the notice to vacate;
3. **\$116.00 for filing and service fees on one person (additional service is \$75.00 per person).**

Generally, all parties named in the lease should be sued and served with citation in the eviction proceeding. Any judgment granted will be against those who are specifically named and served.

The owner's agent may file any type of eviction suit and may represent the owner at any default judgment hearing. If the case is contested an agent may represent either party if the case involves non-payment of rent or holding over. The parties or their attorneys must try all other types of evictions if the case is contested.

An Immediate Possession Bond can speed the evictions process. A minimum of \$1,000.00 cash or affidavit of surety bond must be filed with the Court. Ask the civil clerk for details.

At the time of filing the complaint, the Court Clerk will issue a receipt for the fee with the case number and a date and time to appear for trial. A court date will be set between 10 – 21 calendar days. Please refer to your case number when communicating with the court regarding your case. A citation will be issued immediately to the Defendant(s) commanding him/her to appear before the Justice of the Peace. A copy of your complaint will be attached to the citation and will be served upon the Defendant by the Constable's office. Either the landlord or tenant may submit a written request to delay the trial. If the Court grants postponement, the trial may not be postponed for more than 7 days unless both parties are in agreement and submit this to the Court in writing. Any party may put a request in writing for a jury trial at least 3 days before the trial date and by paying the \$22.00 jury fee.

At the court proceeding, some rules of courtroom decorum apply. The parties should not appear in shorts or tank tops. Comments should be directed to the Judge, not the opposing party. Do not argue with the Judge or the opposing party. Do not present the case leaning over the Judge's bench. Be organized and prepare your testimony and arguments before trial. At the conclusion of the evidence, the Judge will rule from the bench and give both parties a copy of the judgment.

There is no motion for new trial in an eviction proceeding. Either party may appeal and has 5 calendar days to appeal the judgment by filing an Appeal Bond (cash bond, surety bond, or affidavit of inability to pay) with the Justice Court. If judgment is rendered against the tenant, the tenant has five days from the date of the judgment to move from the premises or appeal the case to county court. If an appeal is filed with an affidavit of inability

to pay costs and the tenant was being evicted for non-payment of rent, a written notice will be given to the tenant with all the information for depositing rent money into the Court registry. In **addition** to filing an appeal bond, a transcript fee of \$10.00 will be charged for appeals.

If the tenant does not move out or appeal the case by the end of the five day period, the landlord may request a Writ of Possession on the sixth day. The Writ of Possession costs \$165.00 and allows the Constable to oversee the move-out of the Defendant(s) out of the leased premises, and see that no breach of the peace is violated. Questions involving the execution of the writ should be directed to the Constable of Precinct 1 at 888-0503. A writ of possession may not issue more than 60 days after a judgment is signed by the JP.

Often the Plaintiff will find it difficult to collect their judgment on past rent due. Please ask to see our Post Judgment remedies in office or go online to www.co.nueces.tx.us/courts/jp/jp1-2 to find out how to try and collect the judgment.

As a matter of law, the Clerks of the Court and the Justice of the Peace are prohibited from giving legal advice or discussing any material fact of the lawsuit with a litigant. If you have any further questions, please seek the advice of an attorney.

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