

# EVICTION CASES

It is your responsibility to prepare ALL eviction forms completely when filing an eviction suit if you choose not to hire an attorney. Our office will supply you with this packet, however we cannot give you any legal advice. Also, the Judge cannot discuss the case with you prior to the hearing.

**WHERE TO FILE:** An eviction suit MUST be filed in the Justice Court precinct where the rental property is located; otherwise, the Judge must dismiss the case. Filing fee is \$46.00 and service fee for EACH Defendant is \$85.00. **If paying by cash, please bring the exact amount due.**

**NOTICE TO VACATE:** The law requires that prior to filing the eviction suit, the landlord must give the tenant a 72 hour written notice to vacate the premises, unless there is a lease that states differently. Delivery of the notice to vacate must be done by one of the following methods:

- A. Handed to a tenant in person, or to anyone living at the premises who is at least 16 years of age.
- B. Attached securely to the inside or outside of the main entry door.
- C. Notice may be by certified mail, return receipt requested.

**The eviction case cannot be filed until the notice time has expired.**

**WHO TO SUE:** If the eviction is based on a written residential lease, the plaintiff must name as defendants **all** tenants obligated under the lease residing at the premises whom plaintiff seeks to evict.

**THE HEARING:** You are required to appear personally for the hearing. A hearing will be set no less than 10 days and no more than 21 days after petition is filed. Proper representation is essential. At the hearing both sides will have the right to present their side of the case. You will need to bring with you all evidence pertaining to the case. The burden of proof lies with you as 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.

**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 five (5) day appeal period in which the defendant may appeal the decision of the court. If the defendant has not appealed the case at the end of the appeal period, judgment becomes final. Upon final judgment you may then file for a Writ of Possession.

**WRIT OF POSSESSION:** You must pay the filing/service fee of \$155.00 to the Judge's office when requesting a Writ of Possession. The Writ of Possession shall not be issued until the expiration of five (5) days from the date the judgment is signed. Any questions concerning this Writ should be directed to the Constable.

**APPEAL:** There is no Motion for New Trial remedy after an eviction case. Either party may appeal from a judgment in such case to the county court of the county in which the judgment is rendered by filing with the Justice Court the documents required by Statute(s) within five (5) days after the judgment is signed.

Laws governing eviction procedures can be found in Section 24 of the Texas Property Code and Part V of the Texas Rules of Civil Procedure.

**ALL PAGES MUST BE COMPLETELY FILLED OUT WHEN FILING SUIT WITH THE COURT.**