

FORCIBLE ENTRY DETAINER INFORMATION

Please understand that it is improper for the judge or any of his court staff to give any person advice that could be deemed legal advice or steer a person to a legal conclusion.

As a matter of law [*ex-parte communication*] - the judge is unable to speak to any person filing a law suit [or answering a law suit].

In Justice Court, the pleadings shall be oral, unless otherwise required by law or rules of court. [Rule 525, T.R.C.P.]

During your trial, you should not assume anything. When you present evidence in your case you should realize that the Judge does not pre-read your law suit, therefore start presenting evidence realizing that the Court has no knowledge of your case facts. If you filed this cause of action – you have the entire burden of proof. The court will not be put in a position to be a polygraph. The decision will be made entirely on the evidence that is admitted during the trial.

These instructions are written in attempt to answer some of the most commonly asked questions. They do not answer all questions. You may find more information by reading chapter 28 of the Texas Government Code, the Justice Court Rules in the Texas Rules of Court and in the Texas Civil Practice and Remedies Code.

WHAT COURT SHOULD I FILE MY EVICTION - VENUE

The eviction process is a statutory remedy that provides a quick, simple and inexpensive method of determining who is entitled to the possession of real property.

A justice court in which the real property is located has jurisdiction in eviction suits. Suits for eviction are subject to mandatory venue and must be brought in the county and precinct in which all or part of the premises is located. [24.004, V.A.Pr.C.]

DO I HAVE TO NOTIFY THE PERSON I AM EVICTING

The *notice to vacate* shall be given in person or by mail at the premises in question, by personal delivery, notice by mail, or posting to the main entry door. [24.005, V.A.Pr.C.]

HOW LONG DO I HAVE TO WAIT BEFORE I CAN FILE THE EVICTION

The landlord must wait 3 days after the *notice to vacate* is served before filing the eviction.

HOW MUCH DOES IT COST – COURT COST:

The cost for filing a forcible entry detainer in Collin County is \$31.00. The person you are suing has to be notified of the law suit; therefore you will pay an additional cost for that notification. It is called the “Service Fee”. That cost is \$75.00

WHO DO I SUE – DEFENDANT/RESPONDANT

It is the responsibility of the Plaintiff [person filing the suit] that you file the law suit naming the defendant [person being sued] in their proper legal capacity. There are typically three:

PERSONALLY - Where an individual is responsible to you for damage he/she may have caused you as an individual.

PROPRIETOR OR PARTNERSHIP - A business that is not incorporated but does not have [on file with the County Clerk] an assumed name.

CORPORATION - The business which has allegedly caused you damage is incorporated and therefore it is necessary to know the individual’s name that is able to accept service on behalf of the corporation.

FILLING OUT THE PETITION – STATEMENT OF CLAIM

Describe why you are filing the law suit. It should be written so the reader knows [from your brief narrative] what happened. This is where the defendant will get the information about the law suit also. If you do not clearly state your cause of action, the defendant will not be able to respond thus causing un-needed delays.

THE DEFENDANT GETS SERVED – SERVICE

Your petition will be attached to the citation and then given to the defendant. The citation will order the defendant to answer to the law suit on the Monday following 10 days from receipt of the citation. If the defendant answers the law suit, the Court will notify all parties of a court date by mail. If the defendant does not answer, the Court may render a default judgment [plaintiff wins the suit because the defendant did not answer] and both parties will be notified by mail of that ruling.

WHAT IF I HAVE WITNESSES – SUBPOENA’S

If you have a witness to your suit who will not come to court voluntarily, you may ask the court for a subpoena. The cost in Collin County for a subpoena is \$80.00. This fee varies from county to county. Notarized statements from individuals may not be admissible as evidence.

DO I NEED AN ATTORNEY

The court finds that most people choose to represent themselves in a justice claim law suit. You may however choose to hire an attorney. The defendant has the same right.

IF I WIN THE LAW SUIT HOW DO I GET MY MONEY - POST JUDGEMENT REMEDY’S

This court does not collect the judgment for you. The defendant pays the judgment directly to you with-in 10 after judgment.

WHAT HAPPENES IF I DO NOT GET PAID

If the defendant does not pay in the time allotted by law you may have options to collect the judgment. Some of those options include an, “Abstract of Judgment” or a, “Writ of Execution”.

AN ABSTRACT OF JUDGMENT can be obtained 10 days after the date of judgment and puts a lien on certain real estate owned by the Defendant. The document produced in our office. The fee for the document is \$5.00. Once received, the Abstract must be filed with the County Clerk’s office (in the county of your choice).

WRIT OF EXECUTION may be obtained 30 days after the date of judgment. This document authorizes the constable to seize not exempt property from the defendant. That property can be sold for moneys to satisfy the judgment. The cost for the Writ of Execution is \$175.00 [if served in Collin County]. This fee varies from county to county.

Once again this instruction page was produced as a courtesy to you. We attempted to answer most of the frequently asked questions relating to a Justice Court Law Suit.

Remember, the responsibility you have when filing a law suit on someone never shifts to the court. You have the burden to sue the proper person – provide the proper address – pay the proper fees and submit the proper evidence.

At no time is it proper for the Court to give you advise – if after reading this form, you still have questions, **CALL AN ATTORNEY – DO NOT CALL THE COURT.**