

## **STEPS FOR FILING AN EVICTION SUIT IN JUSTICE COURT**

**WHERE TO FILE:** An eviction suit must be filed in the county and precinct in which the rental property is located.

**NOTICE TO VACATE:** The notice to vacate must be in writing and must state an **UNCONDITIONAL DEMAND** for the property. It must state the reason for demand and give a specific date by which the tenant must vacate the property. The notice must be signed by the landlord or his agent, and it must include the date and time of delivery. The notice to vacate may be hand delivered to the tenant at the address of the property demanded, or it may be mailed to the tenant's address.

**TIME REQUIREMENTS:** Unless there is a written agreement between the parties regulating the notice requirements, the landlord must give the tenant at least three (3) days' notice to vacate in cases pertaining to non-payment of rent or holdover. Section 24.005 of the Texas Property Code sets out the notice requirements for eviction suits.

**FILING AN EVICTION SUIT:** If the tenant does not vacate the property by the date given in the notice, you may then file an eviction suit. To file the suit, you will need to bring the following information to the Judge's office:

1. Date the defendant took possession of the property (moved in)
2. Date the Notice to Vacate was given
3. One hundred six dollars (**\$106.00**) fee for filing and service on one person.  
Additional service is \$75.00 per person.

**WHO MAY FILE:** The owner's agent may file any type of eviction suit, and he may represent the owner in any default hearing. The owner's agent may represent the owner in court only in cases of non-payment of rent and holding over. All other types of eviction suits, if contested, must be represented by the owner himself or by the owner's attorney.

**JOINING A SUIT FOR RENT:** A suit for rent may be joined with the eviction suit if the amount due is within the jurisdiction of the Justice Court (\$10,000.00). Any damages or other charges may not be included in this action; however, the owner or owner's attorney may file suit for these amounts in a separate action filed in either Justice Court or Small Claims Court.

**PROCEDURES AFTER FILING:** At the time the suit is filed, a hearing date will be set approximately ten days after the filing date. A citation will be issued to the Wichita County Constable's office to be served on the tenant giving him the date and time of the hearing.

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**THE HEARING:** You are required to appear personally for the hearing. Proper representation is essential. You will need to bring with you all the evidence pertaining to the case. The burden of proof lies with you as a 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 FOR THE HEARING.**

**JUDGMENT:** At the hearing, a judgment will be rendered for either the plaintiff or for 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 for any back rent owed, there is a five-day appeal period in which the defendant may appeal the decision of the Court. If the defendant has not appealed the case nor moved from the premises at the expiration of this appeal period, you may then file a Writ of Possession.

**WRIT OF POSSESSION:** You must pay a **\$155.00** filing/service fee to the Judge's office. A Writ of Possession will be issued to the Constable's office. This instrument directs the Constable to take possession of the property and return it to you. Your telephone number will be given to them, and you will be contacted. Any questions concerning this writ should be directed to the Constable's office.

IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO CONTACT OUR OFFICE. **REMEMBER - THE JUDGE CANNOT DISCUSS THIS CASE WITH YOU PRIOR TO THE HEARING;** HOWEVER, THE CIVIL CLERK WILL BE HAPPY TO ASSIST YOU WITH CLARIFYING PROCEDURES. **SHE CANNOT GIVE YOU LEGAL ADVICE.**

**NOTE: PERSONAL CHECKS CANNOT BE ACCEPTED. IF PAYING BY CASH, BRING EXACT AMOUNT DUE.**

JUDGE JANICE RALSTON SONS  
Justice of the Peace, Precinct 1, Place 1  
Wichita County courthouse  
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Wichita Falls, Texas 76301  
(940) 766-8141  
(940) 766-8282 FAX