

**JUDGE JAMES N. BALDWIN
JUSTICE OF THE PEACE PCT. 1
BURLESON COUNTY
PO Box 136 Deansville, Texas 77852
(979) 535-4761 Office
(979) 535-7344 Fax**

Eviction: An eviction is a lawsuit brought to recover possessions of real property, 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 rent does not exceed \$20,000.00, excluding statutory interest and court costs, but including attorney fees, if any.

IMPORTANT NOTICE:

APPROPRIATE COURTROOM ATTIRE IS REQUIRED. All persons entering the courtroom shall be dressed in clothing reasonably befitting the dignity and solemnity of the court proceedings. No shorts, tank tops, flip flops, hats, etc. Cell phones and other electronics **MUST BE TURNED OFF** when in the courtroom. Food and drink is **NOT ALLOWED** in the courtroom.

PLEASE READ CAREFULLY BEFORE FILING THE PETITION

THE FOLLOWING INFORMATION IS FURNISHED TO YOU AS A COURTESY OF THE JUSTICE OF THE PEACE OFFICE. THE COURT CANNOT ADVISE YOU WHAT YOU SHOULD DO AND ARE BARRED BY LAW FROM GIVING YOU LEGAL ADVICE.

PLEASE NOTE: YOU MUST HAVE COPIES FOR THE COURT'S FILE OF ANY DOCUMENTS YOU INTEND TO SUBMIT TO THE COURT AS EVIDENCE.

Notice to Vacate: If the occupant is a tenant under a written lease or oral rental agreement, the landlord **MUST** give at least 3 day's written notice to vacate the premises before the landlord files an eviction, unless the parties have contracted for a shorter or longer period of time in a written lease or agreement.

The notice to vacate shall be given in person, by mail, or by affixing the notice to the inside of the main entry door and must be unconditional. Notice by mail may be by regular mail, registered mail, or by certified mail, return receipt requested, to the premises in question.

If the dwelling has no mailbox, keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises, the landlord may securely affix the notice on the outside of the main entry door.

Where to File: You must file your lawsuit in the Justice of the Peace in the Precinct that your property is located. **It is your job to find out what precinct your property is located in.**

Filing Petition with the Court: Eviction suits **MUST** be filed in the precinct and county where the property is located.

If the eviction is based on a written residential lease, the plaintiff must name as defendant(s) **ALL** tenants obligated under the lease residing at the premises whom the plaintiff seeks to evict.

No judgment or writ of possession may be issued or executed against a tenant obligated under a lease and residing at the premises who is not named in the petition.

Upon filing, you will be required to pay the filing and service fee of **\$154.00 for ONE defendant**. Payable in cash (exact amount), cashier's check, money order or credit card. **Each additional defendant is \$100.00**. The court will then immediately issue a citation and give to the Constable for service. Trial must be held 10-21 days from the date the petition is filed and cannot be held less than 6 days after service.

At Trial: The plaintiff is responsible for proving his or her right to possession of the premises and, if a claim for unpaid rent has been made, the amount of unpaid rent. Proof may include a copy of the lease, a copy of the notice to vacate, and payment records. The amount of pure rent due through the date of trial will need to be calculated (no utilities or late charges are allowed in claims for unpaid rent.)

Judgment: This court must adjudicate the right to actual possession and not title.

Writ of Possession: A Writ of Possession may be issued on the **6th day AFTER** judgment provided an appeal is not properly filed. A writ may not be issued more than **60 days AFTER** a judgment is signed unless good cause is shown. A writ may not be executed after the **90th day AFTER** a judgment for possession is signed. **The fee for this is \$200.00**

Appeal: A party may appeal a judgment in an eviction case by filing a bond, making a cash deposit, or filing a sworn statement of inability to pay. This must be done within **5 days AFTER** the judgment is signed. The Judge will set the amount of bond or cash deposit. The bond/cash deposit must be payable to the appellee and must be conditioned on the appellant's prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal.

An appellant who can't furnish a bond or pay a cash deposit in the amount required may instead file a Sworn Statement of Inability to Pay (SSIP)

The statement may be contested within **5 days AFTER** the opposing party receives notice the statement was filed.

The Court must provide to the defendant a written notice at the time is SSIP is filed, stating that rent is required to be posted into the justice court, the method by which deposit is required, the day the deposit is required which **MUST be within 5 days** of the date the SSIP is filed and a statement that failure to pay the required amount may result in the court issuing a Writ of Possession without a hearing.

Demand for a Jury: Demand for Jury can be made by either party, must be made at least **3 days BEFORE** trial and requires a jury fee of **\$22.00** or by filing a Sworn Statement of Inability to pay the jury fee.

No motion for new trial may be filed in an eviction case.

No counterclaims are permitted in an eviction case.

Why Can't I Talk to the Judge?

"Ex Parte" Contact with the Judge is Not Allowed

What is an "ex parte communication"?

"*Ex parte*" is a Latin phrase meaning "on one side only; by or for one party." An *ex parte* communication occurs when a party to a case, or someone involved with a party, talks or writes to or otherwise communicates directly with the judge about the issues in the case without the other parties' knowledge. Under the Texas Code of Judicial Conduct, judges may not permit or consider "*ex parte* communications" in deciding a case unless expressly allowed by law. This ban helps judges decide cases fairly since their decisions are based only on the evidence and arguments presented to the court and the applicable law. It also preserves public trust in the legal and court system.

What is a "party"?

"Party" refers to any person or organization who sues or is sued. In a civil case, the party who initiates the lawsuit is called the plaintiff (or, sometimes, the petitioner or complainant). In a criminal case, it is the State of Texas that initiates the criminal action.

Why are judges not allowed to consider ex parte communications?

Would you like it if the judge spoke to the other parties about your case without your knowledge? Probably not! What if the judge allowed the officer to come in and chat about your ticket and the officer asked the Judge to "give it to you good because you had an attitude"! The rule banning *ex parte* communications ensures that the court process is fair and that all parties have the same information as the judge who will be deciding the case. When all parties have the same information, a party who disagrees with the information can contest it in court.

What if I want to tell the judge something about my case?

If you want to tell the judge about your case or ask the judge to take a certain action in your case, you should file a written motion with the clerk of the court in which your case was filed explaining what relief you are seeking and why you are entitled to that relief. ("Relief means what you are asking the court to do.)

Make sure you attach the appropriate documentation showing that a copy of the motion was served on all the other parties and explaining how (e.g. by personal delivery, or mail, postage prepaid) and when service was made. Usually, the judge will schedule a hearing. During the hearing, you will have the opportunity to explain your position to the judge in court. Judges must make their decisions based only on the relevant facts or issues of the case and the applicable laws. Therefore, please be sure that the facts or issues that you plan to tell the judge about are relevant to your case. This helps ensure that your case will proceed more quickly.

If you send a letter or other document directly to the judge without providing a copy of it to every other party on your case (or the party's attorney, if the party has an attorney), the judge or court staff will be required to notify all parties (*or their attorneys*) about your communication so the other parties can respond to it. This is called "disclosure" and helps to ensure that your case is handled fairly. You may also cause your case to be delayed or even dismissed. Also, the court may "strike" (delete or ignore) any evidence affected by your *ex parte* communication.

Can I ask the judge to keep information I share in a letter or document confidential?

No. Sometimes people will send a letter or document to the judge and ask the judge not to tell the other party. Although you may have information that you want the judge to know about and keep in confidence, the judge is still required to disclose any *ex parte* communications to all parties.

Can I ever communicate directly with the court?

Yes. Certain *ex parte* communications to a judge or court personnel are allowed by law. For example, if you are contesting a citation (commonly called a "ticket") for a traffic infraction, the law allows you to submit a written explanation directly to the court. Also, communications regarding case scheduling or status are allowed.

Is there anything I can do if I disagree with the judge's decision in my case?

If you believe the judge made the wrong decision in your case, you may have the right to file an "appeal," asking an "appellate court" to review the decision the judge made in your case.

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§ IN THE JUSTICE COURT
§
§
§ PRECINCT NO. 1
§
§
§ BURLESON COUNTY, TEXAS

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following Defendant(s) _____
_____ for eviction of Plaintiffs premises (including
storerooms and parking areas) located in the above precinct. The address of the property is:

Street Address Unit No. (if any) City State Zip

GROUND FOR EVICTION: Plaintiff alleges the following grounds for eviction:

- Unpaid rent.** Defendant(s) failed to pay rent for the following time period(s): _____ . The amount of rent claimed as of the date of filing is: \$ _____ Plaintiff reserves the right to orally amend the amount at trial to include rent due from the date of filing through the date of trial.
- Other lease violations.** Defendant(s) breached the terms of the lease (other than by failing to pay rent) as follows: _____
- Holdover.** Defendant(s) are unlawfully holding over by failing to vacate at the end of the rental term or renewal of extension period, which was the ___ day of _____ 20____.

NOTICE TO VACATE: Plaintiff has given Defendant(s) a written notice to vacate (according to Chapter 24.005 of the Texas Property Code) and demand for possession. Such notice was delivered on the ___ day of _____, 20__ by this method: _____

SUIT FOR RENT: Plaintiff does or does not include a suit for unpaid rent.

ATTORNEY'S FEES: Plaintiff will be or will not be seeking applicable attorney's fees. The attorney's name, address, phone and fax numbers are: _____

IMMEDIATE POSSESSION BOND: If Plaintiff has filed a bond for immediate possession, Plaintiff requests that: (1) the Court set the amount of the bond; (2) the Court approve the

bond; and (3) proper notices, as required by the Texas Rules of Civil Procedure, are given to Defendant(s).

SERVICE OF CITATION: Service is requested on Defendant(s) by: personal service at home or work, or by delivery to a person over the age of 16 years at Defendant's usual place of residence. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other home or work addresses where Defendant(s) may be served are: _____

Plaintiff knows of no other home or work addresses of Defendant(s) in this county.

RELIEF: Plaintiff requests that Defendant(s) is served with the citation and that Plaintiff is awarded a judgment against Defendant(s) for possession of the premises, including removal of Defendant(s) and Defendant's possessions from the premises, unpaid rent, if set forth above, attorney's fees, court costs, and interest on the above sums at the rate stated in the lease, or if not so stated, at the statutory rate for judgments.

I hereby request a jury trial. The fee is \$22 and must be paid at least 3 days before trial.

I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows: _____

Plaintiffs Printed Name

Signature of Plaintiff or Agent or Attorney

Defendant's Information (if known):

Date of birth: _____

Address of Plaintiff or Agent or Attorney

Last three digits of Driver License: _____

Last three digits of Soc. Sec. No: _____

Phone No.: _____

City State Zip

Phone & Fax No. of Plaintiff
or Agent or Attorney

SWORN TO AND SUBSCRIBED before me this
_____ day of _____, 20__

CLERK OF THE JUSTICE COURT OR NOTARY

Case No. _____

Plaintiff

§ In the Justice Court, Pct. 1
§
Burleson County, Texas

VS. §
§

Defendant §

NON-MILITARY AFFIDAVIT

Service-members Civil Relief Act

Plaintiff being duly sworn on oath deposes* and says that Defendant(s) is (are)

(CHECK ONE)

- Not in the military
- Not on active duty in the military and/or
- Not in a foreign country on military service
- On active military duty and/or is subject to the Service-members Civil Relief Act of 2003
- Has waived his/her rights under the Service-members Civil Relief Act of 2003
- Military status is unknown at this time

PLAINTIFF

Subscribed and sworn to, before me on this the ____ date of _____ 20__

NOTARY PUBLIC/CLERK OF THE COURT

***Penalty for making or using false affidavit - a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year or both.**

Jason Muzny
Burleson County Constable, Pct. 1

Additional Civil Process Information

Cause Number:

In order to expedite service and for the safety of our Deputies, we ask that you answer the following questions to the best of your ability.

1. Have you witnessed any abnormal behavior?

2. Have you known, or known of, the Defendant being violent with anyone?

3. Have you been verbally or physically assaulted by the Defendant?

4. Known of an occasion where the Defendant has, or brandishes a weapon of any kind?
(Please note what type of weapon)

5. Does the Defendant have any dogs known to be aggressive?

6. Are you aware of any mental or emotional issues that the Defendant may have?

7. Are you aware of any police related calls regarding the Defendant?

8. Are there any other issues you think might be important for the Deputies to know?