

EVICTION INSTRUCTIONS (PLEASE READ CAREFULLY)

You are strongly encouraged to read the new Rules of Civil Procedure. There are numerous changes to the eviction laws, such as Bond for Immediate Possession and other provisions.

- The timeline for the hearing date is slightly different (Rule 510.4 (10))
- The rules for Bond of Possession have changed (Rule 510.5)
- Writ of Possession EXPIRES after 60 days (used to be indefinite) (Rule 510.8 (d)(1))
- Appeal rules have been modified under Rule 510.9

1. **Evictions must be filed in the proper Justice of the Peace Court.** Checks or Money Orders are accepted. Cash must be for the exact amount only. Your property must be properly marked with the physical address assigned by the 911 emergency address system or the Appraisal District. If your property is not clearly marked, the Constable may return the eviction citation unserved, and you will have to start over. Location number can be posted by numbers on the building property or by numbers located on a sign posted in front of the property.

Chapter 24 of the Texas Property Code requires that an eviction suit MUST be filed in the county and precinct where the property is located. If an eviction suit is not filed in the appropriate precinct, the case will be dismissed. You will not be entitled to a refund of filing fees and/or service fees.

2. **By law, you must give a NOTICE TO VACATE before you can file an EVICTION SUIT.** The landlord must give the tenant at least 3 days written notice to vacate before filing this eviction, unless the lease signed by both parties states otherwise. The NOTICE TO VACATE must be in writing and comply with Section 24.005 of the Texas Property Code, which is found at <http://www.statutes.legis.state.tx.us/Search.aspx>. A defective NOTICE TO VACATE can result in DISMISSAL of your Eviction.
3. **MOBILE HOME CASES:** If you are seeking an eviction based on *late rent payments* for a MOBILE HOME LOT (tenant owns mobile home, you lease then them lot), you are required by law to give the Tenant a ten-day NOTICE TO CURE before you can file an eviction (SEC. 94.206, Texas Property Code). Without the NOTICE TO CURE, your case will be dismissed. If they do not cure the problem after the ten-day notice, you then give them a three day NOTICE TO VACATE. Texas Law contains specific rules regarding Mobile Homes. You can locate these laws on the Texas Property Code website, <http://www.statutes.legis.state.tx.us/Docs/PR/htm/PR.94.htm>.
4. **Court cost** for filing an eviction on one tenant is **\$146.00**. Section 510.2 of the NEW Texas Rules of Civil Procedure states "The plaintiff must name as defendants all tenants obligated under the lease residing at the premises. You can ONLY get a judgment against the defendant served. If you wish to have a judgment against two parties, then you MUST pay for service and have both parties served. This is an additional **\$100.00 per defendant**."
5. **ATTORNEY'S FEES:** to be eligible to recover attorney's fees in an eviction suite, a notice to vacate must be served by a process server, personally with a witness, or by return receipt requested certified mail ten days prior to the date the suit is filed.

6. **WHO MAY FILE:** The owner of the owner's agent may file any type of forcible detainer suit, and he may represent the owner in the hearing.
7. **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 this court. (\$10,000.00). Any damages, late charges, utilities, or other charges may not be included in this action; HOWEVER, The owner or the owner's attorney may file suit for these amounts in a separate action filed in either Justice Civil or Small Claims Court.
8. **PROCEDURES AFTER FILING:** At the time the suit is filed, a hearing date will be set at least 10 days out but no more than 21 days from the filing date. A citation will be issued to the Constable's Office to be served on the tenant giving them the date and time of the hearing.
9. **THE HEARING:** You are required to appear personally for the hearing. Proper representation is essential (as per item #5 above). At the court hearing, both sides will have the right to present their side of the case, including witnesses, receipts, cancelled checks, photographs, and all other evidence. You will need to bring all evidence with you to Court. 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.
10. **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 6 day appeal period in which the defendant may appeal the decision to the County 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 if the defendant has still not vacated the premises. A writ of possession has a court fee of **\$130.00**. This is a writ that authorizes the Constable to supervise while the Plaintiff removes the property from the premises. You may wish to contact the Constable at 979-361-4266 for more information on writs of possession.

Every Eviction Suit must include these documents:

- Sworn Complaint for Eviction
- Notice to Vacate
- Lease
- Service Members Civil Relief Affidavit
- Justice Court Civil Case Information Sheet
- Certificate of Last Known Address
- Civil Process Additional Information Sheet

THIS OFFICE MAY NOT GIVE ANY LEGAL ADVICE



JUDGE CELINA VASQUEZ
JUSTICE OF THE PEACE
BRAZOS COUNTY, PRECINCT 4
300 East 26th Street, Suite 460
Bryan, Texas 77803
Office (979) 361-4405 * Fax (979) 361-4502

LEGAL NOTICE TO VACATE AND RELEASE PREMISES

State of Texas
County of Brazos
Bryan, Texas 77803

Notice is served this _____ day of _____ 2019, to _____

and **ALL OCCUPANTS** located at _____

Bryan, Brazos County, Texas.

You are hereby notified to vacate the premises at _____

Bryan, Texas and to deliver possession to the undersigned within **3** days from service date of this notice.

REASON FOR NOTICE: NON-PAYMENT OF RENT (AMOUNT OWED) \$ _____

LEASE VIOLATION: _____

OTHER: _____

Should you fail, neglect or refuse to vacate said premises in **3** days from the service date of this notice, I will take such legal action required by law to remove you from the premises. The owner demands immediate possession of the premise identified above as soon as possible for he reasons state above. You are hereby directed to remove all property and return the key(s) to the owner.

OWNER/AGENT: _____

ADDRESS: _____

CASE NO. _____

Plaintiff(s)

§
§
§
§
§

IN THE JUSTICE COURT
PRECINCT 4
BRAZOS COUNTY, TEXAS

VS

Defendant(s)

MILITARY STATUS AFFIDAVIT

Plaintiff, or Plaintiffs representative, being duly sworn on oath deposes and says that, to the best of my knowledge, Defendant(s)

_____ is not in the military

_____ is not on active duty in the military

_____ is not in a foreign country on military service

_____ is on active duty and/or is subject to the Service Members Civil Relief Act of 2003

_____ has waived his rights under the Service Members Civil Relief Act of 2003

_____ Military status is unknown at this time

Plaintiff / Representative

SIGNED AND SWORN TO before me on this _____ day of _____,
20 _____

CLERK OF THE COURT

Department of Defense Service Members Civil Relief Act Website:
<https://www.dmdc.osd.mil/appj/scra/>

Penalty for making or using a 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

Cause _____

Plaintiff

Vs

Defendant

In the Justice Court

Precinct Four

Brazos County, Texas

Certificate of Last Known Mailing Address

The undersigned, _____, does hereby certify that the last known address of Defendant, _____, is as follows:

Signature

Sworn to and subscribed before me on the ____ day of _____, 20____.

Notary Public



Isaac Butler Jr.

Brazos County Constable Pct 4



Civil Process Additional Information

Cause #

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 Respondent being violent with anyone?

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

4. Known of an occasion where the Respondent has, or brandishes a weapon of any kind?
(Please note if the weapon was a firearm, knife, or club or some other weapon.)

5. Does respondent have any dogs known to be aggressive?

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

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

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