

Forcible Entry and Detainer Suits

1. Filing Fee: \$196.00 (\$46.00 court cost & \$150.00 Service Fee). The amount of the debt for which you may sue **may not exceed** the limit of the court, which is \$10,000.
2. Eviction Suits **MUST** be filed in the precinct and county where the property is located or the court has no other option but to dismiss your case for lack of jurisdiction and you lose your filing fee.
To verify the precinct of the property for which you are filing, you may call the Voter Registrar's office at 940-626-4453. You need to be very specific in asking which commissioner precinct the property is located in and give the address.
3. A **3-day** notice **MUST** be given unless the signed lease states otherwise. If the Notice is **mailed**, tenant must be given **5 days** from mailing date before suit is filed. The suit may be filed after notice has been given and the time passed. Example of 3-day notice: *"(Date)-This is your written notice to vacate these premises within three (3) days and (give reasons)."*
This notice must be delivered personally, by mail, or by posting to the inside of the main entry door... and must be unconditional.
4. After your affidavit has been filed in this office, you will be given a court date, a citation will be issued and given to the Constable to be served. The court date will be no less than 10 days, and no more than 21 days from date of service.
5. **In court you will be responsible for providing the following information:**
 - Date lease or rental agreement began. Is agreement still valid on a month to month basis?
 - Terms of lease - including rent per month and date rent is due.
 - Amount of pure, (no utilities or late charges), unpaid, back rent that is due through the court date and how it is computed.
 - Date that proper written notice to vacate was given to tenant.
6. In summary, state specifically what you are pleading for. Example: I am pleading for possession of property, back rent in the amount of \$ _____ and court cost.
7. Be sure and have your lease, copy of vacate notice, and payment records available for the Judge in the event she asks to see them. The person who delivered the eviction notice must be present for court to testify if defendant contests the case on grounds that no notice was received.
8. If you accept back rent after your suit is filed, be sure tenant is told that you are going ahead and prosecuting the eviction suit.
9. If you receive a judgment, the court does not collect the money for you.
10. If the Tenant does not move, or appeal, within 5 days after you have a judgment for possession, you may file a writ of possession. A writ of possession gives the Constable the authority to move the tenant out.
11. We cannot give legal advice, but we will do our best to answer procedural questions.
12. If filing for other than non-payment of rent, different rules will apply.

EV _____

Plaintiff (s): _____

Agent or Attorney: _____

Address: _____

IN THE JUSTICE COURT

Phone: _____ Fax _____

PRECINCT FOUR

VS.

Defendant(s): _____

WISE COUNTY, TEXAS

Home Address: _____

Work Address: _____

Phone: _____

PETITION FOR EVICTION

TO THE HONORABLE JUDGE OF THE COURT:

1. This suit is brought to regain possession of the premises located at _____
_____ a property located within the boundaries of Justice of the Peace, Pct.4, Wise County, Texas.
2. The owner/landlord of the premises is _____.
3. The tenant rented this property on or about: _____ and still maintains possession of the property. The lease is (check one): written oral
4. The rent is \$ _____ per month and is due the _____ day of the month. Rent paid by government is \$ _____.
5. The owner/landlord claims they should regain possession of the premises due to:
 non-payment of rent breach of lease agreement, as follows: _____.
6. Written notice to vacate and demand for possession was given on _____ in the following manner:
 Certified Mail Regular Mail Delivery in Person Attached to inside of main entry door
 Other: _____

THE COURT IS ASKED TO EVICT THE TENANT AND ORDER TENANT TO:

- Pay rent owed in the amount of \$ _____, plus all rents accruing through the date of Judgment.
- Pay Court Costs.
- Pay reasonable attorney's fees of \$ _____.

BOND FOR POSSESSION: If Plaintiff has filed a bond for possession, plaintiff requests (1) that the amount of plaintiff's bond and defendant's counter bond be set, (2) that plaintiff's bond be approved by the Court, and (3) that proper notices as required by the Texas Justice Court Rules are given to Defendant(s).

REQUEST FOR JUDGMENT: Plaintiff prays that defendant(s) be served with citation and that plaintiff have judgment against defendant(s) for: possession of premises, including removal of defendants and defendants' 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 rental contract, or if not so stated, at the statutory rate for judgments under Civil Statutes Article 5069-1.05.

Plaintiff

Agent or Attorney

Said Plaintiff (or agent or attorney), being duly sworn by me, the undersigned authority, upon oath says that the facts as stated in the above instrument are, within the knowledge of said Affiant, true and correct.

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

Clerk of the Court or Notary Public

EV _____

_____)	In the Justice Court
VS)	Precinct Four
_____)	Wise County, Texas

SERVICE MEMBER’S CIVIL RELIEF ACT AFFIDAVIT

STATE OF TEXAS)
COUNTY OF WISE)

BEFORE ME, the undersigned authority, personally appeared the below-named affiant, who upon oath deposed and stated:

I am over the age of eighteen (18) years and am competent to make this affidavit. I am the

- Plaintiff
- Plaintiff’s agent

in the above-entitled and numbered matter.

- I have:
- made a personal investigation
 - personally reviewed the business records of the Plaintiff

As a result of the investigation or review, it is my belief that the above-named defendant:

- is not in the military service on active duty, and is not a dependent of a service member on active duty.
- is in the military service on active duty
- I have been unable to determine whether or not the defendant is in the military service on active duty.

I understand that any false statements in this document are made under penalty of perjury, and that making a false statement is a violation of Federal Law and is subject to both fine and imprisonment.

DATED this the _____ day of _____, 20_____.

Affiant

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

- _____
- Notary Public
 - Court Clerk