

PLAINTIFF (LANDLORD) INFORMATION ON FORCIBLE DETAINER (EVICTION) CASES

JP COURT PCT. 3, 8918 TESORO #300, SAN ANTONIO, TX 78217; PH: 335-4700 (OPTION 2) , FAX: 335-4705

FILINGS ACCEPTED MONDAY THRU FRIDAY, 8 A.M. TO 3 P.M. – NO PERSONAL OR COMPANY CHECKS

- (1) An original "Complaint for Forcible Detainer" (FE&D) must be filed in the Justice Precinct where the property to be vacated is located. Two copies per tenant named in the eviction suit must be submitted along with the original complaint at filing. Any Justice Court can tell you the proper precinct at which to file depending on the address of the property or go to the [Jurisdiction Helper](#).
- (2) If the property is secured by an electronic gate, you must indicate the gate entry CODE NUMBER on the filing form. It will be used by the Constable to serve the eviction papers. Failure to provide the code# may result in a time delay &/or additional service fees &/or dismissal of your case for want of prosecution.
- (3) Before an eviction suit can be accepted by the Court, the plaintiff/landlord must first serve the tenant(s) with a "NOTICE TO VACATE". The Notice must be in writing and state the exact date it was delivered to the tenant/defendant. The notice should be "unconditional" and tell the tenant, in no uncertain terms, to vacate by a specified date (whatever time-period the lease states, or NO LESS THAN 3 DAYS for residential/commercial property, and NO LESS THAN 10 DAYS for lots leased in a manufactured home community or recreational vehicle community), and state that if the tenant does not move by the indicated date, an eviction suit will be filed against him. A landlord CANNOT tape a notice to the OUTSIDE of the tenant's door - it must be served by one of the following ways: (1) Certified mail, return receipt requested; (2) Hand-delivered to tenant in person; (3) Hand-delivered to any person 16 years or older who resides with tenant at the premises; (4) Affixing notice to the INSIDE main entry door of tenant's premises AND by regular first class mail. The landlord should keep a copy of the notice indicating when, how and to whom it was served, to be shown to the Judge upon request. The move-out deadline date must have expired prior to filing the eviction suit.
- (4) If the Defendant/Tenant is in the Military: Under the Service Members Civil Relief Act ("SCRA"), you cannot take a Default Judgment against an individual person who is a service member unless the following steps are taken. You must indicate in your sworn Complaint that the defendant/tenant is currently in the U.S. Armed Services. The Court must then appoint an attorney to represent the absent service member, who may request that further court action be stopped for a minimum of 90-days to a maximum period of the length of service member's military service plus 90-days. The Court must set aside any default judgment taken against a service member that is not in accordance with SCRA.
- (5) If the Defendant/Tenant is NOT in the Military: You must verify in your Complaint for Forcible Detainer, that the individual defendant(s)/tenant(s) are not currently in the Military Service.
- (6) WARNING: If you are unable to verify the defendant's military status, by law the Judge will not be able to grant you a Default Judgment if the defendant fails to appear at trial. Please consider this possibility and seek legal advice from an attorney before filing a Complaint, because all filing fees are non-refundable.
- (7) The TOTAL FEE for filing a Complaint for Forcible Detainer (eviction suit) is \$87.00, which includes service to ONE tenant only. If more than one tenant is named on the lease, a service fee of \$60.00 for each ADDITIONAL tenant will also be charged. All tenants that signed the lease must be named on the eviction suit and served with an individual citation.
- (8) An individual property owner or a NON-attorney agent may file (and represent the owner in Court at trial) only if the eviction is for (1) NON-PAYMENT OF RENT, or (2) HOLDING-OVER beyond a rental term. In ALL other cases, the complaint MUST be prepared, signed and filed by the landlord's attorney, and the attorney MUST appear at Court with the landlord for trial.
- (9) Upon filing, the following information must be provided to the clerk: Copy of the signed lease; Copy of the "Notice to Vacate"; Tenant's exact address, apt.# or suite#, zip-code and work address; Amount of past due RENT (only) up to the date of filing, within the \$10,000 jurisdictional limit.

(10) The clerk will issue a receipt for the filing fees paid. The receipt will indicate the CASE NUMBER and the TRIAL DATE and TIME. Make note of both and keep the receipt. No other trial date notice will be sent.

(11) Within no less than 6 days and no more than 10 days before the trial date, the Constable will serve each named tenant with a "CITATION" notifying him of the eviction suit and the trial date and time. A copy of the landlord's complaint is attached to the citation.

(12) On the trial date, both landlord and tenant will be given the opportunity to present evidence. The landlord/attorney should be able to prove: existence of the lease between landlord and tenant; the record of non-payment of &/or other default under the lease; and that the mandatory "notice to vacate" was properly and timely served to the tenant(s).

(13) After trial, either party can appeal within 5 calendar days from the date the judgment is SIGNED (including Saturdays, Sundays & legal Holidays) by filing an "Appeal Surety Bond" with the court. If the 5th day falls on a weekend, holiday or any day the court is closed to the public, the appeal time is extended to the end of the next business day. It is strongly suggested that an attorney be consulted before the filing an appeal.

(14) If no appeal is timely filed and the tenant still has not vacated the premises, the landlord may purchase from the court a "WRIT OF POSSESSION" to legally remove the tenant and all personal property from the premises. The cost is \$165.00 and will be added as court costs on the judgment rendered against the tenant.

(15) A "Writ of Possession" is executed by the Constable's Office. They require the landlord or his agent's individual name, address and phone number. The Constable represents the Justice Court, NOT the landlord nor tenant, and will remain on the premises to keep the peace and ensure that the writ is executed according to law. The PHYSICAL removal of all property is to be done by the tenant or the landlord or the landlord's designated personnel. Call the Constable's Office at (210) 335-4750 for details.

(16) Frequently a landlord will find it hard to collect on the judgment for past rent due. THIRTY (30) calendar days after the judgment is signed, a "WRIT OF EXECUTION" may be purchased for a non-refundable cost of \$255.00 (which is added to the total judgment amount owed by the tenant). The landlord should provide the Court with any and all NEW home or work addresses of the tenant. The Constable will serve the Writ of Execution to the tenant and orally demand full payment of the judgment. If no payment is collected, and if the Constable finds no "NON-exempt" property to levy on, the Writ will be returned to the Court as unsuccessful. THERE IS NO GUARANTEE THAT A WRIT OF EXECUTION WILL BE SUCCESSFUL. Call the Constable's Office at (210) 335-4750, for more details concerning this writ.

(17) Another judgment collection tool is the landlord can purchase an ABSTRACT OF JUDGMENT for \$5.00. The Court prepares the Abstract and the landlord files it at the County Clerk's Office at the Courthouse. An Abstract places a 10-year lien against the tenant's "NON-exempt real property" and it is renewable.

(18) You must submit a signed copy of this information sheet to the clerk when you file your eviction suit, and it is strongly suggested that you retain a copy for yourself for future reference.

(19) The clerks CANNOT GIVE LEGAL ADVICE. If you have any questions, seek the advice of an attorney.

(20) If you receive a judgment for past-due rent and when the tenant pays-off the judgment, you must sign and file a "RELEASE OF JUDGMENT" form with the Court. A Release form can be obtained at this Court.

IMPORTANT NOTICE: The information contained in this handout reflects the policies and procedures of the Justice of the Peace Court, Precinct 3, Bexar County, Texas, and may differ from other courts. It is strongly suggested you obtain information from the exact court at which you will be filing, PRIOR to filing your case.

"I HAVE READ THE ABOVE INFORMATION." **PRINT NAME:** _____

SIGN: (Plaintiff/Landlord/Authorized Rep.): _____ Date: _____