

Forcible Detainer (FE&D) Information Document

7723 Guilbeau Rd., Ste 105

San Antonio, Texas 78250

335-4800

Fax: 335-4819

FILING DAYS: Monday thru Friday 8:00am to 5:00pm

FILING FEES: \$31.00- Court Docketing Fee; \$60.00 - Service Fee for each defendant.
Cash, Money Orders, or Cashier's Checks Only. No personal checks accepted. ALL FEES ARE NONREFUNDABLE. Make Money Orders & Cashier's Checks payable to J.P. Court #2.

1. **Prior to filing a Complaint for Forcible Detainer to evict a tenant**, the plaintiff/ landlord must give the tenant at least three days written notice to vacate unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. The notice period is calculated from the day on which the notice is delivered. The notice to vacate should be unconditional (I.E., it should tell the tenant to vacate the premises by a specific date in no uncertain terms.) The plaintiff/ landlord should be prepared to provide proof at an subsequent court hearing that the Notice to Vacate has been served on the tenant (E.G., retaining a copy of the Notice to Vacate and serving the Notice to Vacate by certified mail).
2. **In the event that a tenant does not vacate the premises** by the specified date, the plaintiff/landlord may then initiate a judicial action against the tenant by filing a **Complaint for Forcible Detainer. The complaint MUST be filed in the precinct where the property relating to the eviction is located. It is your responsibility to determine the correct precinct and file the case in the correct precinct.** You may call the Voter's Registration Office (210) 335-6625 and give them the exact address to find out the proper precinct to file.
3. **For a Forcible Detainer, if you need legal advice or desire representation by an attorney, the San Antonio Bar Association provides a referral service** (210) 227-1853.
4. If the complaint for Forcible Detainer includes a suit for unpaid rent, the plaintiff/landlord must clearly state the amount of back rent for which judgment is being sought (within the jurisdictional limit of \$10,000.00), and should reserve the right to include any additional rents that may become due during the pendency of the suit.
5. **The fee for filing a Complaint for Forcible Detainer** is dependant upon the number of defendants named in the Complaint. A defendant is defined as anyone who has signed the lease, contract, or agreement as an occupant. **The filing fee for one defendant is \$91.00. The filing fee for two defendants is \$151.00.** The plaintiff/landlord should also prepare a copy of the complaint for their own records and/or reference. A fee of **\$1.00** for the first page will be charged and **\$.25** per each additional page for any copies made by court personnel.
6. The landlord, his/her attorney, or a non-lawyer agent may sign and file the Complaint of Forcible Detainer and represent the owner at the court hearing.
7. At the time of filing, the Court Clerk will issue a receipt for the fee and indicate on it a case number which should be referred to during any subsequent contact with the Court. The Court will then issue a citation directed to the defendant (s) commanding him/her to appear before the Justice of the Peace. A copy of the complaint will be attached to the citation and both the citation and the attached complaint will be served upon the defendant by the Constable's Office. At the time the defendant is served, the citation will be annotated with the date and time of the hearing before the Justice of the Peace. **By law, the hearing date will be not less than six (6) days nor more than ten (10) days from the date the citation is served. The hearing date will be set for either a Wednesday at 9:00 a.m. or Thursday at 9:00 a.m. or 11:00 a.m.** A hearing date will be set at the time of filing, that will be the only notification you will receive. If, however, notification has not been received by the fifth day following the filing of the complaint, the plaintiff/landlord is responsible for contacting the court to obtain the hearing date. Should the plaintiff/landlord fail to appear at the hearing, either their case will be dismissed or there will be a judgment for the defendant.

8. At the time of the hearing, the plaintiff/landlord should, at a minimum have in their possession the following items or information:

- a. The lease,
- b. A copy of the notice to vacate (including proof of service);
- c. Any additional evidence which may have a direct bearing on the case.,
- d. An accounting showing total amount of rent due within the jurisdictional limit of \$10,000.00.

9. After judgment is rendered, a copy of the judgment will be provided before leaving the court.

10. After the hearing, either party has five (5) calendar days to appeal the judgment by filing an Appeal Bond with the Justice Court. It is strongly suggested that an attorney be consulted before filing an appeal. A \$10.00 Transcript Fee will be charged for appeals.

11. If, within five calendar days from the date of judgment, no appeal has been filed and the defendant has not vacated the premises, the plaintiff may obtain a **Writ of Possession** to legally remove all personal property of the defendant's from the premises. The cost is \$175.00 (and is included in the judgment amount rendered against the defendant).

12. A **Writ of Possession** is executed by the **Constable's Office**. When the fee for a Writ of Possession has been paid to the court, court personnel are responsible for preparation of the Writ of Possession and the forwarding of it to the Constable's Office. A court clerk will provide the plaintiff with a receipt to take to the Constable's Office. The Constable's Office will schedule the execution of the Writ of Possession at that time. They require the Plaintiff/Landlord's individual name, address and phone number. The Constable does not represent the plaintiff or the defendant, only the Justice Court, and will remain on the premises as a keeper of peace to see that the writ is executed according to law. The physical removal of all property will be made by the defendant or plaintiff or their designated personnel. **Questions involving the execution of a Writ of Possession should be directed to the Constable's Office at (210) 335-4850.**

13. **Frequently the plaintiff will find it difficult to collect their judgment on past rent due. Thirty (30) days after a judgment is final, a Writ of Execution may be purchased through the court at a cost of \$255.00 (per party that the Writ is to be served upon), which is included in the judgment amount rendered against the defendant.** A new home or work address of the defendant is required for service of the writ. Court personnel will prepare the **Writ of Execution** and forward it to the Constable's Office. The Constable serves the writ on the defendant and makes oral demand for payment of the judgment. If the Constable receives no payment, and there is no non-exempt property to levy on, the writ is returned unsuccessful to the court. **THERE IS NO GUARANTEE THAT PAYMENT WILL BE RECEIVED.**

14. Another alternative to collection of a judgment for past rent is an **Abstract of Judgment**. If no appeal has been filed within five days after the date the judgment is rendered, for a fee of **\$5.00** the court will prepare the abstract which the plaintiff must then file with the County Clerk at the County Courthouse. An Abstract of Judgment places a lien against any non-exempt, real property of the defendant for a period of ten years. When requesting an Abstract of Judgment you should provide the court, at least one or all of the following items of information pertaining to the defendant:

1. Date of Birth
2. Texas Driver's License
3. Present Address

NOTE: CLERKS OF THE COURT ARE PROHIBITED FROM GIVING LEGAL ADVICE. THEY ARE NOT LEGALLY TRAINED AND ARE NOT RESPONSIBLE FOR PROVIDING ANY INFORMATION OTHER THAN WHAT IS CONTAINED IN THIS INFORMATION HANDOUT. IF YOU HAVE ANY FURTHER UNANSWERED QUESTIONS, YOU ARE GREATLY ENCOURAGED TO SEEK THE ADVICE OF AN ATTORNEY.