

Eviction Suits

1. Filing Fee: \$154.00 and \$100.00 for each additional person listed on the lease. The amount of the debt you may sue may not exceed the court's limit, which is \$20,000.00.
2. Eviction Suits **must** be filed in the precinct and county where the property is located.
3. Unless the signed lease states otherwise, a 3-DAY NOTICE must be given. If the notice is mailed, the tenant must be given 5 days from the mailing date before the suit is filed. The suit may be filed after the notice has been given and the time has passed.
EXAMPLE OF 3-DAY NOTICE, "(Date) – This is your written notice to vacate these premises within three (3) days because" and give reason.

This notice must be unconditional and delivered personally, by mail, or by posting to the inside of the main entry door.

4. After filing your affidavit in this office, 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 the filing date. This office will then send you a written court date either by mail or e-mail the date you are needed to appear for Eviction Court.
5. In court you will be responsible for providing the following information:
 - Date lease or rental agreement began. Is the agreement still valid on a month-to-month basis?
 - Term of the lease including rent per month and date rent is due.
 - Amount of **unpaid back rent only**, (no utilities or late charges) that is due through the court date and how it is computed.
 - Date the proper written notice to vacate was given to the tenant.
6. In summary, state specifically what you are pleading for. Example: I am pleading for possession of the property, back rent in the amount of \$_____, and court costs.
7. Be sure and have your lease, copy of notice to vacate, and payment records available for the Judge in the event he asks to see them. **The person who delivered the eviction notice must be present for court to testify if the defendant contests the case on grounds that no notice was received.**
8. If you accept back rent after your suit is filed, be sure the 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 for a Writ of Possession. The fee for this writ is \$200.00. A writ of possession gives the Constable the authority to oversee the removal of the tenant and the tenant's property from the premises.
11. We **cannot** give legal advice, but we will try to answer **your procedural questions**.

THE COMPLETE SET OF RULES AND PROCEDURES FOR EVICTIONS MAY BE
FOUND IN TEXAS PROPERTY CODE CHAPTER 24, CHAPTER 91, AND CHAPTER
92 TEXAS RULES OF CIVIL PROCEDURE RULE 510

**DO NOT CONTACT THE JUDGE BY MAIL, EMAIL, PHONE, OR IN PERSON
ABOUT A PENDING CASE OR POTENTIAL LAWSUIT.**

**FOR MOST COURT CASES, EX PARTE COMMUNICATION IS STRICTLY
PROHIBITED, AS IT CAN IMPACT THE DECISION OF THE CASE.**

**IF YOU ARE CURRENTLY IN A CASE, YOU ARE NOT PERMITTED TO CONTACT
THE JUDGE OUTSIDE OF THE COURTROOM.**

DOING SO MAY RESULT IN SERIOUS CONSEQUENCES.

IMPORTANT NOTICE

**THE JUDGE AND COURT PERSONNEL CANNOT GIVE ADVICE OR RENDER ANY
SERVICE REQUIRING THE USE OF LEGAL SKILL OR KNOWLEDGE, SUCH AS
PREPARING ANY LEGAL OR COURT DOCUMENT.**

GOVERNMENT CODE 81.101

Please remember all answers, pleas, filings, and requests **MUST** be submitted in writing.
They may be submitted by:

Email: jpl@burlesoncounty.org

Fax: 979-535-7344

Mail: PO Box 136 Deanville TX 77852

In person: 6399 FM 111 Caldwell TX 77836

Collecting Your Judgment

It is very difficult to collect a money judgment in Texas. Our law provides that only non-exempt property of the judgment debtor may be seized to satisfy the judgment. Most judgment debtors do not have non-exempt property; in other words, most people have only exempt property. This means that even though you might obtain a judgment against someone, it is likely that you may never recover any money.

If you decide to file a lawsuit and you obtain a judgment, you may follow these steps to try to collect your judgment.

1. We suggest that you wait until the appeal time runs out before doing anything. The appeal time is 5 days in Forcible Entry and Detainer (Eviction) cases and 21 days for other civil cases (Small Claims Debt Collection). The party filing the appeal must also pay the same filing fee unless they file a Statement of Inability to Pay when filing the appeal.
2. After the judgment is rendered, you may obtain an Abstract of Judgment which you may file with the County Clerk in Burselton County or any county in which the judgment debtor has real property. The abstract informs the county in which you have filed it that there is a judgment against the debtor and it creates a judgment lien on the debtor's real estate in that county. The judgment will probably be picked up by credit reporting agencies and be noted on the debtor's credit report. You may file this abstract in as many counties in Texas as you like. There will be a fee each time it is recorded.
3. Thirty days after judgment, you may obtain a Writ of Execution to attempt to seize the debtor's nonexempt property to satisfy your judgment. Before you pursue this remedy, you should determine whether the debtor has non-exempt property. If a judgment debtor has no non-exempt property, you cannot execute on your judgment. There are other remedies available in addition to the Writ of Execution, but they are even more complex. Relevant law for these remedies can be found in the Texas Property Code, the Texas Civil Practice and Remedies Code, the Texas Rules of Civil Procedure, and elsewhere. The best advice is to consult an attorney. This information is not intended to constitute legal advice or to take the place of an attorney. The Justice of the Peace and the clerks are prohibited by law from giving legal advice. The law concerning the collection of judgments is complex and can be properly explained by your attorney. You may want to view the Texas Law Help website.

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT 1
	§	
_____	§	
DEFENDANT	§	BURLESON COUNTY, TEXAS

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following Defendant(s) (include name, email address, DOB, and last 3 digits of DL & SSN, if known) : _____

for eviction from Plaintiff's 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: \$_____. Defendant has or has not been late/delinquent in paying rent before the month in which notice was given. 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 periodic tenancy, which ended on _____, 20__.
- Squatter.** Defendant(s) never had a right to possess the property and are unlawfully occupying the premises after a demand to surrender possession given on _____, 20__. Plaintiff has or has not attached a Motion for Summary Disposition under Rule 510.10.
- Expiration of Tenancy at Will or by Sufferance.** Defendant(s) had no lease agreement and have failed to vacate the premises after being given a termination notice, if applicable, and a demand to surrender possession given on _____, 20__.

PRE-SUIT NOTICE: Plaintiff has given Defendant(s) a notice to vacate notice to pay or vacate (according to Property Code § 24.005(f-3) or (f-4)) and demand for possession. Such notice was delivered on _____, 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. Home or work addresses other than the premises 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 if applicable, 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.

SERVICE BY EMAIL: (Normally, documents in this case are sent by mail. If it is easier for you, you can choose to get some of the documents sent by email. If you choose to get documents by email, you must have an email account where you can receive, open, and view large attachments, and it is important that you check this email account every day. **Even if you receive some documents by email, you will still receive some documents about the case by mail or personal service, so you must not ignore any documents from the court or other parties received by mail or personal service.**)

Yes, I would like to receive documents related to this case by email at this email address: _____

No, I do not want to receive any documents by email.

REMOTE PARTICIPATION:

Hearing by Phone Call: *(When a hearing happens by phone call, you will be able to talk to and hear the judge, Defendant, or any witnesses, but you will not be able to see them. Copies of any evidence to be used must be exchanged by the parties and sent to the judge before the hearing.)*

- Yes, I am able to have any hearings in this case, except a jury trial, by phone call with the judge and Defendant and understand that I must have a phone to use on the date and time of the hearing.
- No, I am not able to have hearings by phone call.

Hearing by Video Conference: *(When a hearing happens by video conference, you can hear, see, and talk to the judge, Defendant, and any witnesses. You will be able to see any evidence presented during the hearing. You will need to have a computer, a smartphone, or tablet that has a camera feature. You will also need access to the internet to be able to have a video conference.)*

- Yes, I am able to have any hearings in this case, except a jury trial, by video conference. I understand that I am responsible for having the equipment and internet access needed to participate in a video conference on the date and time of the hearing.
- No, I am not able to have hearings by video conference.

NOTE: Your responses in this section do not guarantee that hearings will be held remotely, but rather they help the court know how you are able to participate.

Respectfully submitted,

Signature of Plaintiff

Signature of Agent or Attorney, if any

Printed Name: _____

Printed Name: _____

Address: _____

Address: _____

Email: _____

Email: _____

Telephone: _____

Telephone: _____

Fax: _____

Fax: _____

State Bar No.: _____

SWORN TO AND SUBSCRIBED before me on _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY

Case No. _____

_____	§	In the Justice Court, Pct. 1
Plaintiff	§	
		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?