

FILING AN EVICTION LAWSUIT

JURISDICTION:

An eviction case is a lawsuit to recover possession of real property under Chapter 24 of the Texas Property Code, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 Party V of the Rules of Civil Procedure.

VENUE:

Suit for possession of property, precinct in which all or part of the property is located.
Suit for rent in which all or part of the property is located.

NOTICE:

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give a tenant who defaults or hold over beyond the end of the rental term or renewal period at least a THREE DAY WRITTEN NOTICE TO VACATE before filing the Eviction Lawsuit: UNLESS THE PARTIES HAVE CONTRACTED FOR A SHORTER OR LONGER NOTICE PERIOD IN A WRITTEN LEASE OR AGREEMENT. 24.005a Property Code

FILING SUIT:

The **responsibility for filling out your petition and civil case information sheet rests with you**. Court clerks will assist you if you have *procedural questions*. Please state the tenant's full address including the apartment number. List any known work address or other address where the tenant may be located for service. The filing fee is forty-six (\$46.00) and the service fee is eighty (\$80.00) **per defendant** to be served in Caldwell County, for a total of one hundred twenty-six (**\$126.00**) When filing, the Landlord should bring the following:

1. Copy of the lease (if you have one);
2. Copy of the Written Notice to Vacate; and **\$126.00** (if only one person being served).

****Payment must be in the form of a MONEY ORDER or CASHIER'S CHECK made payable to CALDWELL COUNTY TREASURER** Effective 9/1/17**

CITATION:

The Constable/Sheriff will serve each tenant with a citation, based on the information you provide to the Court. The citation will inform the Defendant of the date and time of the hearing and that a Default Judgment may be rendered if he/she does not appear at the appointed time.

Office of Judge Matt Kiely, Pct 1
110 Brazos Lockhart, TX 78644
(512) 398-1810 (512) 398-2785 Fax

REPRESENTATION:

In eviction suits, either of the parties may represent themselves or be represented by their authorized agents in justice court or be represented by an attorney.

HEARING:

Always arrive at least 10 minutes prior to trial and check in with the clerk. Be sure to have a copy of your lease, the notice to vacate and payment records or any records pertaining to the case.

If the defendant **does not appear** at the Hearing:

- A. The plaintiff will present their case to the Judge;
- B. If the Judge rules in the Plaintiff's favor, a default will be granted.

If the defendant **does appear** at the Hearing:

- A. The Judge will hear both sides;
- B. The Judge will render a judgment;

If the defendant does not vacate the property or appeal the case within 5 days after the judgment; the plaintiff may request a Writ of Possession. The cost of the Writ of Possession is **\$200.00**. (Payment: Money order or Cashier's check payable to *Caldwell County Treasurer*)

Eviction Lawsuits may be dismissed only in open court or by written request. A "Motion to Dismiss" form is included in this packet.

IF YOU HAVE PROCEDURAL QUESTIONS, PLEASE CONTACT THE COURT

**LEGAL QUESTIONS WILL NOT BE
ANSWERED BY THIS OFFICE**