

**Justice Court Civil Cases**

“I just want to talk to the Judge…”

The Code of Judicial Conduct prohibits the Judge from engaging in communication concerning the merits of a pending case or one that may be filed in the future.

Most people understand this when they consider how they would feel about the judge discussing their case with the other party without their knowledge or consent.

“But your clerk said…”

The code also prohibits a Judge or Court staff from giving legal advice.

“Do I need a lawyer?”

Legal representation is not required. Legal representation may be desired to safeguard your rights and interests.



Eviction Cases

“The information contained herein is not exhaustive and is not intended to be legal advice.”

511 N. Main Perryton, Texas 79070

Ochiltree County, Texas

Justice of the Peace, Precinct 1

Phone: (806)435-8020 Fax: (806)435-2081

**Eviction Cases**

An eviction case is a lawsuit brought to recover possession of real property, 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 $20,000, excluding statutory interest and court costs but not including attorney fees, if any.

**Notice to Vacate**

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give at least three days’ written notice to vacate the premises before the landlord files an eviction, unless the parties have contracted for a shorter or longer period of time in a written lease or agreement.

The notice to vacate shall be given in person, by mail, or by affixing the notice to the inside of the main entry door and must be unconditional. Notice by mail may be by regular mail, registered mail, or by certified mail, return receipt requested, to the premises in question.

If the dwelling has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises, the landlord may securely affix the notice on the outside of the main entry door. Texas Property Code Sec. 24.005

**Filing a petition with the Court**

Eviction suits must be filed in the precinct and county where the property is located. Rule 310.3 (b) Filing fee for an eviction case is $46.00. On filing the petition, the plaintiff must pay the appropriate filing fee and $100.00 service fee in Ochiltree County for each defendant.

If the eviction is based on a written residential lease, the plaintiff must name as defendant(s) all tenants obligated under the lease residing at the premises whom the plaintiff seeks to evict. Rule 5103 (c)

Upon filing, the court will immediately issue a citation and give to the Constable for service. Trail must be held 10-21 days from the date the petition is filed. Rule 510.4 (a)(10)

Trial can not be held less than 6 days after service. Rule 510.7 (a)

**At Trial**

The plaintiff is responsible for proving his or her right to possession of the premises and, if a claim for unpaid rent has been made, the amount of unpaid rent. Proof may include a copy of the lease, a copy of the notice to vacate, and payment records. The amount of pure rent due through the date of trial will need to be calculated (*no utilities or late charges are allowed in claims for unpaid rent)*. Rule 510.3 (d)

**Judgement**

This court must adjudicate the right to actual possession and not title. Rule 510.3 (e)

**Writ of Possession**

A writ of possession may issue on the 6th day after judgment provided an appeal is not properly filed. A writ may not issue more than 60 days after a judgment is signed unless good cause is shown. A writ may not be executed after the 90th day after a judgment for possession is signed. Rule 510.8 (d) (1) (2) (3)

**Appeal**

A party may appeal a judgment in an eviction case by filing a bond, making a cash deposit, or filing a sworn statement of inability to pay. This must be done within 5 days after judgment is signed. The Judge will set the amount of bond or cash deposit. The bond/cash deposit must be payable to the appellee and must be conditioned on the appellant’s prosecution of its appeal to effect and payment of any judgment and all costs rendered against it on appeal.

Rule 510.9 (a) (b)

An appellant who can not furnish a bond or pay a cash deposit in the amount required may instead file a **Sworn Statement of Inability to Pay (SSIP)**. Rule 510.9 (c)

The statement may be contested within 5 days after the opposing party receives notice the statement was filed.

Rule 510.9 (2)

The Court must provide to the defendant a written notice at the time of the SSIP is filed, stating that rent is required to be posted into the justice court registry, the method by which deposit is required, the day the deposit is required which must be within 5 days of the date the SSIP is filed and a statement that failure to pay the required amount may result in the court issuing a writ of possession without a hearing.

Rule 510.9 (5) (A) (i) (ii) (iii) (iv)

**Demand for Jury**

Demand for Jury can be made by either party, must be made at least 3 days before trail and requires a jury fee of $22 or by filing a sworn statement of inability to pay the jury fee.

Rule 510.7 (b)

No Motion for new trial may be filed in an eviction case. Rule 510.8 (e)

No counterclaims are permitted in an eviction case. Rule 510.3 (e)



**COURTROOM POLICY**

Electronic devices, cell phones, pagers, etc. *must* be TURNED OFF.

All packages, purses, briefcases, etc. are subject to search by bailiff at any time.

Individuals causing distractions or disruptions are subject to removal from the courtroom.

**PROPER ATTIRE REQUIRED**

Shorts are permitted for juveniles or if part of a company’s dress code.

No: cut offs, swimsuits, exposed midriffs, muscled shirts.

No sagging pants, tuck in long shirts.

Gentlemen remove hats or caps.

Shoes are required.

**DRESS CODE WILL BE STRICTLY ENFORCED**

**NO FOOD OR DRINKS ALLOWED IN THE COURTROOM**

**Ochiltree County, Precinct 1**

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