

EVICTION INSTRUCTIONS (please read carefully) To

file an eviction you will need to do THREE THINGS:

- 1) Fill out an Original petition
- 2) Fill out a Serviceman's Civil Relief Act Affidavit (must be included with every case filed) 3) Bring the sheet and the petition to our office along with \$46.00 filing fee. Only bring Cash, Cashier Checks or Money Order, made payable to JP1 AND a \$90.00 service fee made payable to Hood County Constable for each defendant named in suit. If more than one person on lease each person named on lease must be served.

You are strongly encouraged to read the new rules of Civil Procedure. There are numerous changes to the eviction laws.

- 1) Evictions must be filed in the proper Justice of the Peace Court. A map is available on the website and maps are available in each of the Justice of the Peace offices. Your property must be properly marked with the physical address assigned by the 911 emergency address system or the appraisal district.
- 2) By law you must give Notice to Vacate before you can file an eviction suit. The landlord must give the tenant at least 3 days (72 hours) written notice to vacate before filing this eviction, unless the lease signed by both parties states otherwise. Notice to Vacate must be in writing and comply with Section 24.005 of the Texas Property Code, which is found at <http://www.statutes.legis.state.tx.us/Search.aspx>.

A defective Notice to Vacate can result in DISMISSAL of your Eviction.

- 3) Court cost for filing an eviction on one tenant is \$46.00 filing fee with cash or check payable to JP1 and \$90.00 service fee payable to Hood County Constable. Section 510.2 of the NEW Rules of Civil Procedure states "The plaintiff must name as defendants all tenants obligated under the lease residing at the premises." You can ONLY get a judgment against the defendant served. If you wish to have a judgment against two parties, then you MUST pay an additional \$90.00 to Hood County Constable fee for each additional party named.
- 4) Attorney's fees: To be eligible to recover attorney's fees in an eviction suit, a notice to vacate must be served by a process server, personally with a witness, or by return receipt requested certified mail ten days prior to the date the suit is filed.
- 5) Who may file: The owner or the owner's agent may file any type of forcible detainer suit, and he may represent the owner in the hearing.
- 6) Joining a suit for rent: A suit for rent may be joined with the eviction suit, if the amount due is within the jurisdiction of this court. (\$10,000.00). Any damages, late charges, utilities or other charges may not be included in this action; HOWEVER, The owner or the owner's attorney may file suit for these amount in a separate action filed in Small Claims Court.
- 7) Procedures after filing: At the time the suit is filed, a hearing date will be set up 10-21 days from the filing date. A citation will be issued to the Constable's office to be served on the tenant giving them the date and time of the hearing.
- 8) The Hearing: You are required to appear personally for the hearing. Proper representation is essential

(as per item#5 above) At the court hearing, both sides will have the right to present their side of the case, including witnesses, receipts, canceled checks, photographs and all other evidence. You will need to bring with you all evidence pertaining to the case. (Make sure you have copies for the court to keep.) The burden of proof lies with you as plaintiff. You must show the Court good and sufficient evidence proving your right to regain possession of the property. You must still prove your case, even if the defendant fails to appear.

9) Judgment: At the hearing, a judgment will be rendered for either the plaintiff or the defendant. A judgment for the plaintiff may be for all or part of the initial claim. If you are awarded a judgment for possession of the premises and/or any back rent owed, there is a 5 day appeal period in which the defendant may appeal the decision to the County Court. If the Defendant has not appealed the case at the end of the appeal period, Judgment becomes final.

Upon final judgment you may then file for a Writ of Possession if the defendant has still not vacated the premises. A Writ of Possession has a court fee of \$10.00 filing fee and \$175.00 Constable fee. This is a writ that authorizes the constable to supervise while the Plaintiff removes the property from the premises. You may wish to contact the Constable at 817-408-2602 for more information on Writs of Possession.

Once the appeal period has passed, you may file an Abstract of Judgment in the County Clerk Office if you have a judgment for money. We prepare this Abstract in this office, with a filing fee of \$5.00 then you file this Abstract with the County Clerk's office. This puts on record at the County Clerk's office that you have a judgment against the defendant. The abstract is good for a 10 year period.

MOBILE HOME CASES: If you are seeking an eviction based on late rent payments for a mobile home lot (tenant owns mobile home, you lease the lot) you are required by law to give the Tenant a ten (10) day Notice to Cure, before you can file an eviction. (Sec 94.206 TX. Property Code) Without the Notice to Cure, your case will be dismissed. If they do not cure the problem after the ten -day notice, you then give them a three day NOTICE TO VACATE. Texas law contains specific rules regarding Mobile Home.