

# **Self-Help Legal Information Packet:**

## *When an Eviction Case Has Been Filed Against You*



Self-Help Legal Information Packets are provided for the benefit of justice courts and individuals seeking access to justice through the court system. They do not constitute legal advice, and the court is not responsible for the accuracy of the information contained in the packet.

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- 4) If you and the landlord have agreed in writing, electronic communication, including email or other electronic means (potentially through an online portal where you pay rent or get notices from the landlord or management company).

After the proper notice is delivered and the notice period has expired and you have not complied with the notice, the landlord may file an eviction suit against you in court and pursue an eviction judgment. If they are able to prove their case in court, the landlord may get an eviction judgment against you. This judgment may include any rent that is due, plus the landlord's court costs and attorney's fees. Having an eviction judgment against you may make it more difficult for you to rent property in the future.

### I Got Served with a Citation, Now What?

If the landlord files an eviction, the next thing that will happen is you will receive a **citation**, issued by the court, which is a notice that tells you that you are being sued and when you have to come to court. The **petition** was created by the plaintiff and will provide details of why the plaintiff is evicting you, and how much back rent, if any, they are suing for. **Note:** back rent can increase during the eviction case as time passes.

If the petition isn't clear about what the plaintiff thinks you did wrong or what they want, you can file a **motion** with the court asking for them to clarify. A motion is a request for the court to do something. This is done by putting your request in writing and sending it to the court and to the plaintiff.

The citation should contain your trial date, which will be between 10 and 21 days from the day the landlord filed the case. If it does not contain your trial date, contact the court to find out when it is. If you need more time for trial or have a conflict with the date that the trial is scheduled, you can file a motion (request) for **postponement**, also called a **continuance**. You should explain in writing why you need the postponement. In eviction cases, the case can't be postponed for more than 7 days unless both sides agree in writing.

**Do not** just decide not to show up on your trial date! That likely will result in the landlord getting a judgment removing you from the property. If you cannot

- 2) mailing it to them using certified or registered mail,
- 3) using a delivery service such as FedEx or UPS,
- 4) faxing it to them, or
- 5) sending it by email *if* the plaintiff provided their email address for document delivery and agreed to email service in writing.

On the copy you give to the court, you must write down how and when the paperwork was delivered to the plaintiff.

The plaintiff's contact information will be available in the petition they filed, which was attached to the citation that you received.

**Important** - Make sure to keep your address updated with the court and the other party, so that you will receive any paperwork or notices sent to you.

### **What is a Summary Disposition in an Eviction?**

In an eviction case, a summary disposition is an expedited process for a landlord to get a judgment without a trial. This motion should only be filed against you if you never had permission from the owner, a tenant, or other person possessing the premises to enter and occupy the premises (called a forcible entry and detainer). In addition, there should not be any disputed facts that would prevent a judgment in favor of the landlord. To fight a motion for summary disposition, you must file a response **within 4 days after receiving notice** of the motion setting out supporting facts and providing any applicable documents that you are relying on.

### **What if the Plaintiff Owes Me Money?**

When the defendant files a claim with the court stating the plaintiff owes money to the defendant, that is called a counterclaim. **Counterclaims are not allowed in eviction cases.** If you feel that the plaintiff owes you money, such as a security deposit, you need to file a separate small claims case to get a judgment for that money. For more information see the information packet on ***Filing a Small Claims Case.***

Once the plaintiff has presented all their witnesses and evidence, they will rest, which means they are done. It is now your turn, and you can call any witnesses you have. You can also testify and show any evidence you may have (such as documents, contracts, cancelled checks, receipts, etc.).

Finally, each side can make a final statement, called a **closing argument**, where you explain why you think you should win the case.

After that, the decision will be made by the jury if there is one, or by the judge if there is no jury. The decision will be announced in open court, and a written **judgment** will be made available.

### **What if I Don't Appear for Trial?**

If you don't appear at trial, the information in the plaintiff's sworn petition will be taken as the truth. If they provided enough information in your petition, they will be awarded a default judgment.

### **What Happens if I Lose My Eviction Case?**

If the judgment is in favor of the plaintiff, they will be able to remove you from the property. If you wish, you can file an **appeal**, which is a request for the county court to hear the eviction case over again. You can file an appeal within 5 days of the judgment. The 5 days include weekends and holidays. If the fifth day is a weekend, holiday, or day the court closes for all or part of the day, you have until the next business day to file your appeal.

To appeal, you will have to file either:

- 1) An **appeal bond** (a promise from you and another person, called a **surety**, to pay the bond amount to the plaintiff if you don't pursue the appeal) in an amount set by the court;
- 2) A cash deposit in an amount set by the court, which may be awarded to the plaintiff if you don't pursue the appeal; or
- 3) A Statement of Inability to Afford Payment of Court Costs if you cannot afford an appeal bond or cash deposit.

*Below is a brief description of some of the tools that the plaintiff can use against you to enforce a monetary judgment.*

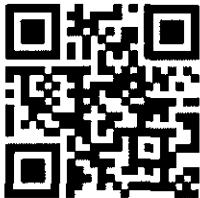
**Post-Judgment Discovery:** The plaintiff can send questions that you must answer describing what assets you have that could be used to satisfy a judgment. You will get at least 30 days to respond to these discovery requests, either by providing the requested information or by making an objection with the court. If you object, the court will hold a hearing to decide if you must provide the information.

**Abstract of Judgment:** If you own real property (land), the plaintiff can get an abstract of judgment from the court that issued the judgment and file it with the county clerk in the county or counties where you own the property. This puts a **lien** on the property in the plaintiff's name, which means if you sell the property, they could get the proceeds to satisfy the judgment.

**Writ of Execution:** This is an order for the constable to go out and seize your personal property and sell it to satisfy the judgment. **IMPORTANT** – many items of personal property are **exempt**, meaning it is not legal for the constable to seize them and sell them. The plaintiff generally must wait at least 30 days after judgment before getting a writ of execution.

**Writ of Garnishment:** If a third party, such as a bank, has assets that belong to you, the plaintiff can get a writ of garnishment to order them to be given to the plaintiff to pay the judgment.

Learn more about exemptions and the judgment enforcement process at  
[www.texaslawhelp.org/exempt-property](http://www.texaslawhelp.org/exempt-property) or by scanning this QR code with your camera phone:



### **What Happens if I Win My Eviction Case?**

If the judgment is in your favor, the plaintiff has a right to file an appeal within 5 days. You will receive a notice in writing if the plaintiff appeals. This would mean the process would start all over in the county court.