

**STEPS FOR FILING**      **FILING FEE:\$131.00**  
**FORCIBLE DETAINER SUIT**  
**IN**  
**JUSTICE CIVIL COURT**

1. **Notice to Vacate:** You must first give the tenants a written “notice to vacate”, demanding that the tenants leave the property immediately or by a specified deadline.

The notice to vacate must be in writing and must state an unconditional demand for the property.

The notice to vacate must be signed by a person entitled to possession of the property, (I.E: the landlord or the landlord’s agent)

The notice to vacate shall be given in person or by mail at the premises in question. Notice in person may be by personal delivery.

- A. To the tenant or any person residing at the premises who is 16 years of age or older; or
- B. By affixing the notice to the inside of the main entry door.
- C. Notice by mail may be regular mail or by registered or certified mail, return receipt requested, to the premises in question.

2. **Time requirements:** Unless there is a written agreement between the parties regulating the notice requirements, the landlord must give the tenant at least 3 working days notice to vacate before filing suit.

A notice to vacate sent by registered or certified mail, return receipt requested, must give the tenant at least 10 days to vacate before filing suit.

The notice period is calculated from the day on which the notice is delivered.

3. **Where to file:** A forcible detainer suit must be filed in the county and precinct where the rental property is located.
4. **Who may file:** The owner’s agent may file any type of forcible detainer suit, and he may represent the owner in any default hearing. The owner’s agent may represent the owner in court only in cases of non-payment of rent and holding over. All other types of forcible detainer suits, if contested, must be represented by the owner in person or by an attorney.
5. **Procedures after filing:** At the time the suit is filed, a hearing date will be set within 10 to 21 days from the service of the citation; usually at 9:00 a.m. A citation will be issued to the

constable's or Sheriff's office to be served on the tenant giving them the date and time of the hearing.

6. **The hearing:** You are required to appear personally for the hearing. Proper representation is essential (as per item #4 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. The burden of proof lies with you as the 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.**

7. **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 the any back rent owed, there is a 5 day appeal period in which the defendant may appeal the decision of the 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.
8. **Writ of Possession:** This instrument directs the Constable or Sheriff to take possession of the property and turn it over to you.

A Writ of Possession will cost an additional \$126.00 Court Cost which must be paid before the Constable or Sheriff will execute service for you.

**IF YOU HAVE ANY QUESTIONS, PLEASE FEEL FREE TO CONTACT THIS OFFICE.**

**REMEMBER—THE JUDGE CANNOT DISCUSS THIS CASE WITH YOU PRIOR TO THE HEARING; HOWEVER, THE CLERK WILL BE HAPPY TO ASSIST YOU WITH CLARIFYING PROCEDURES.**

**IF YOU HAVE ANY LEGAL QUESTIONS-YOU MUST CONSULT AND ATTORNEY.**

THANK YOU,

ROBERT J. NASH  
JUSTICE OF THE PEACE  
COLEMAN COUNTY