

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 \$20,000, 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.** 24.0050 Property Code

FILING SUIT:

The responsibility for filling out your petition and civil case information sheet rests with you. 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 \$54.00 and \$100.00 per residence to be served in Hill County. 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 one payment for \$54.00 made payable to the 'Justice Court' and \$100.00 to the 'Hill County Constable' per residence.

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.

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 Plaintiffs favor a default will be granted.

If defendant does appear at the Hearing:

A. The Judge will hear both sides;

B. The Judge will render a judgment 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 \$205.00.

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

LEGAL QUESTIONS WILL NOT BE ANSWERED BY THIS OFFICE

JUSTICE COURT CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED:-----

(e.x, John Smith v. All American Insurance Co.; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaced nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:	2. Names of parties case:
Name: _____ Telephone: _____	Plaintiff(s): _____
Address: _____ Fax: _____	_____
City/State/Zip: _____ State Bar Number: _____	Defendant(s): _____
Email: _____	_____
Signature: _____	(Attach additional page as necessary to list all parties)

3. Indicate case type, or identify the most important issue in the case (select only 1):	
☐ Debt Claim: A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$20,000. excluding statutory interest and court costs but including attorney fees, if any.	☐ Eviction: 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 rent due and unpaid is not more than \$20,000. excluding statutory interest and court costs
☐ Repair and Remedy: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	☐ Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$20,000. excluding statutory interest and court costs but including attorney fees, if any.

CAUSE NO.

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT _____
	§	
_____	§	
DEFENDANT	§	_____ COUNTY, TEXAS

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following Defendant(s) *(include name, DOB, and DL number, if known)* _____

_____ for eviction from Plaintiffs premises (including storerooms and parking areas) located in the above precinct. The address of the property is:

Street Address	Unit No. <i>(if any)</i>	City	State	Zip
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GROUND FOR EVICTION: Plaintiff alleges the following grounds for eviction:

☐ **Unpaid rent.** Defendant(s) failed to pay rent for the following time period(s):

_____. The amount of rent claimed as of the date of filing is: \$_____. Plaintiff reserves the right to orally amend the amount at trial to include rent due from the date of filing through the date of trial.

☐ **Other lease violations.** Defendant(s) breached the terms of the lease (other than by failing to pay rent) as follows: _____

☐ **Holdover.** Defendant(s) are unlawfully holding over by failing to vacate at the end of the rental term, which was on _____.

NOTICE TO VACATE: Plaintiff has given Defendant(s) a written notice to vacate *(according to Property Code § 24.005)* and demand for possession. Such notice was delivered on the _____, by this method:

SUIT FOR RENT: Plaintiff ☐ Does ☐ Does not include a suit for unpaid rent.

ATTORNEY'S FEES: Plaintiff ☐ Will be ☐ Will not be seeking applicable attorney's fees. The attorney's name, address, phone and fax numbers are:

IMMEDIATE POSSESSION BOND: If Plaintiff has filed a bond for immediate possession, Plaintiff requests that: (1) the court set the amount of the bond; (2) the court approve the bond; and (3) proper notices, as required by the Texas Rules of Civil Procedure, are given to Defendant(s).

SERVICE OF CITATION: Service is requested on Defendant(s) by: personal service at home or work, or by delivery to a person over the age of 16 years at Defendant's usual place of residence. If required, Plaintiff requests alternative service as allowed by the Texas Rules of Civil Procedure. Other home or work addresses where Defendant(s) may be served are:

Plaintiff knows of no other home or work addresses of Defendant(s) in this county.

RELIEF: Plaintiff requests that Defendant(s) is served with the citation and that Plaintiff is awarded a judgment against Defendant(s) for: possession of the premises, including removal of Defendant(s) and Defendant's possessions from the premises, unpaid rent, if set forth above, attorney's fees, court costs, and interest on the above sums at the rate stated in the lease, or if not so stated, at the statutory rate for judgments.

☐ I hereby request a jury trial. The fee is \$22 and must be paid at least 3 days before trial.

☐ I hereby consent for the answer and any other motions or pleadings to be sent to my email address as follows:

Plaintiff's Printed Name

Signature of Plaintiff or Agent or Attorney

Defendant's Information (if known): Name:

Date of birth:

Last three digits of Driver License: _____ Last three digits of Soc. Sec. No.: _____

SERVICE BY EMAIL: *(Normally, documents in this case are sent by mail. If it is easier for you, you can choose to get some of the documents sent by email. If you choose to get documents by email, you must have an email account where you can receive, open, and view large attachments, and it is important that you check this email account every day. Even if you receive some documents by email, you will still receive some documents about the case by mail or personal service, so you must not ignore any documents from the court or other parties received by mail or personal service.)*

☐ Yes, I would like to receive documents related to this case by email at this email address:

☐ No, I do not want to receive any documents by email.

REMOTE PARTICIPATION:

Hearing by Phone Call: *(When a hearing happens by phone call, you will be able to talk to and hear the judge, Plaintiff, or any witnesses, but you will not be able to see them. Copies of any evidence to be used must be exchanged by the parties and sent to the judge before the hearing.)*

- ☐ Yes, I am able to have any hearings in this case, except a jury trial, by phone call with the judge and Plaintiff and understand that I must have a phone to use on the date and time of the hearing.
- ☐ No, I am not able to have hearings by phone call.

Hearing by Video Conference: *(When a hearing happens by video conference, you can hear, see, and talk to the judge, Plaintiff, and any witnesses. You will be able to see any evidence presented during the hearing. You will need to have a computer, a smartphone, or tablet that has a camera feature. You will also need access to the internet to be able to have a video conference.)*

- ☐ Yes, I am able to have any hearings in this case, except a jury trial, by video conference. I understand that I am responsible for having the equipment and internet access needed to participate in a video conference on the date and time of the hearing.
- ☐ No, I am not able to have hearings by video conference.

NOTE: Your responses in this section do not guarantee that hearings will be held remotely, but rather they help the court know how you are able to participate.

Respectfully submitted,

Signature of Plaintiff

Signature of Attorney, if any

Printed Name: _____

Printed Name: _____

Address: _____

Address: _____

Email: _____

Email: _____

Telephone: _____

Telephone: _____

Fax: _____

Fax: _____

State Bar No.: _____

SWORN TO AND SUBSCRIBED before me on _____

CLERK OF THE JUSTICE COURT OR NOTARY

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§
§
§
§
§
§

IN THE JUSTICE COURT

PRECINCT

_____ COUNTY, TEXAS

SERVICEMEMBER'S CIVIL RELIEF ACT AFFIDAVIT

Instructions: The Servicemember's Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require the plaintiff to file a bond in an amount approved by the court. To obtain certificates of service or non-service under the Servicemember's Civil Relief Act, you may access the public website: <https://www.dmdc.osd.mil/appli/scra/scraHome.do>. This website will provide the current active military status of an individual.

Plaintiff being duly sworn under oath swears that Defendant is: *(check one)*

- ☐ not on active duty in the military
- ☐ on active military duty and/or is subject to the Servicemember's Civil Relief Act of 2003
- ☐ has waived in writing his/her rights under the Servicemember's Civil Relief Act of 2003
- ☐ military status is unknown at this time

PLAINTIFF

SWORN TO AND SUBSCRIBED before me on _____, 20

CLERK OF THE JUSTICE COURT OR NOTARY

**Penalty for making or using false affidavit - a person who makes or uses an affidavit*

knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year or both.

Defendant's Information:

Name:		DOB:		Sex/ Race:		Phone#:	
Height:	Weight:		Hair:	Eyes:	Address and Phone Number		

Defendant's Work Information:

Place of Employment:	Work Phone:
Work Address:	

Defendant's Vehicle Information:

License Plate#	Make:	Color:	Year:
License Plate#	Make:	Color:	Year: