

WRIT OF SEQUESTRATION

A writ of sequestration is a prejudgment process which orders the seizure or attachment of property to be maintained in the custody of the Constable or Sherriff, under court order and supervision, until the court determines the proper owner. For the purposes of the Justice Courts, the Court the value of the property must be within the Court's jurisdictional limits.

Civil Practices and Remedies Code Chapter 62 and Texas Rules of Civil Procedure sections 696-715 govern the grounds and process for a Writ of Sequestration.

A writ of sequestration is available to a plaintiff in a suit if (CPRC 62.001): (1) the suit is for title or possession of personal property or fixtures or for foreclosure or enforcement of a mortgage, lien, or security interest on personal property or fixtures and a reasonable conclusion may be drawn that there is immediate danger that the defendant or the party in possession of the property will conceal, dispose of, ill-treat, waste, or destroy the property or remove it from the county during the suit; (2) the suit is for title or possession of real property or for foreclosure or enforcement of a mortgage or lien on real property and a reasonable conclusion may be drawn that there is immediate danger that the defendant or the party in possession of the property will use his possession to injure or ill-treat the property or waste or convert to his own use the timber, rents, fruits, or revenue of the property; (3) the suit is for the title or possession of property from which the plaintiff has been ejected by force or violence; or (4) the suit is to try the title to real property, to remove a cloud from the title of real property, to foreclose a lien on real property, or to partition real property and the plaintiff makes an oath that one or more of the defendants is a nonresident of this state.

Step 1 – The Plaintiff should complete a small claims petition and pay the filing fee.

Step 2 – The Plaintiff should complete the application and affidavit for writ of sequestration.

Step 3 – The Clerk will immediately set the case for an ex parte hearing in order for the judge to set the bond.

Step 4 – The Plaintiff should pay or file the bond with the clerk.

Step 5 – The Plaintiff pays for the cost of the writ and the Judge will issue the Writ of Sequestration to the Constable for service.

CAUSE NO. _____

PLAINTIFF

§
§
§
§
§
§

IN THE JUSTICE COURT

vs.

PRECINCT NO. 2

DEFENDANT

FREESTONE COUNTY, TEXAS

APPLICATION AND AFFIDAVIT FOR WRIT OF SEQUESTRATION

PARTIES. Plaintiff _____, whose address is _____ makes this Application for a Writ of Sequestration. Defendant _____, who can be served with citation at _____.

FACTS. In this suit, now pending in this Court, Plaintiff is seeking damages from Defendant and plus (check one) foreclosure on a mortgage or lien, enforcement of Plaintiff's security interest, or recovery of property that is wrongfully held by Defendant. The property is described and valued as (*Describe and value each item of property with sufficient certainty that it can be identified*):

Description of Item	Value
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

All this property is in the Defendant's possession at _____ located in _____ County, Texas. Plaintiff has a valid and existing security interest and/or mortgage/lien in this property.

DEFAULT. The debt owed to Plaintiff, as described in the original petition, is just and unsatisfied. Defendant has failed and refused to pay _____ payments of \$_____ each, although he agreed to do so. Plaintiff has exercised the right to accelerate the obligations owed by Defendant as set out in the agreement and or security agreement between Plaintiff and Defendant. Defendant currently owes Plaintiff \$_____.

GROUND. Plaintiff fears Defendant may conceal the property or may remove it from _____ County, Texas during the pendency of this suit because Defendant refused to surrender possession of the property when specifically, and rightfully requested by Plaintiff to do so. This refusal by Defendant is an intentional concealment of the property and therefore jeopardizes Plaintiff's interest, security interest, and/or mortgage and lien in the property.

PRAYER. Plaintiff prays that a writ of sequestration issue and that Plaintiff receive all further relief to which Plaintiff may be entitled.

Signed this the _____ day of _____ 20_____, A.D.

Signature: _____

Printed Name & Bar Card: _____

Address: _____

Phone: _____

Email: _____

AFFIDAVIT

I am _____ in this case: I am authorized to make this affidavit and to apply for a writ of sequestration in this cause. Select one of the following: I have personal knowledge of the facts stated and they are true and correct or I make this affidavit on information and belief. The basis for that belief is the following: _____

Signature of Affiant

Printed Name of Affiant

SWORN TO AND SUBSCRIBED before me on the _____ day of _____, 20_____.

Signature of Notary Public State of Texas

Printed Name
My commission expires: _____

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
vs.	§	PRECINCT NO. 2
	§	
_____	§	
DEFENDANT	§	FREESTONE COUNTY, TEXAS

PLAINTIFF'S BOND FOR SEQUESTRATION

WHEREAS, in the above-styled cause now pending in the Justice of the Peace 2-1 court, wherein _____ is Plaintiff and _____ is Defendant that Plaintiff has applied for a writ of sequestration in order that possession shall be duly taken of the following-described personal property:

Description of Item	Value
_____	\$
_____	\$
_____	\$
_____	\$
_____	\$

Plaintiff hereby gives bond as required by law in order that the writ may be issued.

NOW, THEREFORE, we _____, Plaintiff, as Principal, and _____ and _____ as sureties, do hereby ACKNOWLEDGE OURSELVES BOND to pay Defendant in the suit the sum of \$ _____, being the amount which the court finds will adequately compensate Defendant in the event Plaintiff fails to prosecute the suit to effect, **CONDITIONED** that Plaintiff will pay, to the penal extent of the bond, all damages and costs as may be adjudged against Plaintiff for wrongfully suing out the writ of sequestration.

FURTHER conditioned and if Plaintiff replevies the property, the Plaintiff will have the property in the same condition as when Plaintiff replevies the property, together with the value of the fruits, hire or revenue thereof, forthcoming to abide the decision of the Court, or that Plaintiff will pay the value thereof or the difference between its value at the time of

replevy and the time of judgment (regardless of the cause of such difference in value, and of the fruits, hire ore revenue of the same in the case he shall be condemned to do so.)

WITNESS BY OUR HANDS this the ____ day of _____, 20__.

Plaintiff Signature Printed Name, Address

Surety #1 Signature Printed Name, Address

Surety #2 Signature Printed Name, Address

OATH OF SURETIES

**THE STATE OF TEXAS
COUNTY OF FREESTONE**

We, each of us, individually and severally, do swear that we are worth, in our own rights, after deducting from our property all that which is exempt by law and Constitution of the State from forced sale, and after the payment of all our debts every description, whether individual or security debts, and after satisfying all encumbrances upon our property which are known to us, that we resident the County of Dallas and we have property in the State liable to execution worth \$_____.

Plaintiff Signature Printed Name, Address

Surety #1 Signature Printed Name, Address

Surety #2 Signature Printed Name, Address

SWORN TO AND SUBSCRIBED before me on the ____ day of _____, 20__.

Signature of Notary Public State of Texas

Printed Name
My commission expires: _____