

## **FILING A FORCIBLE DETAINER / EVICTION SUIT**

### **VENUE:**

Suit for possession of property and delinquent rent shall be filed in the precinct in which all or part of the property is located.

### **REQUISITES:**

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 **THREE DAY WRITTEN NOTICE TO VACATE PREMISES** before the landlord files a Forcible Detainer Suit, **unless the parties have contracted for a shorter or longer period in a written lease or agreement.**

To recover attorney's fees in a Forcible Entry and Detainer Suit, the written demand to vacate the premises must state that if the tenant does not vacate before the 11<sup>th</sup> DAY after the date of receipt of the notice and if the landlord files suit, the landlord may recover attorney's fees. Notice by mail may be registered or certified mail, return receipt requested, to the premises in question.

### **JURISDICTION:**

In a Forcible Entry and Detainer Suit, the Court may render judgment for possession of the property in question. The landlord may receive judgment for back rent if the amount in controversy is not more than \$20,000.00.

### **FILING SUIT:**

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have a procedural question. List each adult tenant on the lease or in a verbal agreement. State the tenant's full address including apartment number. List any known work address or other address where the tenant may be located for service.

Paragraph #3 of the attached petition describes three separate causes of action. The first cause is for **NON-PAYMENT OF RENT**. The second cause is for **BREACH OF LEASE/CONTRACT** by the tenant. The third is for **HOLDING OVER THE LEASE PREMISES** by the tenant.

If neither is chosen, then the last paragraph will cover the cause of action known as owner wants possession.

When filing, the landlord should bring the following:

- a. A copy of the lease (if you have one);
- b. A copy of the notice to vacate;
- c. Filing fee is \$54.00 and service fee is \$100.00 person.

Generally, all parties named in the lease should be sued and served with citation in the eviction proceeding. Any judgment granted will run only against those who are specifically named and served.

**CITATION:**

The Constable will serve each tenant with citation based on the information you give to the Court. The tenant will be informed in the citation the DATE and TIME of the hearing and a DEFAULT JUDGMENT may be rendered against him/her if he/she does not appear at the time designated.

**REPRESENTATION:**

The landlord's agent may file any type of eviction suit and may represent the landlord at any default judgment hearing. If the case is contested, an agent may represent either party if the case involves non-payment of rent or holding over.

**HEARING:**

Always arrive at least ten (10) minutes prior to the trial and check in with the clerk and identify yourself by name along with the names of any witnesses that you want sworn to give testimony.

**IF THE TENANT APPEARS AT HEARING:**

- A. The Judge will hear both sides:
- B. The Judge will render a judgment:
- C. If the Judge rules in the landlord's favor, the tenant will have five (5) days to appeal to County Court and or must vacate the premises by the date set by the Court.

**IF THE TENANT FAILS TO APPEAR AT HEARING:**

- A. The landlord or the landlord's agent will present their case to the Judge;
- B. If the Judge rules in the landlord's favor, a Default Judgment will be granted.

**IF THE TENANT DOES NOT MOVE WITHIN SEVEN (7) DAYS AFTER JUDGMENT OR DOES NOT APPEAL TO COUNTY COURT;**

- A. A Writ of Possession may be requested and filed.
- B. The Cost of the Writ of Possession is \$100.00
- C. A Writ of Possession will order the officer executing the Writ to instruct the tenant to remove or allow the landlord, the landlord's agent, or persons acting under the officer's supervision to remove all personal property claimed to be owned by the tenant and place or have an authorized person to place the removed personal property outside the rental unit at a nearby location or street and NOT while it is raining, sleeting or snowing.

**NO LEGAL QUESTIONS WILL BE ANSWERED BY THIS OFFICE. If you have additional PROCEDURAL questions, please contact this office at (361) 645-3663.**

**All correspondence should be addressed to:**

**Sylvia A. Valdez  
Administrative Assistant  
svaldez@goliadcountytexas.gov**

**NOTICE TO VACATE**

TO: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**As outlined in Article 24.005, Texas Property Code**, you are hereby notified that \_\_\_\_\_ days after delivery of this notice, I demand possession of said property listed above, now occupied by you, which you illegally detain from me. Unless you vacate at once, I shall proceed to repossess said property with you now owe \$ \_\_\_\_\_ for rent thru the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ and/or for the reason(s) listed herein:

\_\_\_\_\_  
\_\_\_\_\_

**I HEREBY DEMAND** that you pay all past due rent and vacate the property at once or I shall proceed against you as the law directs.

Signed, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Printed Name of Landlord

\_\_\_\_\_  
Signature of Landlord

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

\*\*\*\*\*

This notice was executed at the above address on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_.m. by:

\_\_\_\_\_ delivering a true copy of this notice to Tenant in person.

\_\_\_\_\_ leaving a true copy of this notice with: \_\_\_\_\_, a person over the age of 16 years, at the address listed above.

\_\_\_\_\_ posting a true copy of this notice to the premises according to the law.

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of person serving this notice

CAUSE NO. \_\_\_\_\_

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

**PETITION: EVICTION CASE**

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

\_\_\_\_\_ for eviction from Plaintiff's 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 \_\_\_\_\_, 20\_\_\_\_.

**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 \_\_\_\_\_, 20\_\_\_\_ by this method: \_\_\_\_\_

**SUIT FOR RENT:** Plaintiff  does or  does not include a suit for unpaid rent.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**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 \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CLERK OF THE JUSTICE COURT OR NOTARY

Case No: \_\_\_\_\_  
(Print court information exactly as it appears on your Petition)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ In the (check one):  
 District  County  Justice Court of:  
\_\_\_\_\_ County, Texas

## Certificate of Last Known Mailing Address

1. My name is: \_\_\_\_\_  
*First Middle Last*
2. I am the Petitioner in this case.
3. The Respondent's name is: \_\_\_\_\_  
*First Middle Last*
4. I certify that the last known mailing address I have for the Respondent is:

\_\_\_\_\_  
*Address City State Zip*

Respectfully submitted,

▶ \_\_\_\_\_  
*Your Signature Date*

\_\_\_\_\_  
*Your Printed Name Phone*

\_\_\_\_\_  
*Your Mailing Address City State Zip*

Email Address: \_\_\_\_\_ Fax # (if available) \_\_\_\_\_





- "I believe the Respondent may be in the military. Therefore, I contacted the following military locator services:

Military Locator Service Contacted	Results
<u>Air Force: 210-565-2660</u>	_____
<u>Navy: 866-827-5672</u>	_____
<u>Marines: 800-268-3710</u>	_____

- I know that the Respondent is not now in the military because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- I do not know if the Respondent is in the military now.

\_\_\_\_\_  
**Your Signature (Do not sign until you are in front of a notary.)**

State of Texas

County of \_\_\_\_\_

SIGNED under oath before me on \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_  
**PRINT the first and last names of the person who signed this affidavit.**

\_\_\_\_\_  
Notary Public, State of Texas

*(Notary's seal must be included.)*