

EVICCTIONS

INSTRUCTIONS AND INFORMATION REGARDING FILING AN EVICTION SUIT

An eviction case is a lawsuit brought to recover possession of real property. It may or may not include a suit for back rent.

WHERE: An eviction suit must be filed in the county and precinct in which the rental property is located, otherwise, the Judge must dismiss the case.

NOTICE TO VACATE: The Notice to Vacate must be in writing and must be considered a demand for possession of the property. The notice must be signed by the landlord or his agent and must include date and time of delivery. The notice may be hand delivered to the tenant or mailed.

TIME REQUIREMENTS: Unless there is a written agreement between the parties regulating the notice requirements, the landlord must give the tenant at least 3 days' Notice to vacate. Section 24.005 of the Texas Property Code sets out the notice requirements for eviction suits.

FILING THE SUIT: If the tenant does not vacate the property by the date given in the notice, you may then file an eviction suit. You will need to bring the following information to the JP office.

1. Date the Notice to Vacate was given and how it was given.
2. The filing fee of \$129.00 if only one person is to be served.
3. Additional service fee of \$75.00 per person named in the lease.

WHO MAY FILE: The owner of the property, his authorized agent or an attorney may file the eviction suit.

BACK RENT: A suit for back rent may be joined with the eviction suit if the amount due is within the jurisdiction of the Justice Court (\$20,000). A statement that attorney fees are being sought, if applicable, must be included. You may only recover back rent, damages to the property must be sought in another type of lawsuit such as a small claims suit.

PROCEDURES AFTER FILING: A court date will be set 21 days upon filing the case. A citation will be issued to each tenant who is named informing them of the date and time of the hearing. The citation will be given to the Constable to be served.

THE HEARING: Either party may represent themselves at the hearing or be represented by his agent or attorney. Proper representation is essential. You will need to bring with all the evidence pertaining to the case. The burden of proof lies with the Plaintiff. You must still prove your case even if the defendant fails to appear.

JUDGMENT: At the hearing a judgment will be rendered for either the Plaintiff or the Defendant. If you are awarded a judgment for possession, there is a five day appeal in which either party may appeal this case to a higher court. If the defendant has not filed an appeal or vacated the property within 5 days, on the 6th day you may request a Writ Of Possession.

WRIT OF POSSESSION: If the defendant doesn't vacate or appeal, you may request the Writ of Possession. The service fee for the Writ is \$150.00 and a writ of possession will be issued and forwarded to the Constable's office. This directs the Constable to schedule a move out and then served the tenants with the date and time that their things will be moved out of the property and set on the side of the street. It will be the responsibility of the landlord to provide manpower to do the move out.

Laws governing eviction procedures can be found in Section 24 of the Texas Property code and Part V of the Texas Rules of Civil Procedure.

If you have further questions, please feel free to contact our office @ 903-583-7489.

THE CLERKS CANNOT GIVE YOU LEGAL ADVICE, THEY CAN ONLY ASSIST YOU WITH PROCEDURES.

REMEMBER – THE JUDGE CANNOT DISCUSS YOUR CASE WITH YOU PRIOR TO THE HEARING.

JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED _____

(e.g., 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 replaces 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 in case:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>
3. Indicate case type, or identify the most important issue in the case (select only 1):	
<p><input type="radio"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input checked="" type="radio"/> 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 of rent due and unpaid is not more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>
<p><input type="radio"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>	<p><input type="radio"/> 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any.</p>

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT ONE
	§	
_____	§	
DEFENDANT	§	FANNIN 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. (if any)	City	State	Zip
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GROUND'S 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:

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 _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY

DOCKET NO. _____ DEFENDANT'S NAME: _____

AFFIDAVIT

SERVICE MEMBERS CIVIL RELIEF ACT SEC. 201 (b)

***To VERIFY Military Status go to website: <https://scra.dmdc.osd.mil/scra/#/single-record>**

PLAINTIFF BEING DULY SWORN ON HIS OATH DEPOSES AND SAYS UNDER PENALTY OF PERJURY THAT DEFENDANT: **(Please select ONE for DEFENDANT)**

___ IS IN THE MILITARY SERVICE AND ON ACTIVE DUTY IN A FOREIGN COUNTRY

OR

___ IS IN THE MILITARY SERVICE AND NOT ON ACTIVE DUTY IN A FOREIGN COUNTRY

OR

___ IS NOT IN THE MILITARY SERVICE

*(In addition to this affidavit you MUST provide proof of military status before a default judgment can be rendered).

OR

___ HAS WAIVED HIS RIGHTS UNDER THE SERVICE MEMBERS RELIEF ACT OF 2003

OR

___ PLAINTIFF IS UNABLE TO DETERMINE WHETHER OR NOT DEFENDANT IS IN MILITARY SERVICE AT THIS TIME

*(In addition to this affidavit you MUST provide proof of military status before a default judgment can be rendered).

***I am not providing proof of military status from the governmental website because:**



SIGNATURE OF PLAINTIFF/AGENT/ATTORNEY FOR PLAINTIFF

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 20_____.

CLERK OF THE JUSTICE COURT
NOTARY PUBLIC IN AND FOR STATE OF TEXAS (STRIKE ONE)

Penalty for making or using false affidavit – A person who makes or uses an affidavit knowing to be false, shall be fined as provided in title 18 United States Code, or imprisoned for not more than one year, or both.

****CERTIFICATE OF LAST KNOWN ADDRESS****

In strict compliance with Rule 503.1(d), Texas Rules of Civil Procedure, it is hereby certified that the last known mailing address of Defendant is as follows:

****DEFENDANT'S ADDRESS**

CITY, STATE, AND ZIP CODE



SIGNATURE OF PLAINTIFF/AGENT/ATTORNEY FOR PLAINTIFF