

EVICITION CASES

It is your responsibility to prepare ALL eviction forms completely when filing an eviction suit if you choose not to hire an attorney. Our office will supply you with this packet, however we cannot give you any legal advice. Also, the Judge cannot discuss the case with you prior to the hearing.

WHERE TO FILE: An eviction suit **MUST** be filed in the Justice Court precinct where the rental property is located; otherwise, the Judge must dismiss the case. Filing fee is \$46.00 and service fee for **EACH** Defendant is \$85.00. **If paying by cash, please bring the exact amount due.**

NOTICE TO VACATE: The law requires that prior to filing the eviction suit, the landlord **must** give the tenant a 72 hour written notice to vacate the premises, unless there is a lease that states differently. Delivery of the notice to vacate **must** be done by one of the following methods:

- A. Handed to a tenant in person, or to anyone living at the premises who is at least 16 years of age.
- B. Attached securely to the inside or outside of the main entry door.
- C. Notice may be by certified mail, return receipt requested.

The eviction case cannot be filed until the notice time has expired.

WHO TO SUE: If the eviction is based on a written residential lease, the plaintiff **must** name as defendants **all** tenants obligated under the lease residing at the premises whom plaintiff seeks to evict.

THE HEARING: You are required to appear personally for the hearing. A hearing will be set no less than 10 days and no more than 21 days after petition is filed. Proper representation is essential. At the hearing both sides will have the right to present their side of the case. You will need to bring with you all evidence pertaining to the case. The burden of proof lies with you as 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.

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 any back rent owed, there is a five (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.

WRIT OF POSSESSION: You must pay the filing/service fee of \$155.00 to the Judge's office when requesting a Writ of Possession. The Writ of Possession shall not be issued until the expiration of five (5) days from the date the judgment is signed. Any questions concerning this Writ should be directed to the Constable.

APPEAL: There is no Motion for New Trial remedy after an eviction case. Either party may appeal from a judgment in such case to the county court of the county in which the judgment is rendered by filing with the Justice Court the documents required by Statute(s) within five (5) days after the judgment is signed.

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.

ALL PAGES MUST BE COMPLETELY FILLED OUT WHEN FILING SUIT WITH THE COURT.

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§ IN THE JUSTICE COURT
§
§
§ PRECINCT NO. 5
§
§
§ HENDERSON COUNTY, TEXAS

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following Defendant(s) _____ for eviction of 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

GROUND(S) FOR EVICTION: Plaintiff alleges the following ground(s) 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. MONTHLY RENT AMOUNT \$_____
- 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 or renewal of extension period, which was the ____ day of _____, 20__.

NOTICE TO VACATE: Plaintiff has given Defendant(s) a written notice to vacate (according to Chapter 24.005 of the Texas Property Code) and demand for possession. Such notice was delivered on the ____ day of _____, 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):

Date of birth: _____

Address of Plaintiff or Agent or Attorney

Last three digits of Driver License: _____

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

Phone No.: _____

City State Zip

Phone & Fax No. of Plaintiff
or Agent or Attorney

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20_____

CLERK OF THE JUSTICE COURT OR NOTARY

CASE NO. _____

DEFENDANT : _____

AFFIDAVIT 50 USC Sec. 520

Plaintiff being duly sworn on oath deposed and says that defendant(s) is (are) (CHECK ONE)

- Not in the military
- Not on active duty in the military and/or
- Not in foreign county on military service
- On active military duty and/or is subject to the Service members Civil Relief Act of 2003
- Had waived his/her rights under the Service members Civil Relief Act of 2003
- Military status is unknown at this time

PLAINTIFF

(Select the applicable title under the signature for the jurat below)

Subscribe and sworn to before me on this the _____ day of _____, 20____

SEAL

Notary Public in and for the State of Texas

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.

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) _____

Justice Court Civil Case Information Sheet

Case No. (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:										
<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Name: _____</td> <td style="width: 50%; border: none;">Telephone: _____</td> </tr> <tr> <td style="border: none;">Address: _____</td> <td style="border: none;">Fax: _____</td> </tr> <tr> <td style="border: none;">City/State/Zip: _____</td> <td style="border: none;">State Bar No.: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Email: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Signature: _____</td> </tr> </table>	Name: _____	Telephone: _____	Address: _____	Fax: _____	City/State/Zip: _____	State Bar No.: _____	Email: _____		Signature: _____		Plaintiff(s): _____ Defendant(s): _____ [Attach additional page as necessary to list all parties]
Name: _____	Telephone: _____										
Address: _____	Fax: _____										
City/State/Zip: _____	State Bar No.: _____										
Email: _____											
Signature: _____											
3. Indicate case type, or identify the most important issue in the case (select only 1):											
<input type="checkbox"/> 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.	<input type="checkbox"/> 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.										
<input type="checkbox"/> 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.	<input type="checkbox"/> Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, or personal property. The claim can be for no more than \$10,000, excluding statutory interest and court costs but including attorney fees, if any.										