

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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 Part 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. 24.005a 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 \$41.00 and \$70.00 **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 **\$41.00** made payable to the **'Justice Court'** and **\$70.00** 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 Plaintiff's favor, a default will be granted.

If the defendant **does appear** at the Hearing:

- A. The Judge will hear both sides;
- B. The Judge will render a judgment;

If 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 \$150.00.

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 (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:										
<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, 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.										

PETITION: EVICTION CASE

ASE NO. (court use only) _____

With suit for Rent

COURT DATE: _____

In the Justice Court, Precinct Two, Hill County, Texas

PLAINTIFF _____

(Landlord/Property Name)

VS. _____

DEFENDANT(S): _____

Rental Subsidy (if any) \$ _____

Tenant's Portion \$ _____

TOTAL MONTHLY RENT \$ _____

COMPLAINT: Plaintiff (Landlord) hereby complains of the defendant(s) named above for eviction of plaintiff's premises (including storerooms and parking areas) located in the above precinct. Address of the property is:

Street Address	Unit No. (if any)	City	State	Zip
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1. **SERVICE OF CITATION:** Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are:

2. **UNPAID RENT AS GROUNDS FOR EVICTION:** Defendant(s) failed to pay rent for the following time period(s): _____ **TOTAL DELINQUENT RENT AS OF 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.

3. **OTHER GROUNDS FOR EVICTION/LEASE VIOLATIONS:** Lease Violations (if other than non-paid rent – list lease violations) _____

4. **HOLDOVER AS GROUNDS FOR EVICTION:** Defendant(s) are unlawfully holding over since they failed to vacate at the end of the rental term or renewal of extension period, which was the _____ day of _____, 20____.

5. **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 _____ and delivered by this method: _____

6. **ATTORNEY'S FEES:** Plaintiff will be or will NOT be seeking applicable attorney's fees. Attorney's name, address, and phone & fax numbers are: _____

7. **BOND FOR POSSESSION:** If Plaintiff has filed a bond for possession, plaintiff requests (1) that the amount of plaintiff's bond and defendant's counter bond be set, (2) that plaintiff's bond be approved by the Court, and (3) that proper notices as required by the Texas Justice Court Rules are given to Defendant(s).

REQUEST FOR JUDGMENT: Plaintiff prays that defendant(s) be served with citation and that plaintiff have judgment against defendant(s) for: possession of premises, including removal of defendants and defendants' 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 rental contract, or if not so stated, at the statutory rate for judgments under Civil Statutes Article 5069-1.05.

I give my consent for the answer and any other motions or pleadings to be sent to my email address which is:

Petitioner's Printed Name

Signature of Plaintiff (Landlord/Property Owner) or Agent

DEFENDANT(S) INFORMATION (if known):

Address of Plaintiff (Landlord/Property Owner) or Agent

DATE OF BIRTH: _____

City State Zip

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

Phone & Fax No. of Plaintiff (Landlord/Property Owner) or agent

DEFENDANT'S PHONE NUMBER: _____

Sworn to and subscribed before me this _____ day of _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY

MILITARY STATUS AFFIDAVIT

To determine if a person is in the military service, you may access the Defense Department's website at <https://www.dmdc.osd.mil/scra/owa/home>.

Cause no. _____

_____ (Plaintiff)	X	In the Justice Court
vs.	X	Precinct Two
_____ (Defendant)	X	Hill County, Texas

BEFORE ME, the undersigned authority, on this day personally appeared _____, who under penalty of perjury, stated that the following facts are true:

I am the Plaintiff attorney of record for the Plaintiff in the proceeding.

_____, Defendant **is not** in the military service.
 _____, Defendant **is** in the military service.

I know this because

I am unable to determine whether or not the Defendant in the military service.

Plaintiff

Attorney of Record for Plaintiff

SWORN AND SUBSCRIBED BEFORE ME on _____

(seal)

NOTARY PUBLIC, State of Texas or Court Clerk

CAUSE NO. _____

_____ (Plaintiff)	X	IN THE JUSTICE COURT
VS	X	PRECINCT TWO
_____ (Defendant)	X	HILL COUNTY, TEXAS

PLAINTIFF'S MOTION TO DISMISS

NOW COMES THE PLAINTIFF in the above styled and numbered cause and files this MOTION TO DISMISS the above styled case WITHOUT PERJUDICE, in accordance with RULE 162 of the Texas Rules of Civil Procedure, and cites the following reason(s):

FILED THIS THE _____ DAY OF _____, 20__

PLAINTIFF'S

ORDER OF DISMISSAL

Be it thereofre ORDERED, ADJUDGED AND DECREED that the PLAINTIFF'S MOTION BE GRANTED. The above styled cause is DISMISSED WITHOUT PREJUDICE.

SIGNED AND ENTERED THIS _____ DAY OF _____, 20__

Justice of the Peace
Pct. 2
Hill County, Texas