

EVICTION 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.

COST: Filing fee is \$54.00 and service fee for EACH Defendant is \$85.00.

If you are paying by CASH you must bring 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:

- Handed to the tenant in person, or to anyone living at the premises that is at least 16 years of age.
- Attached securely to the inside or outside of the main entry door.
- 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 that 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.

JUDGEMENT: 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 judgement for possession of the premises and/or any back rent owed, there is 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 becomes final. Upon final judgment you may then file for a Writ of Possession.

WRIT OF POSSESSION: You must pay the filing/ service of **\$205.00** 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 question concerning the Writ should be directed to the Constable.

APPEAL: There is a 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) with 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. _____

| | | |
|-----------|---|-------------------------|
| _____ | § | IN THE JUSTICE COURT |
| PLAINTIFF | § | |
| | § | |
| v. | § | PRECINCT 5 |
| | § | |
| _____ | § | |
| DEFENDANT | § | HENDERSON 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 |
|----------------|--------------------------|------|-------|-----|

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:

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

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.

