

## **INSTRUCTIONS AND INFORMATION FOR FILING AN EVICTION**

**EVICTION CASE:** An eviction case is a lawsuit brought to recover possession of real property under **Chapter 24 of the Texas Property Code**, usually 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 500-510 of Part V of the **Rules of Civil Procedure**. To the extent of any conflict between Rule 510 and the rest of Part V, Rule 510 applies.

Rules 500-510 of the Rules of Civil Procedure, which govern the rules of practice in Justice Courts, can be found on the internet at **Texas Rules of Civil Procedure, Part V, Rule 500-510** or available for examination at the Justice of the Peace office during normal business hours.

As in all suits, you have the right to represent yourself or be represented by an attorney. See Rule 500.4, Part V of the Rules of Civil Procedure. It is always advisable to contact an attorney for legal advice. **The Court or the court staff CAN NOT give you legal advice.**

Eviction cases in Justice Court require a landlord-tenant relationship, either express or implied. The petition in an eviction case must be **SWORN TO BY THE PLAINTIFF**, and if attorney fees are sought, the petition must contain a statement that attorney fees are being sought, Rule 510.3(a)(5), Rules of Civil Procedure.

You must give the tenant a "Notice To Vacate" prior to filing an eviction case and the time specified in the notice must have expired. See Chapter 24 of the Texas Property Code and Rule 500.5, Rules of Civil Procedure.

If there is a written lease signed by (2) or more tenants, all of the tenants should be named and served with citation. If only one name appears on a written lease or the plaintiff can show in court that the agreement was with only one tenant, then naming one tenant and the statement "and all other occupants" may be sufficient.

An eviction case must be filed in the **County** where the property is located.. If the eviction is filed elsewhere, the judge must accept the filing, but dismiss the case. The plaintiff will not be entitled to a refund of the filing fee, but will be refunded any service fees paid if the case is dismissed before service is attempted. Rule 510.3(b), Rules of Civil Procedure.

A suit for rent may be joined with the eviction suit if the amount due is within the court's jurisdiction.

The court must adjudicate the right to actual possession and not title. Counterclaims and the joinder of suits against third parties are not permitted in eviction cases. A claim that is not asserted because of this rule can be brought in a separate suit in a court of proper jurisdiction. Rule 510.3(e), Rules of Civil Procedure.

Once your petition is filed with the court, a citation will be issued and served on the defendant. All parties will be notified of the time and date of the trial. Be certain the court has all your contact information.

**It will be necessary for you to file a Justice Court Civil Case Information sheet with your petition.** This packet contains that sheet and also available at the court office. Please bring this sheet to the court along with your completed petition.

The filing fee for an Eviction case is **\$41.00** and a service fee of **\$100.00** per defendant. For information concerning the cost of filing of any Writ or other process, contact the court office.

The Judge may ask questions during any hearing or at any trial in accordance with Rule 500.6, Rules of Civil Procedure. **However, the judge will not present your case for you or defend a case against you. It is the responsibility of each party to present his/her case.**

**Discovery:** Discovery is controlled by Rule 500.9, Rules of Civil Procedure and the Justice Court Standing Discovery Order, hereto attached.

**All fees must be paid before a document is processed.**

**THESE INSTRUCTIONS AND INFORMATION IS A BRIEF SUMMARY OF THE LAWS AND PROCEDURES THAT APPLY TO A EVICTION SUIT IN JUSTICE COURT, THEY ARE NOT INTENDED TO BE EXHAUSTIVE AND ANY QUESTIONS OR INTERPRETATION SHOULD BE BASED UPON YOUR OWN RESEARCH AND/OR THE ADVICE OF YOUR ATTORNEY,**

Attachments:

Standing Discovery Order

Justice Court Civil Information Sheet

Official Notice To Vacate Premises

COUNTY OF SAN SABA  
STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENT:

\_\_\_\_\_  
ADDRESS OF PROPERTY

\_\_\_\_\_  
DATE

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

FINAL NOTICE IF HEREBY GIVEN YOU TO VACATE THE PREMISES YOU ARE OCCUPYING. SAID PREMISES BEING LOCATED AT:

\_\_\_\_\_  
ADDRESS OF PROPERTY

SINCE YOU HAVE BREACHED YOUR AGREEMENT BY NOT PAYING THE CONSIDERATION THEREIN MENTIONED, WE ARE THEREFORE ENTITLED TO POSSESSION OF THE ABOVE DESCRIBED PREMISES, AND DEMAND IS HEREBY MADE OF THE POSSESSION IF SAME FROM YOU. (CIRCLE ONE)

- A. YOU MUST VACATE THE ABOVE DESCRIBED PREMISES WITHIN 3 DAYS NOT COUNTING THE DATE OF SERVICE OF THIS NOTICE.
- B. YOU MUST VACATE THE ABOVE DESCRIBED PREMISES WITHIN 10 DAYS NOT COUNTING THE DATE OF SERVICE OF THIS NOTICE.

THIS NOTICE IS GIVEN PURSUANT TO TEXAS PROPERTY CODE, SECTION 24.005-6, PRIOR TO FILING A FORCIBLE DETAINER LAWSUIT IN A COURT OF COMPETENT JURISDICTION.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
WITNESS SIGNATURE

\_\_\_\_\_  
DATE SERVED

**PETITION: EVICTION CASE**

CASE NO. (Court use only) \_\_\_\_\_ ( ) **With suit for Rent** COURT DATE: \_\_\_\_\_  
In the Justice Court, Precinct 1, San Saba County, Texas

PLAINTIFF \_\_\_\_\_  
(Landlord/Property Name)

Rental Subsidy (if any) \$ \_\_\_\_\_  
Tenant's Portion \$ \_\_\_\_\_  
Total Monthly Rent \$ \_\_\_\_\_

VS.  
DEFENDANT(S): \_\_\_\_\_

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

1. **SERVICE OF CITATION:** Service is requested on defendants by personal service at home or worker 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 filed 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 request (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' possession from the premises, unpaid rent if set forth above, attorney's fees, court cost, 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  
**DEFENDANT(S) INFORMATION** (if known):  
DATE OF BIRTH: \_\_\_\_\_  
Last 3 numbers of Driver License: \_\_\_\_\_  
Last 3 Numbers of Social Security: \_\_\_\_\_  
Defendant's Phone Number: \_\_\_\_\_

\_\_\_\_\_  
Signature of Plaintiff (Landlord/Property Owner) or Agent  
\_\_\_\_\_  
Address of Plaintiff (Landlord/Property Owner) or Agent  
\_\_\_\_\_  
City                      State                      Zip  
\_\_\_\_\_  
Phone & Fax No. Of Plaintiff (Landlord/Property Owner)/ Agent

Sworn to and subscribed before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

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

## 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 purpose 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.

Contact information for person completing information sheet.  
Names of parties in case.

Names of parties in case.

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)

( ) **Debt Claim:** A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt 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 cost but including attorney fees, if any.

( ) **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 cost but including attorney fees, if any.

( ) **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 cost but including attorney fees, if any.

( ) **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 cost But including attorney fees, if any.

**AFFIDAVIT OF MILITARY STATUS OF DEFENDANT(S)**

**CAUSE NUMBER:** \_\_\_\_\_

\_\_\_\_\_  
**IN THE JUSTICE COURT**

VS.

**PRECINCT #1**

\_\_\_\_\_  
**SAN SABA COUNTY, TEXAS**

My name is (please print)\_\_\_\_\_.

I am (check one) \_\_\_\_\_ the plaintiff or \_\_\_\_\_ an authorized agent of the plaintiff in the case described above. I am capable of making this affidavit. I have been duly sworn on oath and the facts in this affidavit are within my personal knowledge and are true and correct.

*(Check or fill in as applicable)*

- \_\_\_\_\_ 1. No defendant in this case is on active duty in the U.S. Military (Army, Navy, Air Force, Marines or Coast Guard). The facts on which I base my conclusion are as follows: \_\_\_\_\_  
\_\_\_\_\_
- \_\_\_\_\_ 2. Defendant *(insert name(s))* \_\_\_\_\_ is on active duty in The U.S. Military.
- \_\_\_\_\_ 3. Defendant *(insert name(s))* \_\_\_\_\_ has been deployed By the U.S. Military to a foreign country.
- \_\_\_\_\_ 4. Plaintiff and the undersigned (if the undersigned is acting agent of plaintiff) are not able to determine whether any defendant is the U.S. Military—except for any defendant named in 2 above.
- \_\_\_\_\_ 5. Plaintiff and the undersigned (if the undersigned is acting agent of plaintiff) are not able to determine whether any defendant who is in the U.S. Military has been deployed to a foreign country—except for any defendant named in 3 above.
- \_\_\_\_\_ 6. Defendant *(insert name(s))* \_\_\_\_\_ has signed, while on active duty, a **separate written waiver** of his or her rights under U.S. Service members Civil Relief Act Of 2003.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Judge, Clerk of the Court, or Notary Public  
The State of Texas  
San Saba County, Texas

## **COST**

The filing fee is \$41.00. In addition, there is a fee for serving the defendant, which is \$80.00 per defendant to be served in San Saba County. (**\$121.00** total for one defendant to be served in San Saba County).

**Please make the Money Order/Cashier's Check payable to: San Saba Justice Court.**

If the defendant upon whom you are filing resides **OUTSIDE** of San Saba County:

- 1) Call the County Courthouse in the County where the defendant is to be served.
- 2) Ask for the name of the Constable or Sheriff in the precinct where the defendant is to be served; call that office and find out the **SERVICE FEE** for serving a **DEBT/SMALL CLAIMS CITATION**.
- 3) Get the address of the Constable or Sheriff who will be serving the citation.
- 4) Get a money order, payable to the Constable or Sheriff who will be serving the citation and bring it with you when you file your suit.

**THESE FEES MUST BE PAID WITH 2 SEPARATE MONEY  
ORDERS OR CASHIER'S CHECKS.  
ONE FOR THE FILING AND ONE FOR THE SERVICE.**

FEE SCHEDULE FOR SMALL CLAIMS AND DEBT CLAIM CASES WITH DEFENDANT  
THAT LIVES IN SAN SABA COUNTY

<u>FILING FEE-</u>	\$41.00
<u>SERVICE FEE PER DEFENDANT</u>	\$100.00

DEFENDANT RESIDES OUT  
OF COUNTY (YOU MUST CALL THAT COUNTY FOR SERVICE FEE).

<u>JURY FEE</u>	\$ 22.00
<u>ABSTRACT OF JUDGMENT</u>	\$ 5.00
<u>WRITS</u>	\$250.00
<u>SUBPOENA</u>	\$ 85.00