

## 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 Party 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. Court clerks will assist you if you have *procedural questions*. 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 forty-six (\$46.00) and the service fee is eighty (\$80.00) per defendant to be served in Caldwell County, for a total of one hundred twenty-six (\$126.00) 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 \$126.00 (if only one person being served).

**\*\*Payment must be in the form of a MONEY ORDER or CASHIER'S CHECK made payable to CALDWELL COUNTY TREASURER\*\* Effective 9/1/17**

### 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.

Office of Judge Shanna Conley, Pct 2  
505 E Fannin St. Luling, TX 78648  
(830) 875-5260 (830) 875-6449 Fax

**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 **\$200.00**. (Payment: Money order or Cashier's check payable to *Caldwell County Treasurer*)

Eviction Lawsuits may be dismissed only in open court or by written request. A "Motion to Dismiss" form is included in this packet.

**IF YOU HAVE PROCEDURAL QUESTIONS, PLEASE CONTACT THE COURT**

**LEGAL QUESTIONS WILL NOT BE  
ANSWERED BY THIS OFFICE**

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**PETITION: EVICTION CASE**

CASE NO. (court use only) \_\_\_\_\_

With suit for Rent

COURT DATE: \_\_\_\_\_

In the Justice Court, Precinct 2, Caldwell 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

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

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) or agent

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

FORM 127 – SERVICEMEMBER’S CIVIL RELIEF ACT

CAUSE NO. \_\_\_\_\_

**AFFIDAVIT**  
**50 USC Sec. 520**

Plaintiff being duly sworn on oath deposes\* and says that defendant(s) is (are)

(CHECK ONE)

- not in the military
- not on active duty in the military and/or
- not in a foreign country on military service
- on active military duty and/or is subject to the Servicemembers Civil Relief Act of 2003
- has waived his/her rights under the Servicemembers Civil Act of 2003
- military status is unknown at this time

\_\_\_\_\_  
PLAINTIFF

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

Subscribed and sworn to before me no this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY / CLERK

Notary Public in and for the State of Texas

Clerk of the Justice Court

\_\_\_\_\_  
SEAL

\*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.