

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 \$20,000, 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 fifty-four (\$54.00) and the service fee if ninety (\$90.00) **per defendant** to be served in Caldwell County, for a total of one hundred forty-four (**\$144.00**). 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 **\$144.00** (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****

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 **\$250.00**. (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**

CAUSE NO. _____

PLAINTIFF

v.

DEFENDANT

§ IN THE JUSTICE COURT
§
§
§ PRECINCT NO. FOUR
§
§
§ CALDWELL 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 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 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: _____.

I have reviewed the information about the Texas Eviction Diversion Program available at www.txcourts.gov/eviction-diversion/.

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

SERVICEMEMBER'S CIVIL RELIEF ACT

CASE NO. _____

AFFIDAVIT

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

Subscribed and sworn to before me no this the _____ day of _____, 20__.

NOTARY / CLERK

Notary Public in and for the State of Texas

SEAL

Clerk of the Justice Court

***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.**