

NOTICE

YOU MUST VERIFY YOU ARE FILING IN THE PROPER PRECINCT PRIOR TO FILING AN EVICTION. THIS CAN BE VERIFIED BY CALLING THE ELECTIONS OFFICE AT 903-575-0902 AND ASKING WHICH COMMISSIONER PRECINCT THE PROPERTY IS LOCATED IN.

THE CLERKS OF THIS OFFICE CANNOT TELL YOU WHERE TO FILE. IT IS YOUR RESPONSIBILITY TO MAKE SURE YOU FILE IN THE PROPER PRECINCT. IF YOU DO NOT FILE IN THE PROPER PRECINCT, THE CASE MUST BE DISMISSED. ANY COSTS YOU PAID TO FILE THE CASE WILL NOT BE REFUNDED TO YOU.

PETITION: EVICTION CASE

CASE NO. _____

With suit for Rent

Manufactured Home to be Moved

In the Justice Court, Precinct 1, 3 & 4, Titus 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 _____ al 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, **(CHECK ALL THAT APPLY)** 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):

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

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____.

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:
<p>Name: _____ Telephone: _____</p> <p>Address: _____ Fax: _____</p> <p>City/State/Zip: _____ State Bar No: _____</p> <p>Email: _____</p> <p>Signature: _____</p>	<p>Plaintiff(s): _____</p> <p>_____</p> <p>Defendant(s): _____</p> <p>_____</p> <p>_____</p> <p>[Attach additional page as necessary to list all parties]</p>

3. Indicate case type, or identify the most important issue in the case (<i>select only 1</i>):	
<p><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.</p>	<p><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.</p>
<p><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.</p>	<p><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.</p>

This affidavit is required in all civil filing in this Court.

You may take this affidavit to any legally qualified notary public or bring it to my office and we will have you swear to the affidavit before the Judge. Failure to submit this affidavit will invalidate your claim.

CASE NO. _____

AFFIDAVIT

PLAINTIFF BEING DULY SWORN ON HIS OATH DEPOSES AND SAYS UNDER PENALTY OF PERJURY THAT DEFENDANT(S):

_____ IS NOT IN THE MILITARY

_____ IS NOT ON ACTIVE DUTY IN THE MILITARY AND/OR

_____ IS NOT IN A FOREIGN COUNTRY ON MILITARY SERVICE

_____ IS ON ACTIVE MILITARY DUTY AND/OR IS SUBJECT TO THE SERVICE MEMBERS CIVIL RELIEF ACT OF 2003

_____ MILITARY STATUS IS UNKNOWN AT THIS TIME

PLAINTIFF

SUBSCRIBED AND SWORN BEFORE ME THIS _____ DAY OF _____, 20 ____.

NOTARY PUBLIC IN AND FOR STATE OF TEXAS
CLERK OF THE JUSTICE COURT
(STRIKE ONE)

Penalty for making or using false affidavit – A person who makes or uses an affidavit knowing to be false, shall be fined as provided in title 18 United States Code, or imprisoned for not more than one year, or both.

FOR OFFICER SAFETY PLEASE ANSWER THE FOLLOWING QUESTIONS

Do You Know Or Suspect The Defendant Of Having

___ Warrants for Their Arrest

Explain _____

___ Any Mental Health Problems

Explain _____

___ Violent Behavior Or Threats Towards You Or Others

Explain _____

___ Any Weapons – Handguns, Rifles, Shotguns

Explain _____

___ Active Or Former Military / Law Enforcement

Explain _____

___ Threats Of Violence Towards Law Enforcement Or Government

Explain _____

___ Drug Or Alcohol Abuse

Explain _____

___ Suspected Drug Activity

Explain _____

___ Other Suspicious Activities

Explain _____

Signature _____

FILING AN EVICTION LAWSUIT

VENUE:

Suit for possession 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.

REQUISITES:

The landlord must give the tenant who defaults or holds over beyond the end of the rental term, at will or by sufferance a **written notice to vacate the premises** prior to filing an eviction suit. The usual **one month written notice of termination** of a monthly tenancy does not apply if there has been a breach of contract. Generally, at least a **three day written notice to vacate** is required unless the written lease provides a shorter or longer notice period. The written notice to vacate must state who is to vacate, why they are to vacate, and by when they should vacate.

To recover attorney's fees in an Eviction Suit, the written demand to vacate the premises must state that if the tenant does not vacate before the 11th day after the date of receipt of the notice and if the landlord files suit, the landlord may recover attorney's fees. This notice must be sent by certified mail, return receipt requested.

Notice to vacate may be by personal delivery to the tenant or any person residing at the premises who is sixteen (16) years of age or older or personal delivery to the premises by affixing the notice to the **INSIDE OF THE MAIN ENTRY DOOR**. Notice by mail may be registered or certified mail, return receipt requested, to the premises in question.

JURISDICTION:

In an Eviction Suit, the Court may render judgment for possession of the property in question. The landlord may receive judgment for back rent only - if the amount in controversy is not more than \$10,000.00. Judgment cannot be rendered for late fees, service charges, etc...

FILING SUIT:

The responsibility for filling out your petition rests with you, the Plaintiff. Court Clerks will assist you if you have procedural questions, but not with legal questions. List each adult tenant on the lease or in verbal agreement. State the tenant's full address including apartment number. List any known work address or other addresses where tenant may be located for service.

When filing, the landlord should bring the following:

- A. A copy of the lease or agreement (if you have one);
- B. A copy of the notice to vacate;
- C. \$154.00 filing & service fees for service of one person. (\$100.00 will be charged for each additional defendant listed on suit affidavit.)

Generally, all parties named in the lease or agreement should be sued and served with citation in the eviction proceeding. Any judgment granted will only be against those who are specifically named and served, unless "And All Occupants" is stated after the tenant's name(s).

CITATION:

The Constable will serve each tenant with citation based on information you give to the Court. It is the Plaintiff/Landlord's responsibility to provide the Court with a correct physical address (or directions) for the Defendant/Tenant. The tenant will be informed in the citation the **DATE** and **TIME** of the hearing and a **DEFAULT JUDGMENT** may be rendered against him/her if he/she does not appear at the time designated.

REPRESENTATION:

The owner's agent may file any type of Eviction Suit and may represent the owner at any default judgment hearing. If the case is contested, an agent may represent either party if the case involves non-payment of rent or holding over.

HEARING:

Always arrive at least ten (10) minutes prior to trial and check in with the Civil Clerk and identify yourself by name along with the names of any witnesses that you want sworn to give testimony. **BE SURE TO HAVE A COPY OF YOUR LEASE, NOTICE TO VACATE, AND PAYMENT RECORDS** or any records pertaining to the case.

IF THE DEFENDANT DOES NOT APPEAR AT HEARING:

- A. The Plaintiff will present their case to the Judge;
- B. If the Judge rules in the Plaintiff's favor, a DEFAULT judgment will be granted.

IF THE DEFENDANT APPEARS AT HEARING:

- A. Judge will hear both sides;
- B. Judge will render a decision;
- C. If the Judge rules in the Plaintiff's favor, defendant will have five (5) days to appeal judgment to County Court. The Judge will also set a date and time for the Defendant to be out of the premises by.

IF THE DEFENDANT DOES NOT MOVE WITHIN THE TIME SET BY THE JUDGE OR DOES NOT APPEAL TO COUNTY COURT WITHIN THE FIVE (5) DAYS AFTER JUDGMENT:

- A. A Writ of Possession may be filed by the Plaintiff.
- B. Cost of Writ is \$155.00.
- C. Writ of Possession shall order the officer executing the writ to instruct the tenant to remove or allow the landlord, the landlord's agent, or persons acting under the officer's supervision to remove all personal property claimed to be owned by the landlord and place, or have an authorized person place the removed personal property outside the rental unit at a nearby location, or street and NOT while it is raining, sleeting or snowing.

NOTE: NEVER ACCEPT FUTURE RENT AFTER THE SUIT IS FILED. IF YOU ACCEPT BACK RENT AFTER THE SUIT IS FILED, BE SURE TENANT IS TOLD WHETHER OR NOT YOU ARE PROCEEDING WITH THE EVICTION SUIT.

Eviction Suits may be dismissed **ONLY** in open court or by written request made by Plaintiff/Landlord.

If you have any additional **PROCEDURAL** questions, please contact the Civil Clerk of the Justice Court at (903) 577-6760. You will not be allowed to speak with the Judge until the hearing date.

NO LEGAL QUESTIONS WILL BE ANSWERED BY THE CLERKS OF THE COURT.

CHRIS DURANT

CONSTABLE PCT. 1
TITUS COUNTY
100 S. MADISON SUITE 100
MT. PLEASANT, TEXAS 75455
(903)577-6762 OR (903)577-6760
FAX (903)572-0971

To Plaintiff filing suit,

Keep in mind that I may not know the person who you have brought suit against. You can help me, or if your suit is going out of County, some other Officer, get the Defendant served quicker by providing as much information on the defendant as possible such as, directions and description of the residence, place of employment, hours they may work, type of vehicle they may drive, age, date of birth, physical description, phone numbers, relatives, places they may frequent. All this information is not necessary but any of it will be helpful. Please attach any additional information to the paper work when you return it. This additional information may help to get your citation served quicker.

Respectfully,

Chris Durant
Constable Pct. 1
Titus County