



KATHERINE K. HANNA
JUSTICE OF THE PEACE, PCT. #3
BASTROP COUNTY, TEXAS

THESE INSTRUCTIONS ARE A BROAD INTERPRETATION OF THE LAWS THAT APPLY TO EVICCTIONS IN THE JUSTICE COURT, TEXAS RULES OF CIVIL PROCEDURE 510.1 – 510.13. ANY LEGAL QUESTIONS OR LEGAL INTERPRETATIONS SHOULD BE BASED UPON YOUR OWN RESEARCH OF THE MATTER OR THE ADVICE OF YOUR ATTORNEY.

EVICTON SUIT INFORMATION

NOTICE TO VACATE: You must first give the tenants a **WRITTEN NOTICE TO VACATE**, demanding that the tenants leave the property by a specified deadline.

The notice to vacate must be in writing and must state an unconditional demand for the property. A pay rent or quit premises notice is **not** a valid notice to vacate.

The notice to vacate *shall* be given in person or by mail at the premises in question. Notice in person may be by personal delivery: a) to the tenant or any person residing at the premises who is 16 years of age or older or b) by affixing the notice to the main entry door. c) Notice by mail may be by regular mail or by registered or certified mail, return receipt requested, to the premises in question.

TIME REQUIREMENTS: Unless there is a written agreement between the parties regulating the notice requirements, the landlord must give the tenant at least 3 days notice to vacate before filing suit.

A notice to vacate sent by registered or certified mail, return receipt requested, must give the tenant at least 10 days to vacate before filing suit. This notice period is calculated from the day on which the notice is delivered.

ATTORNEY'S FEES: To be eligible to recover attorney's fees you must give the tenant a demand that states if the tenant doesn't vacate the premises 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.

The demand must be sent by registered or certified mail, return receipt requested, at least 10 days before the date the suit is filed.

WHERE TO FILE: An Eviction Suit must be filed in the county and the precinct where the property is located.

WHO MAY FILE: The owner or owner's agent may file any type of eviction suit, and he may represent the owner in any default hearing.

JOINING A SUIT FOR RENT: A suit for rent may be joined with the eviction suit if the amount due is within the jurisdiction of this court (\$10,000.00). Any damages, late charges, or other charges may not be included in this action; HOWEVER, the owner or owner's agent may file suit for these amounts in a separate action filed in either Justice Civil or Small Claims Court.

FILING SUIT: The responsibility for filling out your petition rests with you, the plaintiff. A Civil Case Information Sheet must accompany the filing of a petition and must be signed by the plaintiff or the plaintiff's attorney. 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 WHOM PLAINTIFF SEEKS TO EVICT AND A SEPARATE CITATION AND SERVICE FEE WILL APPLY FOR EACH NAMED DEFENDANT.** The Court Clerk will assist you if you have PROCEDURAL questions **only**.

No judgment or Writ of Possession may be issued or be executed against a tenant obligated under a lease and residing at the premises who is not named in the petition and served with a citation. **The cost for filing an Eviction Suit is \$51.00 (money order, cashier's check or credit card w/ convenience fee added).**

CITATION: The citation is given to the Constable for service. **The cost for serving an Eviction Suit citation is \$75.00 (money order, cashier's check or credit card w/ convenience fee added).**

PROCEDURES AFTER FILING: At the time the suit is filed, a hearing date will be set within 10 to 21 days, from the date the defendant was served with the citation. The citation will be given to the Constable to be served on the tenant giving them the date and time of the hearing.

THE HEARING: You are required to appear personally for the hearing. Proper representation is essential.

At the Court hearing, both sides will have the right to present their sides of the case, including witnesses, receipts, canceled checks, photographs and all other evidence.

You will need to bring with you all evidence pertaining to the case. **THE BURDEN OF PROOF LIES WITH YOU AS THE PLAINTIFF.** You must show the Court good sufficient evidence proving your right to regain possession of the property. **YOU MUST STILL PROVE YOUR CASE, EVEN IF THE DEFENDANT FAILS TO APPEAR.**

JUDGMENT: 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 judgment for possession and/or any back rent owed, there is a 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 you may then file for a Writ of Possession. If a Default Judgment is rendered (Defendant does not show for court) then you **shall** file a Non-Military Affidavit before the Judgment can be rendered in your favor (Plaintiff). **THE COURT DOES NOT COLLECT THE JUDGMENT FOR YOU, NOR CAN WE FORCE THE DEFENDANT TO PAY THE JUDGMENT.** Remedies to collect your money (rent) are as follows:

ABSTRACT OF JUDGMENT: You may obtain an Abstract of Judgment on the 11th day after judgment. You should take the Abstract to the County Clerk's office in the County where the defendant lives or has real property. The purpose of filing an Abstract is to put a lien against REAL PROPERTY in the defendant's name. If the defendant sells any real property within 10 years from the date of judgment, the amount of judgment must be paid with interest. **The fee for obtaining an Abstract of Judgment is \$5.00 (money order, cashier's check or credit card w/ convenience fee added).**

WRIT OF EXECUTION: If you are granted a judgment against the defendant and if the defendant does not appeal, you may file for and obtain a Writ of Execution any time after the 30th day from the date of judgment. A

Writ of Execution allows a Sheriff or Constable in the State of Texas to try and seize certain non-exempt property from the defendant. If property is seized, an auction is held and the proceeds from the sale satisfy the judgment. **The cost for filing for a Writ of Execution is \$5.00 (money order, cashier's check or credit card w/ convenience fee added). The cost for serving a Writ of Execution is \$250.00 (money order, cashier's check or credit card w/ convenience fee added).**

WRIT OF POSSESSION: The Writ of Possession directs the Constable to take possession of the property and turn it over to you. A Writ of Possession may not be issued before the 6th day after the date a judgment for possession is signed or the day following the deadline for the defendant to appeal the judgment, whichever is later.

A Writ of Possession may not be issued more than 60 days after a judgment for possession is signed.

A Writ of Possession will cost an additional filing fee of \$5.00 (money order, cashier's check or credit card w/ convenience fee added) along with an additional service fee of \$250.00 (money order, cashier's check or credit card w/ convenience fee added) which shall be paid before the Constable will execute the Writ of Possession.

Your telephone number and address will be given to Constable Sparkman and you will be contacted. Any questions concerning the Writ of Possession should be directed to Constable Sparkman. Constable Sparkman phone number is **512-332-7243**, leave a voice mail message and Constable Sparkman will call you back.

If you have **PROCEDURAL** questions only, you may contact the Court and we will try to answer them.

NOTE: DO NOT ASK TO SPEAK TO THE JUDGE, THE JUDGE CANNOT LISTEN TO ANY PORTION OF YOUR CASE AND THEN ACTUALLY HEAR THE CASE AT YOUR HEARING.

**LEGAL QUESTIONS WILL NOT BE
ANSWERED BY THE COURT.
CONSULT WITH AN ATTORNEY.**

ALL CORRESPONDENCE SHOULD BE ADDRESSED TO:

**JUDGE KATHERINE K. HANNA
JUSTICE OF THE PEACE, PCT. #3
5785 FM 535
CEDAR CREEK, TEXAS 78612
512-332-7288**

Amended on September1, 2017

NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA



Cause Number: _____
(The Clerk's office will fill in the Cause Number when you file this form)

Plaintiff: _____
(Print first and last name of the person filing the lawsuit.)

And

In the *(check one):*
_____ District Court
Court _____ County Court / County Court at Law
Number _____ Justice Court

Defendant: _____ Texas
(Print first and last name of the person being sued.) _____
County

Statement of Inability to Afford Payment of Court Costs or an Appeal Bond

1. Your Information

My full legal name is: _____ My date of birth is: ____/____/____
First Middle Last Month/Day/Year

My address is: *(Home)* _____
(Mailing) _____

My phone number: _____ My email: _____

About my **dependents**: "The people who depend on me financially are listed below."

| <i>Name</i> | <i>Age</i> | <i>Relationship to Me</i> |
|-------------|------------|---------------------------|
| 1 _____ | _____ | _____ |
| 2 _____ | _____ | _____ |
| 3 _____ | _____ | _____ |
| 4 _____ | _____ | _____ |
| 5 _____ | _____ | _____ |
| 6 _____ | _____ | _____ |

2. Are you represented by Legal Aid?

I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.

-or-

I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

or-

I am not represented by legal aid. I did not apply for representation by legal aid.

3. Do you receive public benefits?

I do not receive needs-based public benefits. - or -

I receive these **public benefits/government entitlements** that are based on indigency:

(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check.)

- Food stamps/SNAP TANF Medicaid CHIP SSI WIC AABD
- Public Housing or Section 8 Housing Low-Income Energy Assistance Emergency Assistance
- Telephone Lifeline Community Care via DADS LIS in Medicare ("Extra Help")
- Needs-based VA Pension Child Care Assistance under Child Care and Development Block Grant
- County Assistance, County Health Care, or General Assistance (GA)
- Other: _____

4. What is your monthly income and income sources?

"I get this monthly income:

\$ _____ in monthly wages. I work as a _____ for _____.
Your job title Your employer

\$ _____ in monthly unemployment. I have been unemployed since (date) _____.

\$ _____ in public benefits per month.

\$ _____ from other people in my household each month: (List only if other members contribute to your household income.)

- \$ _____ from Retirement/Pension Tips, bonuses Disability Worker's Comp
 Social Security Military Housing Dividends, interest, royalties
 Child/spousal support
 My spouse's income or income from another member of my household (If available)

\$ _____ from other jobs/sources of income. (Describe) _____

\$ _____ is my **total monthly** income.

5. What is the value of your property?

| | |
|--|-------------------|
| "My property includes: | Value* |
| Cash | \$ _____ |
| Bank accounts, other financial assets | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Vehicles (cars, boats) <small>(make and year)</small> | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Other property (like jewelry, stocks, land, another house, etc.) | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Total value of property | → \$ _____ |

6. What are your monthly expenses?

| | |
|--|-------------------|
| "My monthly expenses are: | Amount |
| Rent/house payments/maintenance | \$ _____ |
| Food and household supplies | \$ _____ |
| Utilities and telephone | \$ _____ |
| Clothing and laundry | \$ _____ |
| Medical and dental expenses | \$ _____ |
| Insurance (life, health, auto, etc.) | \$ _____ |
| School and child care | \$ _____ |
| Transportation, auto repair, gas | \$ _____ |
| Child / spousal support | \$ _____ |
| Wages withheld by court order | \$ _____ |
| Debt payments paid to: <small>(List)</small> | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | \$ _____ |
| Total Monthly Expenses | → \$ _____ |

*The value is the amount the item would sell for less the amount you still owe on it, if anything.

7. Are there debts or other facts explaining your financial situation?

"My **debts** include: (List debt and amount owed) _____

 _____"

(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page.


8. Declaration

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

- I cannot afford to pay court costs.
 I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is _____ . My date of birth is : ____ / ____ / ____.

My address is _____
Street City State Zip Code Country

 _____ signed on ____ / ____ / ____ in _____ County, _____
Signature Month/Day/Year county name State

AFFIDAVIT OF NON MILITARY SERVICE

- **Plaintiff must file an affidavit of non military service before a default judgment can be issued in any Civil case.**

In *any* civil action or proceeding in which any Defendant *does not appear*, the Plaintiff must file an affidavit, verified in writing, subscribed and certified or declared to be true under penalty of perjury prior to the entry of Judgment:

1. Stating whether or not the Defendant is in a military service and showing necessary facts to support the affidavit;
2. If the Plaintiff is unable to determine whether or not the Defendant is in a military service, stating that the Plaintiff is unable to determine whether or not the Defendant is in a military service.

SERVICE MEMBER AFFIDAVIT BY PLAINTIFF

Before me, the undersigned notary, on this day personally the affiant, a person whose identity is known to me. After I administered an oath to him/her, upon his/her oath, he/she states that to the best of his/her knowledge, the Defendant(s) is/are:

- _____ not in the military, per the attached affidavit
- _____ not on active duty in the military
- _____ not in a foreign country on military services
- _____ on active military duty and/or subject to the Servicemembers Civil Relief Act of 2003
- _____ has waived his rights under the Servicemembers Civil Relief Act of 2003
- _____ military status cannot be determined as Plaintiff is not privy to the Social Security Number of Defendant(s)

Plaintiff further states that he has performed a search of the Defense Enrollment and Eligibility Reporting System (DEERS) database which is maintained by the Defense Manpower Data Center (DMDC) and has attached the results hereto which reports, to the best of his knowledge, that Defendant(s) is/are currently not in the military. If there are no results attached hereto that is due to the unavailability of Defendant's Social Security Number, which is required to properly check DEERS.

Affiant

_____ SUBSCRIBED AND SWORN TO before me this the _____ day of _____,
_____ to certify which witness my hand and official seal.

Notary Public/Clerk
Justice of the Peace

Penalty for making or using a 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

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: | | | | | | | | | | |
|---|--|------------------|----------------|------------|-----------------------|---------------------|--------------|--|------------------|--|--|
| <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;">Name: _____</td> <td style="width: 50%; border: none;">Telephone: _____</td> </tr> <tr> <td style="border: none;">Address: _____</td> <td style="border: none;">Fax: _____</td> </tr> <tr> <td style="border: none;">City/State/Zip: _____</td> <td style="border: none;">State Bar No: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Email: _____</td> </tr> <tr> <td colspan="2" style="border: none;">Signature: _____</td> </tr> </table> | 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] |
| Name: _____ | Telephone: _____ | | | | | | | | | | |
| Address: _____ | Fax: _____ | | | | | | | | | | |
| City/State/Zip: _____ | State Bar No: _____ | | | | | | | | | | |
| Email: _____ | | | | | | | | | | | |
| Signature: _____ | | | | | | | | | | | |
| 3. Indicate case type, or identify the most important issue in the case (<i>select only 1</i>): | | | | | | | | | | | |
| <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. | <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. | | | | | | | | | | |
| <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. | <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. | | | | | | | | | | |