

CAUSE NO. _____

PLAINTIFF

§ IN THE JUSTICE COURT

§

v.

§

§ PRECINCT NO. _____

§

DEFENDANT

§

§ _____ 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(S) 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: _____.

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

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

Eviction instructions (Please read carefully)

To file an eviction, you will need to do FOUR THINGS:

- 1). Fill out a CIVIL CASE INFORMATION SHEET (MUST be included with every case filed)
- 2). Fill out an EVICTION PETITION
- 3). Fill out a MILITARY AFFIDAVIT (MUST be included with every case filed)
- 4). Bring ALL paperwork to our office along with the \$46.00 filing fee made payable to JP 4 and \$90.00 Service fee made payable to Hood County Constable for each defendant named in suit. All cash or two separate checks. If more than one person on lease each person named on lease must be served.

You are strongly encouraged to read the Texas Rules of Civil Procedure. There are numerous changes to the eviction laws.

1. Evictions must be filed in the property Justice of the Peace Court. A map is available on the Hood County JP4 website and maps are available in each of the Justice of the Peace offices. Your property must be properly marked with the physical address assigned by the 911 emergency address system (817-579-3286) or the appraisal district.
2. By law you must give Notice to Vacate before you can file an eviction suit. The landlord must give tenant at least 3 days (72 hours) written notice to vacate before filing this eviction, unless the lease signed by both parties states otherwise. Notice to Vacate must be in writing and comply with Section 24.005 of the Texas Property Code, which is found at:
<http://www.statutes.legis.state.tx.us/Search.aspx>

A defective Notice to Vacate can result in DISMISSAL of your Eviction.

3. Court Cost for filing an eviction on one tenant is \$46.00 payable with cash or check payable to JP4 and \$90.00 service fee payable to Hood County Constable. Section 510.2 of the New Rules of Civil Procedure states, "The plaintiff must name as defendants all tenants obligated under the lease residing at the premises." You can ONLY get a judgment against the defendant served. If you wish to have a judgment against two parties, then you MUST pay an additional \$90.00 to Hood County Constable fee for each additional party named.
4. Attorney Fees: To be eligible to recover attorney's fees in an eviction suit, a notice to vacate must be served by a process server, personally with a witness, or by return receipt requested certified mail ten days prior to the date the suit is filed.
5. Who may file: The owner or the owner's agent may file any type of forcible detainer suit, and he may represent the owner in the hearing. EFFECTIVE September 1, 2013, every justice court civil filing will require a CIVIL CASE INFORMATION SHEET.
6. 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, utilities or other charges may not be included in this action; HOWEVER, the owner or the owner's attorney may file suit for these amounts in a separate action filed in a Small Claims Court.
7. Procedures after filing: At the time the suit is filed, a hearing date will be set up 14-21 days from the filing date. A citation will be issued to the Constable's office to be served on the tenant giving them the date and time of the hearing.

8. **The Hearing:** You are required to appear personally for the hearing. Proper representation is essential (as per item #5 above). At the court hearing, both sides will have the right to present their side of the case including witnesses, receipts, cancelled 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 plaintiff. You must show the Court good and sufficient evidence proving your right to regain possession of the property. You must still prove your case, even if the defendant fails to appear.
9. **Judgment:** At the hearing, a judgment will be rendered for either the plaintiff or the defendant. A judgment for the plaintiff may be all or part of the initial claim. If you are awarded a judgment for possession of the premises and/or any back rent owed, there is a 5-day appeal period in which at the end of the appeal period, Judgment becomes final. Upon final judgment you may then file for a Writ of Possession if the defendant has still not vacated the premises. A Writ of Possession has a court fee to JP4 filing fee and \$175.00 Constable fee. This is a writ that authorizes the Constable to supervise while the Plaintiff removes the property from the premises. You may wish to contact Constable Chad Jordan at 817-579-3204 for more information on a Writ of Possession. Once the appeal period has passed, you may file an Abstract of Judgment in the County Clerk's office if you have a judgment for money. We prepare this Abstract in the office with a filing fee of \$5.00 to JP\$ and then you file this Abstract with the County Clerk's office. This puts on record at the County Clerk's office that you have a judgment against the defendant. The Abstract is good for a 10-year period.

MOBILE HOME CASES: If you are seeking an eviction based on a late rent payment for a mobile home lot (tenant owns mobile home, you lease the lot) you are required to by to give the Tenant a 10-day Notice to Cure, before you can file an eviction (Sec.94.206 Tx Property Code). With the Notice to Cure, your case will be dismissed. If they do not cure the problem after the 10-day notice, you may then give them a 3-day NOTICE TO VACATE. Texas law contains specific rules regarding Mobile Homes.