

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 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

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

CASE NO. _____

AFFIDAVIT
SERVICEMEMBERS CIVIL RELIEF ACT SEC.201 (b)

PLAINTIFF BEING DULY SWORN ON HIS OATH DEPOSES AND SAYS THAT
DEFENDANT (S)

- IS NOT IN THE MILITARY
- NOT ON ACTIVE DUTY IN THE MILITARY AND/OR
- NOT IN A FOREIGN COUNTRY ON MILITARY SERVICE
- IS ON ACTIVE MILITARY DUTY AND/OR IS SUBJECT TO THE SERVICE
MEMBERS RELIEF ACT OF 2003
- DEFENDANT HAS WAIVED HIS RIGHTS UNDER THE SERVICE MEMBERS
RELIEF ACT OF 2003
- MILITARY STATUS IS UNKNOWN AT THIS TIME

PLAINTIFF

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF
_____, 20_____

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

PENALTY FOR MAKING OR USING FALSE AFFIDAVIT- A PERSON WHO MAKES OR USES
AND 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.

LANDLORD WORKSHEET

ALL LANDLORDS MUST HAVE THIS FORM COMPLETED FOR THE COURT, IF YOU ARE ASKING FOR UNPAID RENT AS GOUNDS FOR EVICTION.

MONTHLY RENT AMOUNT \$ _____

PRORATED AMOUNT THROUGH THE COURT DATE THAT YOU ASKING FOR \$ _____

(COURT DOES NOT AWARD FUTURE RENT)

THE COURT CANNOT AWARD LATE FEES OR UTILITY AMOUNTS DUE. DO NOT INCLUDE COURT COSTS. IF YOU PREVAIL IN COURT THESE WILL BE AWARDED.

BREAK-DOWN OF TOTAL AMOUNT AND WHAT PERIOD OF TIME THIS COVERS.

MONTH _____ OWED \$ _____

MONTH _____ OWED \$ _____

MONTH _____ OWED \$ _____

MONTH _____ OWED \$ _____

CONTACT FORM

EVICTION-WRIT OF POSSESSION

PRECINT 3- HOOD COUNTY, TEXAS

CAUSE# _____

Contact person for eviction and/or writ of possession: _____

Phone: _____ Best time to be reached at this number: _____

Alt Phone: _____ Best time to be reached at this number: _____

Address where writ is to be served: _____

Eviction and/or writ are requesting for the removal of: (check one)

Tenant and personal property only Tenant's personal property and house (mobile)

Description of property to be moved _____

Because a Constable and/or Deputy will be responding to this location, suspected officer safety issues are of great concern. Please list any and all suspicions which a police officer should take precautions. (Ex. Weapons located on property, suspected violence, drug use, threats, illegal activities....) This sheet is not available to the public and used only by the Constable's Office.

Writ of Possession: The landlord is responsible for the removal of all property. Please list three (3) dates and time you would be available with your moving crew for this writ to be executed. Note: The Constable must give at least 48 hours prior notice to the tenant.

Dates:

Time:

The Constable's office will attempt to execute the Writ of Possession on one of the dates and times that you have listed if at all possible. Please remember that our time and dates may not always be able to be met.

EVICTION INSTRUCTIONS (please read carefully)

To file an eviction you will need to do **THREE THINGS:**

- 1) Fill out an Original petition
- 2) Fill out a Serviceman's Civil Relief Act Affidavit (must be included with every case filed)
- 3) Bring the sheet and the petition to our office along with \$46.00 filing fee. Cash or Checks made payable to JP3 and \$90.00 service fee made payable to Hood County Constable for each defendant named in suit. If more than one person on lease each person named on lease must be served.

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

- 1) Evictions must be filed in the proper Justice of the Peace Court. A map is available on the 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 or the appraisal district.
- 2) By law you must give **Notice to Vacate** before you can file an eviction suit. The landlord must give the 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 filing fee with cash or check payable to JP3 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's 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.
- 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 amount in a separate action filed in Small Claims Court.
- 7) **Procedures after filing:** At the time the suit is filed, a hearing date will be set up 10-21 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, canceled checks, photographs and all other evidence. You will need to bring with you all evidence pertaining to the case. (Make sure you have copies for the court to keep.) 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 for 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 the defendant may appeal the decision to the County 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 the defendant has still not vacated the premises. A Writ of Possession has a court fee of \$10.00 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 the Constable at 817-408-2560 for more information on Writs of Possession.

Once the appeal period has passed, you may file an Abstract of Judgment in the County Clerk Office if you have a judgment for money. We prepare this Abstract in this office, with a filing fee of \$5.00 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 late rent payments for a mobile home lot (tenant owns mobile home, you lease the lot) you are required by law to give the Tenant a ten (10) day Notice to Cure, before you can file an eviction. (Sec 94.206 Tx. Property Code) Without the Notice to Cure, your case will be dismissed. If they do not cure the problem after the ten -day notice, you then give them a three day NOTICE TO VACATE. Texas law contains specific rules regarding Mobile Home.