

Eviction Case

Please make sure to read all the information provided, and if you still have questions contact a lawyer or other legal resources provided in this packet.

The clerks are not allowed to give legal advice.

You must provide a payment of \$51.00 for filing fee payable to JP#1, plus an additional payment of \$75.00 payable to Bastrop Constable along with the application.

(money order or cashier check only)

**DONNA THOMSON
JUSTICE OF THE PEACE
PRECINCT ONE
BASTROP COUNTY, TEXAS**



Please read this packet completely before filing your suit. Legal advice can only be obtained from an attorney. Our Court Clerks are trained in procedure only, and cannot give any legal advice. This is for the clerk's protection as well as your own. The following procedural instructions are the only information you will receive from this office. You may need to consult an attorney to protect your interests.

EVICTION 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 inside of 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.

The 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 stating that if the tenant does not vacate the premises before the eleventh 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 at least 10 days before the date the suit is filed by registered or certified mail, return receipt requested.

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

WHO MAY FILE: The 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.

PROCEDURES AFTER FILING: At the time the suit is filed, a hearing date will be set within 6 to 10 days from the date the defendant was served 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 respective 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 you are 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 the plaintiff is 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, Plaintiff may then file for a Writ of Possession.

WRIT OF POSSESSION: This instrument directs the Constable to take possession of the property and turn it over to you.

The filing fee for a Writ of Possession is \$5.00 and the service fee is \$250.00, which must be paid before the Constable will execute the Writ.

Your telephone number and address will be given to the Constable, who will contact you. Any questions concerning this writ should then be directed to the Constable.

If you have any other procedural questions, please contact this office 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 UPON TRIAL. ANY QUESTIONS SHOULD BE DIRECTED TO THE CLERK AND, IF THERE IS A PROBLEM, THIS WILL BE ADDRESSED TO THE JUDGE BY THE CLERK.

THE COURT MAY NOT ANSWER ANY LEGAL QUESTIONS. PLEASE CONSULT WITH AN ATTORNEY.

DONNA THOMSON
JUSTICE OF THE PEACE
PRECINCT ONE
BASTROP COUNTY, TEXAS

512-581-4258
PO BOX 336 / 803 PINE STREET
BASTROP COURTHOUSE THIRD FLOOR
BASTROP, TEXAS 78602

THE PLAINTIFF WILL NEED TO PROVIDE TO THE COURT TWO SEPARATE CASHIER'S CHECKS OR MONEY ORDERS FOR FILING AND SERVICE FEES. NO PERSONAL CHECKS OR CASH ACCEPTED.

<u>FILING FEES*</u> :	SMALL CLAIMS	\$51.00	WRIT	\$5.00
	JUSTICE COURT	\$51.00	ABSTRACT OF JUDGMENT	\$5.00
	EVICCTIONS	\$51.00		

***Filing fees are made payable to the Bastrop County Justice of the Peace Pct. 1.**

<u>SERVICE FEES**</u> :	SMALL CLAIMS	\$75.00	WRIT OF POSSESSION	\$250.00
	JUSTICE COURT	\$75.00	WRIT OF EXECUTION	\$250.00
	EVICCTIONS	\$75.00		

**** Service fees are made payable to the agency serving the citation. Please note that the service fees printed above only apply to Bastrop County and in Bastrop County, they are payable to Bastrop County Constable. The Service fees are per person per address being served.**

IF THERE ARE ANY GENERAL QUESTIONS PLEASE FEEL FREE TO CONTACT THIS OFFICE.

CAUSE NO.

PLAINTIFF

VS.

DEFENDANT

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IN THE JUSTICE COURT

PRECINCT NUMBER ONE

BASTROP COUNTY, TEXAS

NON-MILITARY AFFIDAVIT

BEFORE ME, the undersigned authority, on this date personally appeared _____, known to me to be a credible person, and after being duly sworn upon his oath did depose and say:

"I, _____, Plaintiff in the above-entitled and numbered cause and am duly authorized to make this affidavit.

Defendant, _____, was not, either at the time of the institution of this suit, or at any time since, been a member of any military or naval service in the United States of America insofar as is now or can be determined by affiant."

Further affiant sayeth not.

_____ (signature)

_____ (name)

Affiant

THE STATE OF TEXAS

COUNTY OF BASTROP

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§

SIGNED AND SWORN TO, BEFORE ME, the undersigned authority on this day _____ to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Military status status must be verified by going online to: <https://www.dmdc.osd.mil/appj/scra/scraHome>, with proof of same to the Court.

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.										

PETITION: EVICTION CASE

CASE NO. _____

**In the Justice Court, Precinct 1,
Bastrop County, Texas**

PLAINTIFF _____
(Landlord/Property Name)

Rental Subsidy (if any) \$ _____

VS.

Tenant's Portion \$ _____

DEFENDANT(S): _____

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
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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. **PAID 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. **OLDOVER AS GROUNDS FOR EVICTION:** Defendant(s) are unlawfully holding over since they failed to vacate at the end of the rental 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, _____ 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, 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
Agent

Signature of Plaintiff (Landlord/Property Owner) or

DEFENDANT(S) INFORMATION (if known):

Address of Plaintiff (Landlord/Property Owner) or

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURITY: _____

DEFENDANT'S PHONE NUMBER: _____

City State Zip

Phone & Fax No. of Plaintiff (Landlord/Property Owner)
or agent

Sworn to and subscribed before me this _____ day of _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY