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FILING AN EVICTION

JURISDICTION:

An eviction case is a lawsuit to recover possession of real property under Chapter 24 of the Texas Property Code, 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 Part V of the Rules of Civil Procedure.

VENUE:

Suit for possession of 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.

NOTICE:

If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give a tenant who defaults or hold over beyond the end of the rental term or renewal period at least a THREE DAY WRITTEN NOTICE TO VACATE before filing the Eviction Lawsuit: UNLESS THE PARTIES HAVE CONTRACTED FOR A SHORTER OR LONGER NOTICE PERIOD IN A WRITTEN LEASE OR AGREEMENT. 24.005a Property Code

FILING SUIT:

The **responsibility for filling out your petition and civil case information sheet rests with you.** Court clerks will assist you if you have *procedural questions*. Please state the tenant's full address including the apartment number. List any known work address or other address where the tenant may be located for service. The filing fee is \$54.00 and the fee to have the Constable's office serve the citation is \$75.00 per defendant to be served in Waller County, Precinct 3. For example, if a landlord is evicting Joe, the fee is \$129.00 (\$54.00 + \$75.00). However, if a landlord is evicting Joe and Sue, the fee is \$204.00 (\$54.00 + \$75.00 + \$75.00). When filing, the Landlord should bring the following:

1. Copy of the lease (if you have one)
2. Copy of the Written Notice to Vacate
3. Payment for Filing and Service Fees
 - a. Acceptable payment methods are money orders, cashier's checks, and credit or debit cards. **No Personal Checks Will Be Accepted.**

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CITATION:

The Constable's office will only serve tenants within precinct number three of Waller County. The Constable's office will serve each tenant with a citation, in precinct three, based on the information you provide to the Court. The citation will inform the Defendant of the date and time of the hearing and that a Default Judgment may be rendered if he/she does not appear at the appointed time.

REPRESENTATION:

In eviction suits, either of the parties may represent themselves or be represented by their authorized agents in justice court or be represented by an attorney.

HEARING:

Always arrive at least 10 minutes prior to trial and check in with the clerk. Be sure to have any evidence or records pertaining to the case.

If the defendant **does not appear** at the Hearing:

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

If the defendant **does appear** at the Hearing:

- A. The Judge will hear both sides;
- B. The Judge will render a judgment;

If the defendant does not vacate the property or appeal the case within 5 days after the judgment; the plaintiff may request a Writ of Possession. The cost of the Writ of Possession is \$205.00.

Eviction Lawsuits may be dismissed only in open court or by written request.

Along with this form, you will need to submit a Civil Case Information Sheet and a Military Affidavit.
IF YOU HAVE PROCEDURAL QUESTIONS, PLEASE CONTACT THE COURT

LEGAL QUESTIONS WILL NOT BE
ANSWERED BY THIS OFFICE

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CAUSE NO. ____-EV ____-J3

_____	§	IN THE JUSTICE COURT
PLAINTIFF/LANDLORD	§	
	§	
v.	§	PRECINCT 3
	§	
_____	§	
DEFENDANT(S)/TENANT(S)	§	WALLER COUNTY, TEXAS

PETITION – EVICTION CASE (WITH TEDP INFORMATION)

COMPLAINT: Plaintiff hereby sues the following Defendant(s)/Tenant(s): _____

for eviction from 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 (select at least one):

- ☐ **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 _____, 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 _____, 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: _____
_____.

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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: _____.
- ☐ I have reviewed the information about the Texas Eviction Diversion Program available at www.txcourts.gov/eviction-diversion/.

Plaintiff's Printed Name	Signature of Plaintiff or Agent or Attorney
<u>Must Be Signed in Presence of Clerk or Notary.</u>	

Defendant's Information (if known):

Date of birth: _____

Last three digits of Driver License: _____

Last three digits of Soc. Sec. No.: _____

Phone No.: _____

Address of Plaintiff or Agent or Attorney

Phone & Fax No. of Plaintiff/Agent/Attorney

SWORN TO AND SUBSCRIBED on _____, 20____

☐ CLERK OF THE JUSTICE COURT OR ☐ NOTARY PUBLIC

Military Status Affidavit

Case No. _____ § In the Justice Court of

§ Waller County, Texas
Plaintiff §
vs. §

§ Precinct 3
Defendant §

BEFORE ME, on this day personally appeared, _____ [printed name], who, under penalty of perjury, stated that the following facts are true:

I am the ☐ Plaintiff ☐ Attorney of record for the Plaintiff in this proceeding.

☐ _____, Defendant, **IS NOT** in military service.

☐ _____, Defendant, **IS** in military service.

I know this because:

☐ I am **unable to determine** whether or not the Defendant is in military service.

Signed on (date) _____

***Must Be Signed in Presence of Clerk or Notary**

Signature

Printed Name: _____

Address: _____

Telephone: _____

Fax: _____

E-Mail Address: _____

SWORN TO AND SUBSCRIBED BEFORE ME on _____.

Clerk of the Court

NOTARY PUBLIC, State of Texas

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CAUSE NO. _____ - _____ -J3

Plaintiff _____	In the Justice Court
vs.	Precinct Three
Defendant _____	Waller County, Texas

Certificate of Last Known Mailing Address

I, [printed name] _____, certify that the last known mailing address that I have for the defendant, _____, is:

Address Line 1: _____

Address Line 2: _____

City: _____

State: _____

Zip Code: _____

Respectfully submitted,

Plaintiff / Pro Se Signature

Plaintiff Address: _____
