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**DISCLAIMER:** The law is constantly changing and there may be times when the information provided on this web site will not be current. This information is provided for general informational purposes only and is not intended as legal advice. This information is not a comprehensive treatment of the subject and is not a substitute for advice from an attorney.

It is not possible to include information sufficient to meet all facts and circumstances and you are urged to consult with an attorney. We have made every effort to set out information accurately, but we do not warrant the reliability or appropriateness of the information for a particular purpose, and we do not assume liability for any consequences resulting from your reliance on the information presented.

Please read this information completely before filing your suit. Legal advice can only be obtained from an attorney. Court Clerks are trained in procedure only, and cannot give any legal advice.

## **The Texas Statutes**

The Texas Statutes are available on-line at <http://www.statutes.legis.state.tx.us>

## **NEW RULES FOR ALL JUSTICE OF THE PEACE COURTS IN TEXAS TAKE EFFECT AUGUST 31, 2013**

**YOU MAY FIND THESE NEW RULES in**

**Texas Rules of Civil Procedure**

**Part V. Rules of Practice in Justice Courts**

**500 - 510**

## Jurisdiction

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.

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.

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 of 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.

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.

## Venue

A suit should be filed in the County and Precinct where one or more of the Defendants reside.

## Certificate of Last Known Address

The plaintiff requesting a default judgment must file a Certificate of Last Known Address certifying to the court the last known mailing address of the party against whom the default judgment is taken, so that the Court can notify the defendant of the entry of the judgment. *See Rule 239a, Texas Rules of Civil Procedure.*

## Requesting a Continuance

A party requesting a continuance of a case must state good cause for requesting the postponement, and the request must be supported by affidavit. The request must be received by the Court no later than *three working days* prior to your Court Date.

# INFORMATION/INSTRUCTIONS FOR FILING EVICTIONS

1. Filling out the Eviction Petition:
  - A. Must be typed or printed neatly in ink.
  - B. Put the names of the Tenants that are on the Lease Agreement  
Each Tenant on Lease Agreement must be served by the Constable. Additional service fee's will be accessed when applicable.
  - C. State tenant's full address, including apartment number.
  - D. State tenant's work address (if known). Give any phone numbers you may have.
  - E. Mark the appropriate sections (non-payment of rent; breach of lease; holding over).
  - E. List the amount of rent in arrears; then the pro-rated amount per day.
2. Military Affidavit: It is mandatory that you provide proof that the Defendant is/is not in the military. You may find this information at: <https://www.dmdc.osd.mil/appj/scra/>  
If the Defendant does not appear for the hearing, you may not receive a judgment until this affidavit is filed.
3. Fees for filing are payable with cash, cashier's check or money order. If paying with cash, please have correct amount. No checks will be accepted. The fee for filing an eviction is \$141.00(\$41.00 Court Costs + \$100.00 Constable service fee).
4. Evictions may be dismissed in Open Court or by written Motion for Dismissal. If you decide to dismiss this suit prior to the hearing date, inform the Court as soon as possible.
5. A citation is prepared by our office and sent with a copy of your sworn complaint to the Constable for service to the defendant. There will be a hearing within 21 days from the date of filing. If you fail to appear on the hearing date, the case may be dismissed.
6. On the day of your hearing, bring any evidence you may have to support your case (receipts, lease agreement, etc.) Any witnesses should also appear on the hearing date. If you need the court to subpoena a witness, please inform the clerk of their name and address on the day you file your complaint.
7. When filing the Eviction, you will need the following to accompany the Petition:
  - a. Civil Case Information Sheet
  - b. A copy of the lease agreement
  - c. Military affidavit - Go to: <https://www.dmdc.osd.mil/appj/scra/> and print out information
  - d. Last Known Address Certificate
  - e. Copy of Written Notice to Vacate

## **FAYETTE COUNTY CIVIL FEES**

The filing fees for a **Small Claims Case**, a **Debt Claim Case**, and/or **Eviction** are **\$41.00**.

Sheriff/Constable service fees in Fayette County are **\$100.00**.

**NOTE:** For service outside of Fayette County, please contact the Constable or Sheriff of that county for the amount of the service fee.

Total of Filing Fee and Service Fee in Fayette County : **\$141.00**

Writ of Execution: **\$150.00**

Writ of Possession: **\$150.00**

Abstract of Judgment: **\$6.00**

Subpoenas: **\$100.00**

Summons: **\$100.00**

Writ of Garnishment: **\$150.00**

Writ of Sequestration: **\$150.00**

Writ of Attachment: **\$150.00**

Forcible Detainer: **\$100.00**

**INSTRUCTIONS AND INFORMATION REGARDING FILING A  
SMALL CLAIM OR A DEBT CLAIM SUIT**

**PLEASE READ CAREFULLY BEFORE COMPLETING THE PETITION**

**NO CHECKS ARE ACCEPTED FOR THE FILING FEE – CASH OR MONEY ORDER ONLY**

1. The amount of money which may be sued for in a **Small Claims** or **Debt Claim Case** is limited to damages that do not exceed **\$10,000.00.** (effective Jan. 1, 2008)
2. In all civil suits, the Defendant has the right to be sued in the county and precinct in which he resides. There are exceptions to this rule.
3. It is your burden as Plaintiff - and it is important that you understand - that for any potential judgment you may receive to be valid, it is necessary for you to sue the Defendant in their proper legal capacity, of which there are typically three. They are as follows:
  - a. Personally: Where an individual is responsible to you for damage he may have caused you as an individual.
  - b. Proprietor or partnership: A business that is not incorporated, but does have on file with the County Clerk an assumed name (e.g. John Smith dba Greenhouse Supplies).
  - c. Corporation: The business which has allegedly caused you damage is incorporated and therefore it is necessary to know the individual's name who is able to accept service on behalf of the corporation. (e.g. Greenhouse, Inc., Serve: John Doe).  
\*\*(The authorized agent for service would be listed with the Secretary of State whose phone number is (512) 463-5555) or log on to: <http://www.sos.state.tx.us/>
4. If, as Plaintiff, you are in the business of loaning money, primarily (banks, credit unions, savings & loans), you are not allowed to file in Small Claims Court; however, an attorney representing any of the above may file suits on behalf of the above in Debt Claim Court or an individual may file. Also, an action in Small Claims court may not be brought by an assignee of claim or other person seeking to bring an action on an assigned claim; or a collection agency.
5. When you have completed the petition *stating the facts and circumstances of your suit*, you must file the **Petition, Military Affidavit, Certificate of Last Known Address and Case Information Sheet.** You can go to: <https://www.dmdc.osd.mil/appj/scra/scraHome> to find the form for the Military Affidavit and print out the information. A citation along with a copy of your petition will be served to the Defendant notifying him that a suit has been filed against him in this court.

The Citation will order the Defendant to appear in this court to answer to the suit by the 14<sup>th</sup> day from his receipt of the citation. **THIS OFFICE WILL NOTIFY YOU OF YOUR COURT DATE.**

**IT IS IMPERATIVE THAT YOU PROVIDE US WITH YOUR DAY TIME PHONE NUMBER.  
PLEASE NOTIFY US IMMEDIATELY OF ANY CHANGES IN YOUR PHONE NUMBER OR  
ADDRESS.**

6. If you have witnesses to your suit who will not come to court voluntarily, you may ask this court to subpoena those individuals prior to trial. Allow at least a week for service of the subpoena. There is a fee for issuing subpoenas (see fee schedule). Notarized statements from individuals are of very little value. Personal appearance and testimony are much more beneficial.

7. This type of suit does not warrant hiring an attorney; however, you are free to do so if you wish.
8. ***This court does NOT collect the judgment for you, nor can we force the Defendant to pay the judgment.*** If you receive a judgment for your claim against the Defendant, you may request an Abstract of Judgment and/or a Writ of Execution to help you in your collection of this judgment.
- Abstract of Judgment: puts a lien on any real property the Defendant may own in a particular county where the Abstract is recorded. This can be obtained ten (10) days after the judgment has been signed.
  - Writ of Execution: may be obtained thirty (30) days after the judgment has been signed. This document authorizes the Sheriff or Constable to seize any *non-exempt* property belonging to the Defendant. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

### **FEE SCHEDULE FOR SMALL CLAIMS AND DEBT CLAIMS:**

DESCRIPTION	J.P. FEES	CONSTABLE FEES	TOTAL
FILING FEE (IN-COUNTY DEFENDANTS) SMALL CLAIMS & DEBT CLAIM COURT CASES	\$41.00	\$100.00	\$141.00
FILING FEE (OUT-OF-COUNTY DEFENDANT)	\$41.00	<b>You</b> must find out from the county where the defendant resides who will serve your papers and how much their fee will be.	
ABSTRACT OF JUDGMENT	\$ <b>6</b> .00	-----	\$ <b>6</b> .00
WRIT OF EXECUTION	-----	\$150.00	\$150.00
CIVIL SUBPOENA	-----	\$100.00	\$100.00

# 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:**

Name:

Telephone:

Plaintiff(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Address:

Fax:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City/State/Zip:

State Bar No:

Defendant(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Attach additional page as necessary to list all parties]

Email:

\_\_\_\_\_

Signature:

\_\_\_\_\_

**3. Indicate case type, or identify the most important issue in the case (select only 1):**

☐ **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.

☐ **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.

☐ **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

☐ **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: SMALL CLAIMS CASE**

CASE NO. (court use only) \_\_\_\_\_

In the Justice Court, Precinct \_\_\_\_\_, \_\_\_\_\_ County, Texas

PLAINTIFF \_\_\_\_\_

VS.

DEFENDANT(S): \_\_\_\_\_

Defendant(s) address: \_\_\_\_\_

**COMPLAINT:** The basis for the claim which entitles the plaintiff to seek relief against the defendant is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RELIEF:** Plaintiff seeks damages in the amount of \$ \_\_\_\_\_, and/or return of personal property as described as follows (be specific): \_\_\_\_\_, which has a value of \$ \_\_\_\_\_.

Additionally, plaintiff seeks the following: \_\_\_\_\_  
\_\_\_\_\_

**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:

\_\_\_\_\_

☐ If you wish to give your consent for the answer and any other motions or pleadings to be sent to your email address, please check this box, and provide your valid email address: \_\_\_\_\_

\_\_\_\_\_  
Petitioner's Printed Name

\_\_\_\_\_  
Signature of Plaintiff or Attorney

**DEFENDANT(S) INFORMATION** (if known):

DATE OF BIRTH: \_\_\_\_\_

\*LAST 3 NUMBERS OF DRIVER LICENSE: \_\_\_\_\_

\*LAST 3 NUMBERS OF SOCIAL SECURITY: \_\_\_\_\_

DEFENDANT'S PHONE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
Address of Plaintiff's Attorney, if any, or Plaintiff if none

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone & Fax No. of Plaintiff's Attorney, if any, or Plaintiff if none



**PETITION: EVICTION CASE**

CASE NO. (court use only) \_\_\_\_\_

☐ **With suit for Rent**

COURT DATE: \_\_\_\_\_

In the Justice Court, Precinct \_\_\_\_\_, \_\_\_\_\_ County, Texas

**PLAINTIFF** \_\_\_\_\_  
 (Landlord/Property Name)  
**VS.**  
**DEFENDANT(S):** \_\_\_\_\_

Rental Subsidy (if any) \$ \_\_\_\_\_  
 Tenant's Portion \$ \_\_\_\_\_  
**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 \_\_\_\_\_

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. ☐ **UNPAID 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. ☐ **HOLDOVER 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, and 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 \_\_\_\_\_

Signature of Plaintiff (Landlord/Property Owner) or Agent \_\_\_\_\_

**DEFENDANT(S) INFORMATION (if known):**

Address of Plaintiff (Landlord/Property Owner) or Agent \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

\*LAST 3 NUMBERS OF DRIVER LICENSE: \_\_\_\_\_

\*LAST 3 NUMBERS OF SOCIAL SECURITY: \_\_\_\_\_

DEFENDANT'S PHONE NUMBER: \_\_\_\_\_

Phone &amp; Fax No. of Plaintiff (Landlord/Property Owner) or agent \_\_\_\_\_

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

## PETITION: DEBT CLAIM CASE

CASE NO. (court use only) \_\_\_\_\_

In the Justice Court, Precinct \_\_\_\_\_, \_\_\_\_\_ County, Texas

PLAINTIFF \_\_\_\_\_

VS.

DEFENDANT(S): \_\_\_\_\_

Defendant(s) address: \_\_\_\_\_

**COMPLAINT:** The basis for the claim which entitles the plaintiff to seek relief against the defendant is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**RELIEF:** Plaintiff seeks damages in the amount of \$\_\_\_\_\_.

**SERVICE OF CITATION:** Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Rules of Practice in Justice Courts. Other addresses where the defendant(s) may be served are:

\_\_\_\_\_

**ADDITIONAL INFORMATION (CASE BASED ON CREDIT CARD, REVOLVING ACCOUNT, OR OPEN ACCOUNT):**

Account/Credit Card Name: \_\_\_\_\_ Account Number (may be masked): \_\_\_\_\_

Date of Issue/Origination: \_\_\_\_\_ Date of Charge-Off/Breach: \_\_\_\_\_ Amount Owed \$\_\_\_\_\_ as of \_\_\_\_\_

**ADDITIONAL INFORMATION (CASE BASED ON PROMISSORY NOTE OR OTHER PROMISE TO PAY PERSONAL OR BUSINESS LOAN):**

Date/Amount of Original Loan: \_\_\_\_\_, \$\_\_\_\_\_ Repayment Accelerated? \_\_\_\_\_ Date Final Payment Due: \_\_\_\_\_

Amount Due on Final Payment Date \$\_\_\_\_\_ Amount Due \$\_\_\_\_\_ as of \_\_\_\_\_

**ONGOING INTEREST:** Plaintiff ☐ does, or ☐ does not seek ongoing interest. If so, this interest is based on the following contractual/statutory reason: \_\_\_\_\_ and should be at \_\_\_\_%. \$\_\_\_\_\_ of interest was due as of \_\_\_\_\_.

**ASSIGNMENT OF CLAIM:** Plaintiff ☐ was, or ☐ was not assigned or otherwise transferred this claim. If so, the original claimant/creditor was \_\_\_\_\_, subsequent holders were \_\_\_\_\_, and the date the case was assigned/transferred to plaintiff was \_\_\_\_\_.

☐ If you wish to give your consent for the answer and any other motions or pleadings to be sent to your email address, please check this box, and provide your valid email address: \_\_\_\_\_.

\_\_\_\_\_  
Petitioner's Printed Name

\_\_\_\_\_  
Signature of Plaintiff or Attorney

**DEFENDANT(S) INFORMATION (if known):**

DATE OF BIRTH: \_\_\_\_\_

\_\_\_\_\_  
Address of Plaintiff's Attorney, if any, or Plaintiff if none

\*LAST 3 NUMBERS OF DRIVER LICENSE: \_\_\_\_\_

\_\_\_\_\_  
City State Zip

\*LAST 3 NUMBERS OF SOCIAL SECURITY: \_\_\_\_\_

DEFENDANT'S PHONE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
Phone & Fax No. of Plaintiff's Attorney, if any, or Plaintiff if none