

EVICITION SUIT

Justice Court Pct.3 of Tom Green County, Texas
3052 N Bryant Blvd San Angelo, TX 76903

www.co.tom-green.tx.us

Honorable Stacye W,
Speck Justice Of The
Peace (325)657-9922

Information/ instructions for filing an **Eviction Suit**. Please read carefully before completing the Petition.

PLEASE NOTE: EFFECTIVE AUGUST 31, 2013 ALL CIVIL SUITS IN JUSTICE COURTS WILL BE GOVERNED BY NEW RULES OF CIVIL PROCEDURE FOR JUSTICE COURT CASES ADOPTED BY THE SUPREME COURT OF TEXAS. TO REVIEW THE NEW RULES OR PRINT A COPY PLEASE VISIT THE TOM GREEN COUNTY WEBSITE AT: www.co.tom-green.tx.us IT IS HIGHLY RECOMMENDED THAT YOU REVIEW THE NEW RULES PRIOR TO FILING YOUR CASE.

TO REVIEW ALL THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE PLEASE USE THE FOLLOWING LINK TO THE SUPREME COURT OF TEXAS: <http://www.supreme.courts.state.tx.us/rules/rules.asp>

COURT PERSONNEL ARE PROHIBITED FROM TELLING YOU WHICH PRECINCT YOUR ADDRESS IS LOCATED IN. YOU MAY USE THE PRECINCT MAP SHOWING 911 ADDRESSES AND PRECINCT LOCATED ON THE JUSTICE OF THE PEACE PRECINCT 3 FORMS ON THE TOM GREEN COUNTY WEBSITE OR CONTACT THE TOM GREEN COUNTY ELECTIONS OFFICE AT 113 W. BEAUREGARD, 325-659-6541 TO DETERMINE WHICH PRECINCT THE PROPERTY IS LOCATED. COURT PERSONNEL ARE PROHIBITED IN GIVING "LEGAL ADVICE" ... ALTHOUGH AN ATTORNEY IS NOT REQUIRED, YOU MAY WISH TO CONSULT AN ATTORNEY.

Prior to filing suit, the landlord **must serve a proper vacate notice, in compliance with Section 24.005, Texas Property Code**, to *each* person signing the lease.

Completing your petition:

Chapter 24, Texas Property Code requires that AN EVICTION SUIT MUST BE FILED IN THE COUNTY AND PRECINCT WHERE THE PROPERTY IS LOCATED. IF AN EVICTION SUIT IS NOT FILED IN THE APPROPRIATE PRECINCT THE CASE WILL BE DISMISSED.

The Petition must be FULLY COMPLETED and typed or printed neatly in **ink**. A service (physical) address as well as a mailing address is required for all properties including rural properties and mobile homes/trailer parks.

The attached petition covers all causes of action in an **Eviction Suit** such as owner wants possession, suits for back rent, and breach of lease by tenant.

An **Eviction Suit** may be joined with a suit for **back rent only**. The amount actually owed must be \$20,000 or less. **No late fees or damages to the property may be included.** For those actions ask for Justice Court Small Claims Case information.

What must be filed?

ONE ORIGINAL PETITION

ONE Original Notice to Vacate served to tenant(s).

ONE Military Affidavit

ONE Military Status Report

ONE Service Information Sheet

ONE Justice Court Case Information Sheet

Always keep track of your case numbers so that you can refer to them when calling our office regarding your case. The case number will be on your receipt.

As Plaintiff, if you no longer wish to pursue your case you must notify the Court in writing as soon as possible and at least one day prior to the day of trial and to avoid the sheriff or constable attempting service to those where service is not necessary. The fax number for the Court is (325)659-6459.

DISCOVERY: ANY AND ALL PRE TRIAL/PRE-JUDGMENT-DISCOVERY MUST BE APPROVED BY THE COURT. PLEASE REFER TO SECTION 500.09 OF THE NEW RULES.

RULE 501.4 REQUIRES YOU, AS PLAINTIFF OR DEFENDANT, TO SERVE THE OTHER PARTY WITH ANYTHING FILED WITH THE COURT IN THE MANNER PRESCRIBED BY THIS RULE.

Should you be granted possession of the property and the defendant fails to move or fails to appeal to the County Court within 5 days, you may request a **Writ of Possession** ordering the defendant to move. The Writ may be requested (in writing) at **the beginning of the 6th day following the date the Judgment was signed by the Judge.**

This court does not collect the money judgment for you nor can we force an indigent defendant to pay the judgment. If you receive a judgment against the defendant, this court can issue various instruments to assist you in collecting the judgment. **IT IS RECOMMENDED THAT YOU CONSULT WITH AN ATTORNEY FOR THESE PROCESSES.** You may request an **Abstract of Judgment, Writ of Execution Writ of Garnishment, and Turnover Order.**

An Abstract Judgment puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only valid in the county or counties where it is recorded. This can be obtained ten days after the date the judgment is signed.

The Writ of Execution may be obtained thirty days after the judgment is signed. This document will authorize the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

A Writ of Garnishment is also available 30 days after the final judgment has been signed. This Garnishment proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant. You are actually suing the bank in which the original defendant has his bank account. You are warning the said bank to freeze the monetary assets of his account and to appear and make answer to the Garnishment suit. **An attorney is required.**

A Turnover Order is available after the judgment is signed and its purpose is to provide a court-ordered means of reaching property which cannot easily be reached through ordinary legal process and which is exempt from attachment, execution, etc. **An attorney should be used** because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

A Subpoena may be requested if you need a witness(s) in your case. Except as provided by Section 22.002, a witness is entitled to **\$10 dollars** for each day the witness attends court. This fee includes the entitlement for travel and the witness is not entitled to any reimbursement for mileage traveled. The **party who summons** the witness shall pay that witness 's fee for one day, as provided by this section, at the time the subpoena is served on the witness. The witness fee must be taxed in the bill of costs as other costs.

Fee Schedule for Eviction suits: (MONEY ORDERS ONLY - NO CASH OR CHECKS ACCEPTED)

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Filing fee-Defendant in Tom Green Co.	\$54	\$ 85	\$ 139
2 Defendants (same case)	\$54	\$170	\$ 224
Defendant out-of-County	\$54	(call for amount)	

Jury Fee \$22.00

(Request for Jury must be made and fee paid no later than 14 days before the case is set for trial, if not timely made , the right to a jury trial is waived.)

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Abstract of Judgment	\$5.00		\$5.00
Writ of Possession	\$5.00	\$200.00	\$205.00
Writ of Execution	\$5.00	\$200.00	\$205.00
Subpoena	Contact the Court		
Writ of Garnishment	\$54.00 + \$5.00	\$200.00	\$259.00
Turnover Order	\$5.00	\$200.00	\$205.00
APPEAL	\$54.00		\$54.00T
Transcript of Judgment	\$10.00		\$10.00

CAUSE NO. _____

PLAINTIFF

§ IN THE JUSTICE COURT

§

§

v.

§ PRECINCT 3

§

§

DEFENDANT

§ TOM GREEN COUNTY, TEXAS

RENTAL SUBSIDY (IF ANY): \$ _____

TENANT'S PORTION: \$ _____

TOTAL MONTHLY RENT: \$ _____

DATE RENT DUE: _____

PETITION: EVICTION CASE

COMPLAINT: Plaintiff hereby sues the following Defendant(s) (*include name, DOB, and DL number, if known*) _____

_____ 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. (<i>if any</i>)	City	State	Zip
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Monthly Rent: _____

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), break down the amounts for each date:

_____.

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 periodic tenancy, which ended on _____, 20__.

Squatter. Defendant(s) never had a right to possess the property and are unlawfully occupying the premises after a demand to surrender possession given on _____, 20__.

Expiration of Tenancy at Will. Defendant(s) had no lease agreement and have failed to vacate the premises after being given a termination notice, if applicable and a demand to surrender possession given on _____, 20__.

NOTICE TO VACATE: Plaintiff has given Defendant(s) a written notice to vacate (*according to Property Code § 24.005*) and demand for possession. Such notice was delivered on the _____, 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): Name: _____

Date of birth: _____

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

SERVICE BY EMAIL: *(Normally, documents in this case are sent by mail. If it is easier for you, you can choose to get some of the documents sent by email. If you choose to get documents by email, you must have an email account where you can receive, open, and view large attachments, and it is important that you check this email account every day. Even if you receive some documents by email, you will still receive some documents about the case by mail or personal service, so you must not ignore any documents from the court or other parties received by mail or personal service.)*

Yes, I would like to receive documents related to this case by email at this email address:

_____.

No, I do not want to receive any documents by email.

REMOTE PARTICIPATION:

Hearing by Phone Call: *(When a hearing happens by phone call, you will be able to talk to and hear the judge, Plaintiff, or any witnesses, but you will not be able to see them. Copies of any evidence to be used must be exchanged by the parties and sent to the judge before the hearing.)*

Yes, I am able to have any hearings in this case, except a jury trial, by phone call with the judge and Plaintiff and understand that I must have a phone to use on the date and time of the hearing.

No, I am not able to have hearings by phone call.

Hearing by Video Conference: *(When a hearing happens by video conference, you can hear, see, and talk to the judge, Plaintiff, and any witnesses. You will be able to see any evidence presented during the hearing. You will need to have a computer, a smartphone, or tablet that has a camera feature. You will also need access to the internet to be able to have a video conference.)*

Yes, I am able to have any hearings in this case, except a jury trial, by video conference. I understand that I am responsible for having the equipment and internet access needed to participate in a video conference on the date and time of the hearing.

No, I am not able to have hearings by video conference.

NOTE: Your responses in this section do not guarantee that hearings will be held remotely, but rather they help the court know how you are able to participate.

Respectfully submitted,

Signature of Plaintiff

Signature of Attorney, if any

Printed Name: _____

Printed Name: _____

Address: _____

Address: _____

Email: _____

Email: _____

Telephone: _____

Telephone: _____

Fax: _____

Fax: _____

State Bar No.: _____

SWORN TO AND SUBSCRIBED before me on _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY

MULTIPLE DEFENDANTS

In Case of Multiple Defendants Only- Must be Signed by Plaintiff

I, Plaintiff, _____, am aware that pursuant to Texas Rules of Civil Procedure, 510.3(c) "...that if the eviction is based on a written lease, then plaintiff must name as defendants all tenants obligated under the lease residing at the premises whom the plaintiff seeks to evict." A judgment or writ of possession may not be issued or executed against a tenant obligated under a lease and residing at the premises who is not named in the petition and served with a citation. So a plaintiff may not avoid paying more than one service fee by trying to sue multiple tenants for eviction; each tenant on the lease must be sued and served with citation.

I, Plaintiff, _____, understand that only the persons that are individually served a citation naming them will be removed from the premises. With this understanding, I wish to:

_____ Have a citation issued to all named Defendants and pay appropriate fees for service.
(Initial)

_____ Have only the Defendant (name) _____ served and pay
(Initial) the appropriate fee for service. (Choosing this option will remove the named Defendant only, from the property.)

Plaintiff's Signature

Date

Plaintiff's Signature

Date

In addition to the above information, the Service members' Civil Relief Act has become law. The legislation, passed by Congress and signed by the President, took effect immediately when it was signed on December 19, 2003.

When filing any Civil Suits this form MUST be filled out with proof of military status report and accompany the complaint upon filing. Military status can be determined at <https://scra.dmdc.osd.mil/> The fees remain the same.

CASE NO. _____

**MILITARY AFFIDAVIT
SEC. 201 (b)**

Plaintiff being duly sworn on 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 Civil Relief Act of 2003

military status unknown at this time

PLAINTIFF SIGNATURE

Subscribed and sworn to before me on this the ____ day of _____, 20__.

NOTARY PUBLIC IN AND FOR THE STATE OF
TEXAS/CLERK OF THE JUSTICE COURT

Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in title 18 United States Code, or imprisoned for not more than one year, or both.

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: _____ Address: _____ Fax: _____ City/State/Zip: _____ State Bar No: _____ Email: _____ Signature: _____	Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ [Attach additional page as necessary to list all parties]
3. Indicate case type, or identify the most important issue in the case (select only 1):	
<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 \$20,000, 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 \$20,000, 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 \$20,000, 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 \$20,000, excluding statutory interest and court costs but including attorney fees, if any.

CONSTABLE INFORMATION SHEET

PLEASE COMPLETE THIS INFORMATION TO EXPEDITE SERVICE OF YOUR PAPERS.

PLAINTIFF NAME: _____

RESIDENCE: _____

PLACE OF EMPLOYMENT: _____

RESIDENCE PHONE: _____ **WORK PHONE:** _____

Number at which you can be reached or can leave a message: _____

DAYTIME FAX: _____

EMAIL: _____

DEFENDANT NAME: _____

DATE OF BIRTH: _____ **LAST 3# OF DL/SS#:** _____

RESIDENCE: _____

PLACE OF EMPLOYMENT: _____

RESIDENCE PHONE: _____ **WORK PHONE:** _____

MAIL ADDRESS IF DIFFERENT: _____

TYPE OF RESIDENCE: _____

Description of residence and any special direction:

