



Eviction Packet

JUDGE STEVE SPOON

**Justice Court
Stephens County Courthouse
200 West Walker – 3rd Floor
Breckenridge, TX 76424
Phone#: 254.559.5322 – Fax#: 254.559.1127**

EVICTION

EVICTION CASE: 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.

IMPORTANT NOTICE:

APPROPRIATE COURTROOM ATTIRE IS REQUIRED. All persons entering the courtroom should be dressed in clothing reasonable befitting the dignity and solemnity of the court proceedings. No shorts, tank tops, flip flops, hats, etc. Cell phones and other electronics must be turned off when in the courtroom. Food and drink is not allowed in the courtroom.

READ CAREFULLY BEFORE FILING THE PETITION

The following information is furnished to you as a courtesy of the Justice of the Peace office for filing eviction suits. The Court cannot advise you what you should do and are barred by law from giving you legal advice. The Court can only answer procedural questions.

Eviction suits must be filed in the Justice Precinct where the property is located. This is the only Justice Court in Stephens County, Texas. This is a suit for you to regain possession of your property or to combine a suit for rent with this suit. Please print clearly.

- The plaintiff is the owner of the property; if you are acting as agent, the owner is the plaintiff (not you) and you should sign the petition as the agent for the landlord (plaintiff). **Agents must provide a signed notarized statement from the landlord designating you as agent.**
- You must name all persons that signed your lease as defendants. All others living at the property can be considered “all other occupants” (ex: “John Doe and all other occupants”). If you name more than one person, you will be required to pay a service fee for each person named.
- State tenant’s full address, including apartment number (if applicable) and city.
- In order to properly file this suit, you must have given the defendant(s) **a written demand to vacate the premises.**
- In order to sue for attorney fees, you must have given the tenant a 10-day written notice which stated that if they did not vacate by the 11th day after the date of receipt of the notice, you would be entitled to attorney’s fees (if employment of counsel is necessary and verified).
- You must also complete the Justice Court Civil Information Sheet and the Military Affidavit.
- If you are suing for past due rent and/or attorney’s fees the total amount of both added together cannot exceed \$10,000.

The cost for you to have your case filed and the citation served is **\$126.00** if only one defendant. Service fee for each additional defendant will be an additional \$80.00. This is a “court cost” that can be included in the judgment if you win your case. If filing in person the day and time of hearing will be written on your receipt. If filing by mail, you will receive notice of hearing by mail, phone call or email if provided. **PLEASE NOTE: YOU MUST HAVE COPIES FOR THE COURT’S FILE OF ANY DOCUMENTS YOU INTEND TO SUBMIT TO THE COURT AS EVIDENCE. YOU WILL BE CHARGED FOR ANY COPIES THE COURT MUST MAKE.**

Evictions may be dismissed only in open court or by written motion. If the tenant vacates the property and you do not want to come for the hearing and obtain your written judgment, you must submit a written motion for dismissal so the case can be cleared from the court’s docket.

EVICTION SUIT FEES

Eviction

Filing fee- \$46.00 made payable to Justice of the Peace

Service fee- \$80.00 (per person served) made payable to

Stephens County Constable

Jury Fee

\$22.00 made payable to Justice of the Peace

Writ of Possession

\$200.00 made payable to Justice of the Peace

The Writ of Possession may be filed on the 6th day after judgment but not more than 60 days after judgment for possession unless good cause is shown.

Abstract of Judgment

Issuance fee- \$5.00 per abstract made payable to Justice of the Peace

The Abstract of Judgment may be filed on the 6th day after judgment, and may be filed in each county where the Defendant owns real property. *A separate filing fee will need to be paid to the County Clerk's office at the time of filing the Abstract.*

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 this case:
Name: _____ Phone #: _____ Fax #: _____ Address: _____ City/State/Zip _____ State Bar # _____ Email: _____ Signature: _____	Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ _____ _____ (Attach additional pages 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 \$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 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.
<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. (Court use only) _____ **with suit for Rent** COURT DATE: _____

In the Justice Court, Precinct 1, Stephens 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 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 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 the extension period, which was the ____ day of _____, 20____.

5. **NOTICE TO VACATE:** Plaintiff has given defendant(s) a written 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 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 JUDGEMENT: 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) INFORAMTION (if known):

DATE OF BIRTH: _____

*LAST 3 NUMBERS OF DRIVER LICENSE: _____

*LAST 3 NUMBERS OF SOCIAL SECURTIY: _____

DEFENDANT'S PHONE NUMBER: _____

Address of Plaintiff (Landlord/ Property Owner) or Agent

City State Zip

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

CLERK OF THE JUSTICE COURT OR NOTARY

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
VS	§	PRECINCT ONE
_____	§	STEPHENS COUNTY, TX

AFFIDAVIT OF MILITARY STATUS OF DEFENDANT

Before me, the undersigned clerk of the justice court or notary public, on this day personally appeared the undersigned affiant whose identity is known to me. After I administered an oath to such affiant, he or she upon oath and under penalty of perjury stated the following:

My name is ***[please print]*** _____; I am ***[check one]*** _____ the plaintiff or _____ an authorized agent or _____ attorney for the plaintiff in the above styled and numbered cause. I am over the age of 18 and am capable of making this affidavit. The facts stated in the affidavit are within my personal knowledge and are true and correct.

[check as applicable]

- The defendant is not in the military.
- The defendant is not on active duty in the military and/or
- The defendant is not in a foreign country on military service.
- The defendant is on active military duty and/or is subject to the Service member Civil Relief Act of 2003.
- The defendant has waived his/her rights under the Service member Civil Relief Act of 2003.
- The defendant's military status is unknown at this time.

Signature of Plaintiff/Agent/Attorney

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

Court Clerk/Notary Public

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.