Judge BOBBY CONTRERAS
JUSTICE OF THE PEACE - PRECINCT 2 PLACE 1
300 W. Hall Acres Ste. F PHARR, TEXAS 78577
Office: 956-784-3540 /Fax: 956-784-3541

FILING A FORCIBLE DETAINER (EVICTION) CASE

NOTICE TO VACATE: By statute, the landlord must give the tenant written notice of the eviction suit before filing a suit for Forcible Detainer. The notice may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older or personal delivery to the premises by affixing the notice to the inside of the main entry door. Notice may also be by regular or certified mail, return receipt requested to the premises in question.

If your cause of action (reason for filing) is:

1). DEFAULTS OF AN ORAL OR WRITTEN LEASE (i.e., nonpayment of rent, dog on premises, property unkempt, etc.): Three (3) day written notice is required (unless written lease provides otherwise).

2). PERIODIC TENANCIES (month to month, week to week, etc.) – where landlord desires possession (includes a case where the tenant holds over after the expiration of the term of the lease): Three (3) day written notice is required (unless written lease provides otherwise). Periodic tenancies may require a notice to terminate the lease or agreement.

3). TENANT AT WILL OR TENANT AT SUFFERANCE: Three (3) day written notice is required (unless written lease provides otherwise).

4.) TENANT AFTER TAX FORECLOSURE SALE OR TRUSTEE'S FORECLOSURE SALE: If the tenant pays rent and is not otherwise in default under the tenant's lease after foreclosure, the purchaser must give a residential tenant of the building at least thirty (30) days written notice to vacate, if the purchaser chooses not to continue the lease, the tenant is considered to timely pay the rent if during the month of the foreclosure sale, the tenant pays the rent for that month to the landlord before receiving any notice that a foreclosure is rescheduled during the month or pays the rent for the month to the foreclosure lien holder or the purchaser that requests payment.

5.) FORCIBLE ENTRY AND DETAINER SUITS (where a person(s) enter(s) the property without legal authority or by force and refuses to surrender possession on demand): Oral or written notice to vacate immediately or by a specified deadlines.

6.) AN OCCUPANT IS A TENANT OF A PERSON WHO ACQUIRED POSSESSION BY FORCIBLE ENTRY: Three (3) day written notice to vacate.

7.) ATTORNEY'S FEES AND COSTS OF SUIT: Ten (10) day written notice by registered or certified mail, return receipt requested (unless written lease provides otherwise). If the lease provides for attorney's fees, notice provision in the lease controls. If the lease is silent as attorney's fees a 10 day written notice is required. If the landlord provides the tenant notice for attorney's fees or if a written lease entitles the landlord or the tenant to recover attorney's fees the prevailing tenant is entitled to recover attorney's fees from the landlord. A prevailing party is entitled to recover all costs of court.

VENUE: Cases of Forcible Detainer Entry and Detainer MUST be filed in the precinct of the county where all or part of the leased premises are located.

CITATION: Written notice of hearing/trial will be given to the Landlord or person filling suit at the time of filing the suit by the Court. A citation is prepared by our office and sent with a copy of the petition to the Constable's office for service on the Defendant. A citation with a Court Hearing date will be served on the tenant or any one that is at the premises who is more than sixteen (16) years of age. If the Defendant does not present on the Hearing date, a Default Judgment will be issued. If the plaintiff fails to present to the hearing/trial case will be dismissed for Lack of Prosecution. ***IT IS YOUR RESPONSIBILITY TO STAY IN TOUCH WITH THE***

COURT TO CHECK STATUS OF YOUR CASE. Bring any rent receipts, ledgers, lease, etc.; you may have to support your case. If you have witnesses they should also be brought to the hearing/trial.

TRIAL BY JURY: You may request a trial by jury upon payment of a $22.00 jury fee no later than five (5) days after the citation is served upon the defendant. (Money order/cashiers check or company check). NO CASH ACCEPTED.

WHO MAY REPRESENT THE PLAINTIFF?

1.) The owner, agent (manager) or an attorney may represent the plaintiff if case is for non-payment of rent or the tenant is holding over after the lease expires.

2.) If case is defaults on Executory Contracts, Mortgage Foreclosure, Forcible Entry and Detainer suits (tenant enters by force or without legal authority), Defaults on lease (i.e., dog premises or too many people living on the premises, etc.), **ONLY THE OWNER OF THE PREMISES OR AN ATTORNEY FOR THE OWNER MAY REPRESENT THE PLAINTIFF IN TRIAL BY THE JUDGE OR JURY.** If the defendant in your suit does not appear for trial, the owner of the premises, an agent (manager) or an attorney may appear for the plaintiff and secure a default judgment.

AFTER JUDGEMENT: If you are awarded a judgment for possession of the premises and **IF** the defendant does not make a Motion to Set Aside Default Judgment within five (5) days from the date the judgment is signed, your remedy to gain possession of the premises is a WRIT OF POSSESSION.

WRIT OF POSSESSION: On the 6th day after a judgment for possession is awarded, you may request a Writ of Possession. A writ of possession allows the Constable to oversee the move-out of the defendant(s) out of the leased premises and see that no breach of the peace is violated.

You may call the Constable's office to find out the procedures on executing the Writ of Possession.

IF YOU HAVE ANY ADDITIONAL QUESTIONS, IT IS ADVISED THAT YOU CONTACT AN ATTORNEY.

FEE SCHEDULE

TYPE OF PROCESS	FILING FEES	SERVICE FEES	TOTAL
EVICTION	$41.00	$75.00	***$116.00***
WRIT OF EXECUTION	$5.00	$200.00	***$205.00***
WRIT OF POSSESSION	$5.00	$200.00	***$205.00***

FEES ARE SUBJECT TO CHANGE

PLEASE SUBMIT THE FOLLOWING

- 1-ORIGINAL PETITION **WITH 2 COPIES**
- SERVICEMEMBER'S CIVIL RELIEF ACT
- JUSTICE COURT CIVIL CASE INFORMATION SHEET
- COPY OF EVICTION LETTER
- COPY OF RETURN RECEIPT OR UNOPENED LETTER IF NOT SIGNED BY TENANT
- MONEY ORDER OR CASHIER'S CHECK MADE PAYABLE TO: **JUSTICE OF THE PEACE 2-1** (NO CASH ACCEPTED)

***Please contact the Election Department at 956-318-2570 to verify in what precinct the address you are evicting belongs to, our office is Precinct 2 Place 1.**

PETITION: EVICTION CASE

CASE NO. (court use only) _____ ☐ **With suit for Rent** **COURT DATE:** _____

In the Justice Court, Precinct 2 Place 1, Hidalgo 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

_____
Address of Plaintiff (Landlord/Property Owner) or Agent

_____
City State Zip

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

DEFENDANT(S) INFORMATION (if known):
DATE OF BIRTH:_____

*LAST 3 NUMBERS OF DRIVER LICENSE:_____
*LAST 3 NUMBERS OF SOCIAL SECURITY:_____

DEFENDANT'S PHONE NUMBER:_____

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

_____
Notary

FORM 126 – SERVICEMEMBER'S CIVIL RELIEF ACT

DOCKET NO. _____

CASE NO. _____

AFFIDAVIT
50 USC Sec. 520

Plaintiff being duly sworn on oath deposed* and says that defendant(s) is (are)
(CHECK ONE)

- o Not in the military
- o Not on active duty in the military and/or
- o Not in foreign county on military service
- o On active military duty and/or is subject to the Servicemembers Civil Relief Act of 2003
- o Had waived his/her rights under the Servicemembers Civil Relief Act of 2003
- o Military status is unknown at this time

_____
PLAINTIFF

(Select the applicable title under the signature for the jurat below)

Subscribe and sworn to before me on this the ____ day of _____, 20___.

_____
Notary Public in and for the State of Texas

_____
SEAL

***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 of 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:

Name: _____

Telephone: _____

Address: _____

Fax: _____

City/State/Zip: _____

State Bar No: _____

Email: _____

Signature: _____

2. Names of parties in case:

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)*:

☐ ***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.

☐ ***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.

☐ ***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.

☐ ***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.