

JUSTICE COURT CIVIL SUITS

Instructions and information regarding filing Justice Court Suits. Please read carefully before completing a petition.

NOTE: EFFECTIVE AUGUST 31, 2013 ALL CIVIL SUITS IN JUSTICE COURT WILL BE GOVERNED BY THE NEW RULES OF CIVIL PROCEDURE FOR JUSTICE COURT CASES ADOPTED BY THE SUPREME COURT OF TEXAS. YOU WILL FIND A LINK TO THE WEBSITE ON THE COUNTY HOME PAGE. IT IS RECOMMENDED THAT YOU REVIEW THE NEW RULES PRIOR TO FILING YOUR CASE TO DETERMINE WHICH CATEGORY OF CASE TO FILE.

TO REVIEW ALL THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE FOLLOW THE LINK TO THE SUPREME COURT OF TEXAS.

THE JUDGE AND THE COURT PERSONNEL ARE PROHIBITED FROM GIVING "LEGAL ADVICE" TO ANYONE. ALTHOUGH AN ATTORNEY IS NOT REQUIRED, YOU MAY WISH TO CONSULT AN ATTORNEY FOR ANY AND ALL LEGAL ADVICE. AS A MATTER OF LAW, THE JUDGE IS PROHIBITED FROM DISCUSSING ANY MATERIAL FACT OF THE LAWSUIT WITH EITHER PARTY PRIOR TO TRIAL OR HEARING.

CIVIL CASES ARE CLASSIFIED IN 4 CATEGORIES:

SMALL CLAIMS CASE

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 \$10,000.00, excluding statutory interest and court cost, but including attorney fees, if any. Small Claims cases are governed by Rules 500-507 of Part V of the Rules of Civil Procedure.

DEBT CLAIM CASE

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. Debt claim cases in justice court are governed by Rules 500-507 and 508 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 508 and the rest of Part V, Rule 508 applies.

REPAIR AND REMEDY CASE

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 no more than \$10,000 excluding statutory interest and court cost but including attorney fees if any. Repair and remedy cases are governed by Rules 500-507 and 509 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 509 and the rest of Part V, Rule 509 applies.

EVICTION CASE

An eviction case is a lawsuit brought 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 \$10,000, excluding statutory interest and court costs but including attorney fees, if any. Eviction cases are governed by Rules 500-507 and 510 of Part V of the Rules of Civil Procedure. To the extent of any conflict between Rule 510 and the rest of Part V, Rule 510 applies.

Venue: In a suit for possession of property, and suit for rent, the petition must be filed in the precinct where the premises are located.

Requisites: If the occupant is a tenant under a written lease or oral rental agreement, the landlord must give the tenant who defaults or holds over beyond the end of the rental term or renewal period; the appropriate notice to vacate; at least **THREE DAYS WRITTEN NOTICE TO VACATE THE PREMISES**, before the landlord files suit, unless the parties have contracted for a shorter or longer notice period in a written lease or agreement. (the notice may be up to 30 days to Vacate. Check the law to see which would be the correct notice for your agreement).

This notice must be signed by the landlord or the landlord's agent and must include the date and time of delivery to the tenant. The notice to vacate (**MUST**) be given in person to the tenant(s) or by mail to the premises at the property in question. Notice in person may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older. The notice may also be personally delivered to the premises by affixing the notice to the inside of the main entry door.

To Recover Attorney Fees in a Forcible Entry and Detainer Suit, the written demand to vacate the premises must state that if the tenant does not vacate before the 11th day after the date of receipt of the notice and if the landlord files suit, the landlord may recover attorney's fees. This notice must be sent certified mail.

Application of Other Rules: The other Rules of Civil Procedure and the Rules of Evidence do not apply except:

- (1) When the judge hearing the case determines that a particular rule must be followed to ensure that the proceedings are fair to all parties; or
- (2) When otherwise specifically provided by law or these rules.

In all civil suits, the defendant generally has the right to be sued in the county and precinct in which he resides. There are exceptions to the venue rule. For detailed information regarding Venue please refer to Rule 502.4 in the Rules of Civil Procedure or Chapter 15, Subchapter E of the Texas Civil Practice and Remedies Code. The following link will provide you with access to ALL Texas Laws: <http://www.statutes.legis.state.tx.us>

AFTER REVIEWING THE RULES, PLEASE FULLY COMPLETE THE APPROPRIATE PETITION AND THE REQUIRED FORMS. FORMS MAY BE FOUND ON THE HOME PAGE OF THE COUNTY WEB SITE. The responsibility for filling out your petition rests with you, (the Plaintiff). The judge or clerk cannot help you fill out your paperwork.

FILING YOUR SUIT: What must be filed?

One original petition

One copy of the original petition for each defendant named in the suit

One Military Affidavit

One Justice Court Case Information Sheet

In an Eviction Suit, you will need a copy of your Notice to Vacate or Demand letter. Must be dated and signed. If the eviction is based on a written lease, the plaintiff must name as defendants all tenants obligated under the lease residing at the premises whom plaintiff seeks to evict. No judgment or writ of possession will be issued or be executed against a tenant obligated under a lease and residing at the premises that is not named in the petition and served with a citation.

In all civil filings, you should understand that as a plaintiff, you have the burden of proof to show by the preponderance of the evidence that the defendant you are suing is the proximate cause of your damage(s) in the legal capacity in which the defendant is sued. All damages and evidence necessary to meet your burden should all be available at the time of filing and no later than the date of trial.

DISCOVERY: ANY AND ALL PRETRIAL/PREJUDGMENT DISCOVERY MUST BE APPROVED BY THE COURT. PLEASE REFER TO SECTION 500.9 OF THE NEW RULES. TEXAS RULES OF EVIDENCE ARE AVAILABLE AT www.courts.state.tx./rules then click on Rules located at the top of the web site.

Fee Schedule for Justice Court Civil Suits: (Some courts will accept cash, but you should check with the clerk or Judge for that Precinct prior to filing to see what form of payment is required.)

	Court Fees	Service Fee	Total
Eviction Filing Fee	\$46.00	\$75.00	
Small Claim/Debt Claim Filing Fee	\$51.00	\$75.00	\$126.00
2 Defendants (same case)	\$51.00	\$150.00	\$201.00
Defendant out-of County	\$51.00	(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)

Abstract of Judgment	\$5.00		\$5.00
Writ of Possession	\$5.00	175.00	\$180.00

For any other fees, contact the office.

Petitions and forms for filing Small Claims, Debt Claims, Evictions, or Repair and Remedy are located on the Hockley County Web Site.

